Neutral Citation Number: [2020] EWHC 627 (Fam)

Case No: ZC18P04013

IN THE FAMILY COURT
Sitting at the Royal Courts of Justice

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/01/2020

Before:

MR JUSTICE WILLIAMS

- -

Between:

DN	**Applicant**
- and -	
UD	**Respondent**

(Sch 1 Children Act: Capital Provision)

- -

Mr Charles Howard QC & Ms Laura Moys (instructed by **Freemans Solicitors**)
for the **Applicant**
Mr Christopher Pocock QC & M Katherine Kelsey (instructed by **Hall Brown Solicitors**)
for the **Respondent**

Hearing dates: 20th – 29th January 2020

- -

Approved Judgment

Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be 10.30am on 6 April 2020.

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MR JUSTICE WILLIAMS

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

MR JUSTICE WILLIAMS:

Introduction

1. This is the final hearing in an application brought under s.15 and Sch 1 to the Children Act 1989.

2. The applicant is DN ('the mother'). She is represented by Freemans Solicitors and by Leading Counsel Charles Howard Q. C. together with Junior Counsel Laura Moys.

3. The respondent is UD ('the father'). He is represented by Hall Brown Solicitors and by Leading Counsel Christopher Pocock Q. C. together with Junior Counsel Katherine Kelsey.

4. The mother is 54. She was born in the Soviet Union and was (and may still be) a Russian national. She obtained a degree in economics in Moscow and moved to N City (also in Russia) to work for a company called P Co. which produced food products. At that time it was owned by the father and another. The father is 57 and a Russian national. From what he told me he seems to have built a business empire and considerable fortune from scratch – he is a self-made man. The parties met whilst the mother was working as a finance director at his factory and they began a relationship in July 1996. The father was married at this time to HD. The mother became pregnant with their first child, DD, shortly thereafter. DD was born on 18 April 1997 and is now aged 22. The parties went on to have two further children, TD (born 5 January 2001 and who has just turned 19) and GD born on 2 March 2005 and who is now aged 14.

5. The parties have cohabited intermittently over the last two decades. Their relationship has not been conventional in that the father has married three other women (divorcing two of them) over that same period. He has three children from his other relationships: SD from a short lived relationship who was born on 1 September 1986, ED with his first wife who was born on 6 May 1999 and ID with his third wife ND who was born in August 2017.

6. In about 2000 the father set up a Lichtenstein foundation – ("the Foundation") for estate planning purposes. The sole beneficiary of the Foundation was the father and it appears to have held most of the father's assets either through a Marshall Islands registered company ("the Company") or directly.

7. The father purchased properties as homes for the mother and children in N City until 2010. The mother and the children moved to England in the summer of 2010 and they have lived here permanently ever since. Initially the family lived in rented accommodation. The family home ("the London Apartment") was purchased by the father in April 2011 and was thereafter extensively renovated at a cost of some £800,000. The mother and children moved into the property in March 2014 following completion of the renovation. The family home is valued at c.£10 million, the price reflecting the exclusive nature of the address. The father continues to live in Russia and has visited the family in the UK about four times a year for four days or so each time.

8. Since moving to the UK in 2010, the mother and children have visited Russia for several weeks during the summer and for periods at Christmas and Easter. When in Russia they have usually resumed occupation of the family home that they occupied

prior to the move to London in 2010. The property in N City was vandalised at some point between 2 January 2018 and April 2018. The mother discovered that it had been vandalised on 9 April 2018. She accused the father of being responsible for orchestrating the vandalism but at the fact-finding hearing in the Children Act proceedings Recorder Genn did not find the mother's allegation established. The property does however now require very extensive repairs. Damaged items will need to be replaced. It is currently uninhabitable and neither the mother nor children have returned to it since the damage was caused.

9. The mother's sister, niece and mother live in a country in Eastern Europe. The mother and children visit them during holidays. The father's eldest son SD now works as the managing director of the food factory although the father retains 100% ownership. ED, who studied in England for several years has left university without completing his degree and is considering his options. I believe the father said he is doing some work for him.

10. In addition to returning frequently to Russia, the father, the mother and the children have taken regular holidays together. In 2016 the family went on a yachting holiday in Croatia. Following this holiday a dispute emerged over the investor visa monies. I shall consider this in more detail later as it is relevant to one aspect of the mother's claim. In any event the mother returned £690,000 to the father and retained £300,000 as 'security'. The mother says that intimate relations between herself and the father ended in 2016. The father says that it ended much earlier.

11. In late 2017 the father gave DD £607,000 in order to purchase a property in London. Recorder Genn found as a fact that this was a gift and that it had not been intended that DD transfer to the father his alleged beneficial interest in the N City Property in return. However a dispute arose between the father on one side and DD and the mother, TD and GD on the other which very quickly turned highly acrimonious. The mother says the father had, over a period of years, become emotionally and physically abusive to her and the children. This abuse reached a crescendo in December 2017 and January 2018 as the dispute over the sums given to DD exploded into threats by the father towards the mother and DD. The threats became backed up by actions when the Foundation sought to evict the mother and children from the London Apartment.

12. The father's abusive behaviour eventually became the subject of a fact-finding hearing which took place before Recorder Genn in October 2018. Extensive and serious findings were made against the father at this hearing. On 25 January 2018 the mother applied without notice for an occupation order and non-molestation orders under the Family Law Act 1986 along with a prohibited steps order to prevent GD being removed from the jurisdiction. These were granted by DJ Hudd. The Family Law Act orders expire in March 2020. The father does not oppose their extension.

13. On 8 February 2018 the mother issued these Schedule 1 proceedings. The history of the proceedings is contained within the chronology attached to this judgment. Following the hearing before Recorder Reardon (as she then was) the case was allocated to a judge of High Court level. An FDR was listed before Mr Justice Francis on 6 February 2019 which went part heard but was not resumed. On 30 July 2019 the mother's application for a legal services payment order and the pre-trial review came before me and I case managed the application to a final hearing to commence on 20 January 2020.

14. The mother has not worked since she and the children moved from Russia to London in June 2010. She was on maternity leave from the father's company for several years before returning part-time from about 2008 until 2010. She, TD and GD continue to live at the family home. DD lives at his flat in West London and I believe is studying at college. TD is living at home and is currently at university. GD lives at home and is at school. She is soon approaching her GCSEs.

15. The father has adopted the 'millionaire's defence' within these proceeding and has conceded that he has sufficient resources to meet any award which the court might reasonably make. He has not been required to go through extensive disclosure and give a comprehensive picture to the court of the precise scale of his wealth. The *affordability* of the orders sought by the mother is not in issue, nor is any potential impact of those orders on the father's ability to meet the needs of his immediate family. It is the *reasonableness* of the mother's claim and the court's jurisdiction to make various orders that is the issue between the parties.

List of Agreed Issues

16. At the hearing on 30 of July 2019 the parties agreed that the following were the key issues for the final hearing:

    i) Whether the applicant and children should remain in the family home and, if so, the legal framework for their occupation;

    ii) Whether, conversely, the family home should be sold and a new property purchased for the applicant for the benefit of the children (and, if so, the appropriate level of any such replacement housing and the legal framework for the applicant and children's occupation);

    iii) Whether there should be an order for the settlement of the contents of the family home (including antiques owned by the respondent) or they should be returned to/retained by the respondent;

    iv) Whether (and in what sum) the respondent should pay the applicant a lump sum (or sums) to, inter alia, furnish a replacement property (or furnish the family home in the event the court orders the contents of the family home to be returned) and provide cars;

    v) The quantum of periodical payments for the children including the element of carer's allowance;

    vi) The appropriate method (and amount) of security to be provided by the respondent to ensure payment of any ordered lump sum/s and periodical payments.

17. The applicant additionally raised the following issues (which the respondent did, and does, not agree are relevant issues in the Schedule 1 Proceedings):

    i) The needs of the parties' adult child DD including whether the respondent should pay a lump sum to the applicant for past and future expenditure reasonably incurred by her to support and maintain DD and, if so, in what amount;

ii) Whether the respondent was responsible for the vandalising of the N City Property and, in any event, whether it is reasonable for the respondent to pay a lump sum for the restoration of that property and, if so, in what amount;

iii) Whether the sums given to the applicant in respect of the investor visa were a loan (as the respondent says) or provided to the applicant in exchange for sums she had transferred to the respondent and which are in any event not repayable (as the applicant says);

iv) The extent to which the applicant and/or DD are at risk of litigation (both in this jurisdiction and in Russia), orchestrated by the respondent, including with regard to: V Co.; the beneficial ownership of the N City Property; and the respondent's assertions regarding sums given to the applicant which he says were a loan. This issue includes the need to consider how (if at all) any such risks should be factored into the final orders made in these proceedings;

v) The quantum of any additional capital lump sums for defined capital expenditure for the benefit of the children in the foreseeable future in addition to the cost of therapy for the children following the findings made by Recorder Genn in the s.8 Children Act proceedings;

vi) Whether there should be a continuation of the non-molestation order due to expire in March 2020.

In his Position Statement the father accepts that the non-molestation order can be extended if the court thinks it appropriate so to do.

18. As a result of the mother's open offer I also have to consider whether there should be an outright provision of capital for a home for each of the children whether by way of settlement, property adjustment order or lump sum on a sale of the family home (either the London Apartment or any alternative home provided for by my order) and, if so, in what sum.

19. As will be readily apparent the list of issues covers matters of fact, evaluation and of law.

20. At the commencement of the hearing the parties respectively raised arguments in respect of some of the issues identified and invited me to determine whether they should be considered in the course of the hearing and if so whether evidence should be called in respect of them.

21. The mother invited me to re-examine the issue of who was responsible for the damage to the mother's property in N City. This was opposed by the father who submitted that the issue had been determined by Recorder Genn. I delivered a short judgment on that issue on the afternoon of the 21 of January 2020 and declined to re-examine that issue.

22. The issues of whether the court had jurisdiction to make orders in respect of the mother's jewellery which she alleged the father had removed and whether the court had jurisdiction to make orders in respect of the antiques in the London Apartment which the father alleged were his alone were addressed. In respect of the antiques, Mr Howard conceded that if I concluded that they should not remain in the London Apartment as part of an ongoing home for the children and the mother, that she would

return them. The father did not accept that he removed the items of jewellery the mother identified and contended that her remedy was under the Torts (Interference with Goods) Act 1977 rather than Schedule 1. Mr Pocock did concede that an allowance for jewellery might form part of a carer's allowance under Schedule 1 and so this issue of the mother's jewellery remained live. The issue of whether the investor monies were a loan or a gift was addressed. Mr Howard submitted that it was relevant because monies expended by the mother out of the £300,000 'security' she retained from the investor monies would have been her money if it was a gift and thus to the extent that those monies were expended for the benefit of the children the court would be able to direct a lump sum be paid to reimburse the mother. Although Mr Pocock took issue with whether the court could or should make any such order ultimately it appeared to me that there was an issue to be determined in respect of those funds. Thus HF, the father's lawyer and board member of the Foundation, would be a potentially relevant witness.

The Parties' Positions

23. In respect of the orders sought by the mother and the father's response they are set out in the parties' open positions as subsequently varied or clarified in their Skeleton Arguments and closing submissions. I set them out in summary form in the table below. Each of the Open Offers and the Skeletons or Position Statements set out the positions in considerable detail.

Item	Mother's Position	Father's Position
Housing:	M and children to remain in the London Apartment.	Sell the London Apartment. Housing fund of £3m + costs of purchase. Can be provided w/o sale of the London Apartment by bridging loan.
Long term housing	GD and TD to receive £0.95m each for housing.	
Contents:	All contents to remain in the London Apartment OR Lump sum for new contents of £625,616.68	£50k for furnishings. F to retain contents of the London Apartment
Mechanism	The London Apartment and Contents to be settled on trusts for M and children to reside in until 6	House until GD 18 or 6 months beyond completion of Tertiary education.

	months after GD leaves university including a gap year (if taken). The London Apartment then to be sold and net proceeds (after deduction of £1.9m housing fund) and contents then to revert to F. Settle by counsel. F to pay costs	Long lease at peppercorn rent. Settle lease by counsel
Housing Expenses	F to settle a capital fund to meet Ground Rent, repairs and maintenance, insurance for property and contents, redecoration 4 yearly, administrator costs.	F will pay service charge, ground rent, buildings insurance and structural maintenance on £3m prop. No capital fund.
Lump Sum 1 [A8] (Additional items for TD and GD: watches, graduation presents/parties, dog, driving, phones, computers, bicycles + refurb of pergolas + additional furniture) + Dentistry costs [E303] + Past therapy [C281]	£95, 936 £3,500 (not quantified)	£4,600 (watch, bike and MacBook pro each)
Car Replacement (and further sum to replace every 4 years)	£51,732	£16,000 Up to £40k every 4 years until GD is 21 or ceases f-t tertiary education
Periodical Payments (TD, GD and M) (+ true cost of cleaner and therapy)	£20,714.90 pcm (c. £3,500 per child and balance as carer allowance) (£19,898.90 + £576 + £240)	£2,500pcm per child until 18 or ceasing f-t tertiary education. £5,000 pcm carer allowance

M= A16 F= E242		CPI linked
PPs: Education	F to pay all GD's school fees and extras and all university fees including extras up to first degree	F to pay school fees for TD and GD to 18 F will be responsible for tuition fees for undergraduate degree
Lump sum 2 (Russian legal fees, N City Property refurb	 £26,785 £300,000	 Nil (claims for own benefit) £25,000 (No jurisdiction but if the London Apartment sold)
Lump Sum 3 Children Act/FLA Costs Sch 1 Costs	 £67,361.61 Not quantified	 Nil (M has paid them using loaned investor visa funds)
Security (replacement cars, school fees, university fees,	F to provide security for all payments not included in the capital fund	If the London Apartment sold F will set aside £820,000 to pay Maintenance New car costs Service charge costs Administration
Lump Sum 4 (F to reimburse M for expenses she has paid for DD [C296])	£94,268.94 (£62,349.81 [2018], £16,438.93 [2019], £14,606 [2020], £874.20)	Nil No jurisdiction

Lump Sum 5 (Jewellery: E342)	£249,750	Nil

The Law: The Statutory Framework

24. S.15 of the 1989 Act gives effect to Schedule 1 ("Sch 1"), and empowers the court to make financial provision for the benefit of children, including in terms of provision for periodical payments in circumstances where the Child Support legislation does not apply. It is agreed that the circumstances of this case are such that the court has jurisdiction in respect of periodical payments.

25. Paragraph 1 of Sch 1 provides:

(1) On an application made by a parent, guardian or special guardian of a child, or by any person who is named in a child arrangements order as a person with whom a child is to live, the court may make one or more of the orders mentioned in sub-paragraph (2).

(2) The orders referred to in sub-paragraph (1) are —

(a) an order requiring either or both parents of a child —
(i) to make to the applicant for the benefit of the child; or
(ii) to make to the child himself,
such periodical payments, for such term, as may be specified in the order;

(b) an order requiring either or both parents of a child —
(i) to secure to the applicant for the benefit of the child; or
(ii) to secure to the child himself,
such periodical payments, for such term, as may be so specified;

(c) an order requiring either or both parents of a child —
(i) to pay to the applicant for the benefit of the child; or
(ii)to pay to the child himself,
such lump sum as may be so specified;

(d) an order requiring a settlement to be made for the benefit of the child, and to the satisfaction of the court, of property—
(i) to which either parent is entitled (either in possession or in reversion); and
(ii) which is specified in the order;

(e) an order requiring either or both parents of a child—
(i) to transfer to the applicant, for the benefit of the child; or
(ii) to transfer to the child himself,
such property to which the parent is, or the parents are, entitled (either in possession or in reversion) as may be specified in the order.

(3) The powers conferred by this paragraph may be exercised at any time.

(4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(5) Where a court makes an order under this paragraph –

(a) it may at any time make a further such order under sub-paragraph (2)(a), (b) or (c) with respect to the child concerned if he has not reached the age of eighteen;

(b) it may not make more than one order under sub-paragraph (2)(d) or (e) against the same person in respect of the same child.

(6) – (7) irrelevant...

26. Paragraph 2 of Sch 1 also permits children over the age of 18 themselves to seek orders (for periodical payments and/or lump sum only) against their parents in certain circumstances:

2(1) If, on an application by a person who has reached the age of eighteen, it appears to the court—

(a) that the applicant is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) that there are special circumstances which justify the making of an order under this paragraph,

the court may make one or both of the orders mentioned in subparagraph (2)
(2) [periodical payments and lump sum orders are specified]

27. Paragraph 3 deals with the duration of periodical payments orders:

3(1) The term to be specified in an order for periodical payments made under paragraph 1(2)(a) or (b) in favour of a child may begin with the date of the making of an application for the order in question or any later date or a date ascertained in accordance with subpara (5) or (6) but—
(a) shall not in the first instance extend beyond the child's seventeenth birthday unless the court thinks it right in the circumstances of the case to specify a later date; and
(b) shall not in any event extend beyond the child's eighteenth birthday.
(2) Paragraph (b) of subparagraph (1) shall not apply in the case of a child if it appears to the court that—
(a) the child is, or will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
(b) there are special circumstances which justify the making of an order without complying with that paragraph.

28. Paragraph 4 sets out the matters to which the court is to have regard in making orders for financial relief:

4(1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court shall have regard to all the circumstances including—
(a) the income, earning capacity, property and other financial resources which each person mentioned in subparagraph (3) has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each person mentioned in subparagraph (3) has or is likely to have in the foreseeable future;
(c) the financial needs of the child;
(d) the income, earning capacity (if any), property and other financial resources of the child;
(e) any physical or mental disability of the child;
(f) the manner in which the child was being, or was expected to be, educated or trained.
(4) The persons mentioned in subparagraph (1) are—
(a) in relation to a decision whether to exercise its powers under paragraph 1, any parent of the child;
(b) in relation to a decision whether to exercise its powers under paragraph 2, the mother and father of the child;
(c) the applicant for the order;
(d) any other person in whose favour the court proposes to make the order.

29. Paragraph 5 sets out the provisions relating to lump sums:

(1) Without prejudice to the generality of paragraph 1, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses –
(a) incurred in connection with the birth of the child or in maintaining the child; and
(b) reasonably incurred before the making of the order,
to be met.
(2) (repealed)

(3) The power of the court under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments by a parent shall include power to make an order under that provision for the payment of a lump sum by that parent.
(4) (repealed)
(5) An order made under paragraph 1 or 2 for the payment of a lump sum may provide for the payment of that sum by instalments.
(6) Where the court provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying –
(a) the number of instalments payable;
(b) the amount of any instalment payable;
(c) the date on which any instalment becomes payable.
(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

30. Paragraph 6 permits variation applications where a child has reached 18 years of age.

31. S. 105 of the Act (the interpretation section) provides that

"'child' means, subject to paragraph 16 of Schedule 1, a person under the age of eighteen".

32. Paragraph 16 of Sch 1 (Interpretation) provides:

(1) in this schedule "child" includes, in any case where an application is made under paragraph 2 or 6 in relation to a person who has reached the age of 18, that person.

Thus it extends the meaning to include a child over the age of 18 in applications pursuant to paragraphs 2 and 6.

33. Sch 1 did not create substantively new law. As s.15 itself records, it "consists primarily of the re-enactment with consequential amendments and minor modifications, of provisions of the Guardianship of Minors Acts 1971 and 1973, the Children Act 1975 and of sections 15 and 16 of the Family Law Reform Act 1987" all of which gave the court jurisdiction to make orders for financial relief for children.

34. The issue arises as to the court's jurisdiction to make capital orders in respect of both TD and DD.

35. The mother's application was issued on 8 February 2018 and named both TD and GD. TD was therefore aged 17 and GD 12.

36. Mr Howard and Ms Moys submit that the power to make one of the 'menu' of orders is triggered at the point of application and from that point on the court has the power to make interim and final orders. The restriction in Sch 1, para 1(5)(a) which allows the court to make further periodical payments, secured periodical payments and lump sum orders provided the child has not reached the age of 18 does not apply to the making of the initial order. They note that Sch 1, para 1(3) identifies that the powers conferred by this paragraph may be exercised at any time.

37. Mr Pocock and Ms Kelsey argue that the court has no jurisdiction to make an order in respect of a child who has reached the age of 18 unless it is an application which falls within Sch 1, para 2. They argue that Sch 1, para 1(1) refers to an order requiring 'either or both parents of a child' to make payments, or 'an order requiring a settlement to be made for the benefit of the child' and the reference to 'child' must be to a child under 18, as defined under section 105. The ability of the court to extend a periodical payments order does not change the meaning of 'child'. They refer to the decision of Mr Justice Munby as he then was in Re N (payments for benefit of child) [2009] 1 FLR 1442 and his observations as to the narrow circumstances which Parliament had carefully put in place where orders for financial provision could be made to extend beyond a child's 18th birthday or be made on application by a person already aged 18.

38. They argue that the provisions of the Matrimonial Causes Act 1973 do not assist the mother's argument because:

i) The prohibition in s.28(3) MCA 1973 against a spouse applying for financial provision after remarriage is not analogous. s.23 MCA 1973 is necessary because otherwise an order can specifically be made "at any time after" decree pursuant to s.23 which Sch 1 does not have any equivalent of.

ii) Under the MCA 1973 an application (by a spouse) can be made before decree, however there can be no order until after decree. This demonstrates the opposite of what is contended for by the mother. The interpretation that an order cannot be made after the child reaches 18, even if the application pre-

dates their 18th birthday is also (they argue) supported by para 1(5)(a), by which:

iii) once a child is an adult, even where his parent obtained an earlier order for his benefit, the parent cannot obtain a further order – only the adult can apply, and

iv) even before the child is an adult, the court "may at any time **make a further such order** under sub-paragraph (2)(a), (b) or (c) with respect to the child concerned **if he has not reached the age of eighteen**". That plainly relates to the time at which the order is made.

39. Although at paragraph 19 of their skeleton argument Mr Pocock and Ms Kelsey submit that there is no power to make an order for the transfer of property to, or settlement on an 18-year-old child or to a parent for the benefit of such an adult child and there is no power to make a lump sum order to the mother for the benefit of TD, the logical conclusion of their argument is that the court does not have jurisdiction to make a periodical payments order in respect of TD, although it is accepted that such an order can be made without TD applying in his own right. At the time the court would be making the order he will not be a child within the meaning of Sch 1, para 1(2)(a) or (b). The provisions of para 3 which relate to the duration of an order do not determine the jurisdiction of the court to make an order in the first place but rather identify when the term of '*an order for periodical payments made under paragraph 1 (2) (a)…*' may commence and when it may cease. On Mr Pocock's construction the court could make a periodical payments order if the child was under 18 at the time it was made and could extend it in accordance with the provisions of Sch 1, para 3 but could not make the order in the first place if the child was 18 years and one day old by the time the order was actually made.

40. In relation to the ability of the court to make capital orders in respect of TD the commentary to the Family Court Practice 2019 [paragraph 2.233[1]] states:

Schedule one covers three situations, namely:

a) Orders that a parent to pay maintenance or a lump sum or transfer property to children when the first application for such an order is made while the child is under the age of 18 (although an order for periodical payments can subsequently be extended if the child is continuing in education or there are special circumstances);

b) orders for periodical payments or a lump sum where the first time an application is made is when the child is aged over 18;

c) [alteration]

41. When the matter came before me on 20 July 2019 no issue was taken over the jurisdiction of the court to make any of the menu of orders in Sch 1, para 1. The recitals to the order [B36] identified both children as being within the ambit of both capital and periodical payments orders. In contrast the recitals and the provisions of the order did draw a distinction between TD and GD on the one hand and DD on the other.

42. The effect of Sch 1, para 3 which permits the court to backdate a periodical payments order to the date of the application and to extend it beyond the child's 18th birthday would support the construction that an order for periodical payments can be made for the first time after the child reaches the age of 18 provided that the application was made prior to the child's 18th birthday. The use of the word 'is' in paragraph 3(2)(a) would also support the construction that an order can be made at a time when the child is 18. It seems to me that if the court has the power to make a periodical payments order in respect of a 'child' who has reached the age of 18 where the application was made prior to the 18th birthday that the court would also retain the jurisdiction to make other species of order under para 1. Para 3 is looking at the duration of orders in terms of commencement and end date rather than the jurisdiction of the court to make any order at all. As a matter of logic if educational or special circumstances apply so as to justify the court making periodical payments orders which extend beyond the child's 18th birthday those special circumstance would as a matter of fact (albeit not of law) be just as relevant to the issue of whether they provided the factual foundation for a capital order. If Parliament had intended that the court should lose the ability to make an order when the child reached the age of 18 in the course of pending proceedings it surely would have addressed the issue. If the court lost the power to make the order it would require the court to then join the child to the proceedings or at least to ascertain whether they wished to then make their own application. I do not think it can be right that procedural delay the fault for which might lie entirely at the door of either the court or of the respondent should have the potential to 'knockout' an application which was legally permissible and which was evidentially sustainable at the time of determination. Such an interpretation would potentially breach both the article 6 ECHR and article 8 ECHR rights of the applicant and the children and would be contrary to their welfare, whether as a primary consideration or simply as a consideration. It could in any event be partially remedied by joining the adult child as a party and deeming an application to have been made by them pursuant to Sch 1, para 2 albeit there would be a more limited range of orders available. This would still encompass both income and capital. If I am wrong in my conclusion that the proper interpretation of Sch 1 is to allow the court to make an order under paragraph 1 (2)(a-e) on the mother's application I would deem an application to have been made by TD for periodical payments and a lump sum in any event. I see no injustice to the father in so doing and I am satisfied that this is what TD would want, he obviously working on the basis that it has been unnecessary for him to make such an application given he was included within the mother's application and no application or submission has been made prior to the final hearing to prevent the court making any orders for his benefit.

43. So I conclude that provided the application is made before the cut-off date it seems to me that the court having acquired jurisdiction to make orders under Sch 1, para 2 retains it until disposal of the application.

44. The mother also argues that a fundamental rights based interpretation of Schedule 1 of the 1989 Act should lead me to conclude that it permits a parent to make an application *on behalf* of their child *after* that child has attained the age of 18.

45. Mr Howard and Ms Moys argue that there is an illogical contradiction in the wording of Sch 1. This is because whilst the act allows applications brought by the parent of a child under 18 at the date of the application to result in orders lasting beyond the age of 18 if the child is in education/training, and allows adult children to bring their own

applications for periodical payments or lump sums, it does not allow a parent to make an application for periodical payments or lump sums on behalf of their 18+ child even if that child is in education/training or under a disability (I assume this means special circumstances). They make the following points in support of their submission that I should interpret Schedule 1 so as to allow an application by a parent in respect of (or on behalf of) an adult child. Their detailed submissions are contained from paragraphs 99 through to 112 of their skeleton argument and on pages 2 and 3 of their 'Headline Points'.

i) A key objective for the change in the law in the mid-1980s was to end discrimination in the legal treatment of and remedies available to children born out of wedlock. Parliament decided to make the same financial remedy available to the children of married and unmarried parents. Unjustified discrimination between the children of married and unmarried parents is incompatible with Convention rights.

ii) A difference in the ability of the children of unmarried parents compared to the children of married parents to claim financial relief is '*a modality of the exercise of the rights guaranteed by article 8'*. Article 8 includes a positive obligation on the state to ensure that de facto relationships are recognised and protected by law.

iii) The court must read and give effect to all primary and secondary legislation in a way which is compatible with Convention rights [s.3 HRA]. When considering the interpretation of legislation the court must have regard not just to the intention of Parliament but should seek to adopt any possible construction which is compatible with and upholds Convention rights [Ghaidan v Godin Mendoza [2004] 3 WLR 113 at 41].

iv) Under the Guardianship of Minors Act 1971 parents could bring applications on behalf of adult children. Under the Matrimonial Causes Act 1973 applications for financial provision can be brought by a parent on behalf of an adult child; ss.23, 29 & *Downing v Downing (Downing intervening)* [1976] 3 all ER 474.

v) There is no logical reason for the reintroduction of discrimination given that the Family Law Reform Act 1987 sought to eliminate discrimination against the children of unmarried parents and amended the Guardianship of Minors Act 1971 to bring it in line with the Matrimonial Causes Act 1973. It cannot have been Parliament's intention that the only way for a child of 18 or over to obtain financial support is to bring their own application and become a party to proceedings. There are undesirable practical financial and emotional considerations linked to the child having to make the application on their own behalf.

vi) The wording of Sch 1, para 3(2)(a) including the word 'is' shows Parliament having envisaged that an order could be made on a parent's application at a time when the child was already 18. Para 3 makes no grammatical sense if the word child is read as a person under the age of 18.

vii) Applying *Pepper (Inspector of taxes) v Hart* [1993] AC 593 the court should adopt a purposive approach to the construction of Sch1, paras 1,3 and 5 so as to permit the mother to apply for a lump sum in respect of expenses she has reasonably incurred maintaining DD whilst he has been in education and the cost of completion of his tertiary education.

46. On behalf of the father Mr Pocock and Miss Kelsey argue that the mother is "trying it on" in relation to this part of the claim and observe that no claim has ever been advanced on behalf of DD and he is omitted from her budget. The late development of this argument illustrates its lack of any real basis and has also resulted in it being impossible to fully explore in submissions. They point out that the basis of the court's powers in respect of orders made on divorce and orders under Sch 1 are both different in jurisdictional basis and in nature. In relation to the powers under the MCA orders, they are made on divorce (the termination of a legal status) and arise out of that and can be made for the benefit of any child of the family who does not need to be under 18 years old or even the biological child of either spouse.

47. They submit that the language of Sch 1 is clear and that it cannot be interpreted so as to provide the court with the power to order a lump sum for DD even if it were impermissibly discriminatory and thus the court would be in declaration of incompatibility territory.

48. Although they are unable, given the constraints of time, to fully develop their argument they submit that there is objective justification for the difference in treatment arising out of the fact that parties who marry or who enter civil partnerships choose to adopt/submit to protections and obligations which then sound in the wider range of powers that the court acquires upon the termination of that legal relationship. Unmarried couples do not subscribe to those same obligations and protections and this does not amount to discrimination against the child of an unmarried couple but recognition of the very different positions of the respective sets of parents.

49. For the reasons set out below I do not accept that it is open to the court to make orders on the application of the mother in respect of DD.

i) Sch 1, para 1(1) specifies that the court may make an order *'on an application made by a parent….. of a child*'. This identifies that at the time of the application the child must be 'a child' within the definition given in s.105 of the Act and so must be under 18. The only exception to this is identified in Sch 1, para 16 where the definition of child is extended beyond the age of 18. However this only applies where the application is made by the 18+ child herself. Thus on its literal reading, the Act does not permit this.

ii) I do not consider that it can be read or given effect in a way which allows an application for an order in respect of an adult child. If the Act is incompatible with Convention rights (which I am not satisfied that it is as a result of the absence of full argument on the point) it seems to me that it would fall within the territory of s.4 of the Human Rights Act 1998 and might require a declaration of incompatibility. S.5 of the HRA requires notice to the Crown where the court is considering whether to make a declaration. The issue emerged in the mother's skeleton argument and has not been subject to the

procedural requirements which would usually follow the identification of the possibility.

iii) I am not convinced (although I am not deciding) that the absence of the right of a parent to make an application on behalf of an adult child amounts to discrimination against the child in the substantive article 8 right. The child has a substantive right pursuant to Sch 1 to make her own application and I am not sure that the difference in the procedural routes amounts to Art 14 discrimination in respect of the article 8 right.

iv) I also consider that there is force in the father's submissions that the differing menu of orders is linked to the differing rights and obligations undertaken by married parents or those in civil partnerships and that there is objective justification for the difference in treatment.

Schedule 1 as interpreted by the Courts

50. Where an order for financial provision is sought 'for the benefit of the child', that 'benefit' is not confined to a financial benefit of the child.

51. However, the words 'for the benefit of the child' are not without limitation and there is no power to make orders for the applicant's sole benefit. That is not to say, however, that a payment to an applicant "for the benefit of a child" may not in reality provide some consequential benefit to the applicant. For instance, where providing a home for a child necessarily means providing a home for the primary carer of the child who is the subject of the application under Sch 1 this is not only permissible, but is a necessary effect of the order, taking into account welfare considerations of the child in their proper context within the Children Act 1989, Sch 1 (*Re P (a child) (financial provision)* [2003] EWCA Civ 837; *A v A (a minor)* [1994] 1 FLR 657).

52. It has also been said that the child's financial *needs* include a need to be cared for by a person who is – both generally and financially - in a position to provide that care, enabling the caring parent's needs to be taken into account (*Re P (ibid); A v A (a minor)* [1994] 1 FLR 657; *Haroutunian v Jennings* (1977) 1 FLR 62). The provision of a carer's allowance as part of a periodical payments order has therefore been developed as a legitimate part of a Sch 1 order.

53. Para 2 of Sch 1 deals with orders for children over 18. The court has power to make such an order provided that the child *is* or will be (or would be if an order is made) in education or training, or there are special circumstances. 'Special circumstances' may include physical or other disability (per *C v F Disabled Child: Maintenance Order [1998] 2 FLR 1* and *T v S (Financial Provision for Children [1994] 2 FLR 883*).

54. Para 3 of Sch 1 deals with the *duration* of maintenance orders. Whilst the court is enjoined from ordering periodical payments beyond a child's 18th birthday (§3(1)(b)), there are exceptions (§3(2)) where the child *is* or will (or would if an order is made) be in education or training or where 'special circumstances' apply.

55. Whilst the para 4 list of factors is similar to that to which the court has regard in exercising its discretion to make orders in relation to divorcing parties to a marriage

under the Matrimonial Causes Act 1973 the specified factors are not precisely replicated and there are matters in s.25 of the Matrimonial Causes Act which are not set out at paragraph 4 in relation to Sch 1 cases, namely:

i) The standard of living enjoyed during the marriage;

ii) The age of each party;

iii) The duration of the marriage;

iv) The physical and mental disability of either of the parties;

v) The conduct of either parent;

vi) The contributions which either [parent] has made or is likely to make in the future to the welfare of the family, including any contribution by looking after the home or caring for the family;

56. It is immediately apparent that the factors which are omitted are those which focus on the adult parties rather than the children who are to benefit. However the Court must consider 'all the circumstances' of the case when exercising its wide discretion to make orders under Sch 1. The reference to 'all the circumstances' is capable of including standard of living and conduct that it would be inequitable to disregard.

57. In *Re M-M (A Child)* [2014] EWCA Civ 276 the Court of Appeal (McFarlane LJ) said (para.33):

"In cases under Sch 1 the court will have regard to the degree in which the child in question is entitled to be brought up in circumstances which bear some sort of relationship to the father's current resources and the father's present standard of living."

58. Macur LJ in Re A (A Child: Financial Provision) [2015] 2 FLR 625 (§18-19) said that:

"The additional factors at subs (d), (f) and (g), namely duration of the marriage, contributions made and conduct, make clear the distinction between the basis of the claims of a party to a previous marriage and a child, whether illegitimate or legitimate."
"The literal or purposive interpretation of Schedule 1 does not permit of the concept of sharing or compensation for the benefit of the child, nor, by the back door, financial provision and compensation for the carer beyond that element attributable to the care of the child during his minority, or other determined duration of dependency. There is no established authority to the contrary. The judgment of Lady Hale in Gow v Grant *[2012] UKSC 29, [2012] 3 FCR 73, at paragraphs 44 - 56 which urges reform of the law to rebalance the financial consequences of relationship breakdown in cohabitation, makes this clear, as does the prevailing case law on this point; see:* J v C (Child: Financial Provision) *[1999] 1FLR, 152, at 159 H;* Re P *(above) at paragraphs 40, 41 and 49; PG v TW (above) at paragraph 105."*

59. Hale J (as she then was) in *J v C [1999] 1 FLR 152* had held that whilst the principle that the child's welfare is paramount is not one of the matters listed in paragraph 4, nevertheless, and whilst not "paramount", the child's welfare is still relevant:

> *"Nevertheless, in cases under the Children Act 1989 the welfare of the child concerned, even if neither the paramount nor the first consideration, must be one of the relevant circumstances to be taken into account when assessing whether and how to order provision"*

60. Later, in *Re P (supra)*, Thorpe LJ said that the child's welfare will be *"…in the generality of cases, a constant influence on the discretionary outcome…"*

61. Those observations of Hale J (as she then was) were made before the implementation of the Human Rights Act 1998 but they and those of Thorpe LJ are in broad terms consistent with article 3 of the United Nations Convention on the Rights of the Child which provides that:

> *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

62. Decisions of the Supreme Court of the UK make clear that the rights set out in the UNCRC are binding and must be complied with in domestic decision making: ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC 4, [2011] 2 AC 166, per Baroness Hale at 23; HH v Deputy Prosecutor of the Italian Republic, Genoa (Official Solicitor Intervening) [2012] UKSC 25, [2013] 1 AC 338, [2012] 4 All ER 539, paras 33 and 155, where the Supreme Court said that in looking at ECHR rights they had to be considered through the prism of UNCRC, Article 3.1. In ZH (Tanzania) the UK Supreme Court explored and explained the distinction between decisions directly affecting the child's upbringing where welfare was the paramount consideration, and decisions which affect the child more indirectly where welfare is a primary consideration. Where welfare is a primary consideration the decision taker should not treat any other consideration as inherently more significant but should consider the best interests of the child first. Insofar as the later decisions impact on what Hale J said in J v C in terms of welfare not being the first consideration, it seems to me that in so far as the law may now require welfare or best interests to be considered as a first consideration as part of all of the circumstances of the case it is a modest shift of emphasis.

63. The leading case on the exercise of the statutory discretion remains Re P (Child: Financial Provision) [2003] 2 FLR 865, the first Sch 1 case to reach the Court of Appeal. In that case, the parties, who had not cohabited, had a two-year-old child. The father described himself as 'fabulously rich' and conceded that he could pay a lump sum of £10 million if he were ordered so to do. At first instance, the mother was awarded, inter alia, £450,000 for a house; £30,000 for furnishings; and periodical payments of £35,560 pa to be reduced by £9,333 on the child's seventh birthday. The mother appealed (successfully) to the Court of Appeal, which increased the housing fund to £1 million; the furnishing fund to £100,000; and periodical payments to £70,000 pa (less state benefits). Thorpe LJ gave general guidance in relation to future Sch 1 applications. The main principles can be summarised as follows:

i) The mother's entitlement to an allowance as the primary carer should be checked but not diminished by the absence of any direct claim in law. The court should recognise the responsibility, and often sacrifice, of the unmarried

parent who was to be the primary carer of the child. The carer should have control of a budget that reflects her position and that of the father, both social and financial;

ii) A periodical payments order for a child may include a 'carer's allowance' for the parent with care, especially if that parent has had to reduce or give up work in order to provide care. In terms of calculating this allowance, a more generous approach to the receiving party (i.e. than permitted by Ward J in A v A (A Minor) (Financial Provision) [1994] 1 FLR 657) would not only be 'permissible but also realistic' (paragraph 43).

iii) The provision of a home for the child will ordinarily be ordered by way of a settlement of property for the child's minority/dependency (i.e. under paragraph 1(2)(d)) rather than a transfer of property order (under paragraph 1(2)(e)(ii) (see A v A (A Minor) (Financial Provision), supra).

iv) Children should not suffer financial consequences as a result of the fact that their parents were not married to each other at the time of their birth. Equally, they should not be financially rewarded for it (see J v C (Child: Financial Provision) [1999] 1 FLR 152, Hale J).

v) The child's welfare should ordinarily come before those of the parents in deciding these cases. Welfare will be 'a constant influence on the discretionary outcome'.

vi) No great significance should be attached to whether a pregnancy was planned or not. The financial responsibility for a child arises whether the child was wanted or not.

vii) Children are entitled to be brought up in circumstances that bear some sort of relationship to their parents' (both parents) resources and standard of living.

viii) The court must guard against claims for the mother being disguised as claims for the child.

ix) The starting point for the Judge should be to decide the home that the respondent must provide for the child. The value, the size, and the location of the home all bear upon the reasonable capital cost of furnishing and equipping it as well as upon future income needs (both directly in terms of outgoings and indirectly including education, travel and holidays).

x) Calculations derived for the purposes of personal injury or fatal accident claims, or comparisons with the cost of paid childcare, are of little use as compared to the exercise of a needs assessment within the familiar experience of specialist family judges.

64. The court is required to ensure that the lump sum provision does not overlap with the general maintenance powers. Thus, if the court does not have the jurisdiction by virtue of the child support statutory regime to make a top up order, that cannot be circumvented by ordering lump sums instead for items of general maintenance (per Johnson J in Phillips v Peace [1996] 2 FLR 230). Nor may a lump sum be used to

circumvent the prohibition on there being more than one settlement or transfer of property order: Phillips v Peace [2005] 2 FLR 1212 at paragraph 35 per Singer J:

> *[35] It would, in my view, be just as much a misuse of the court's power were M enabled by claiming a lump sum to circumvent the prohibition on a second property adjustment order created by para 1(5)(b) as it would have been if Johnson J in 1996 had succumbed to the blandishments proffered by Mr Shaw's predecessor and had awarded a series of lump sums to thwart the intendment and the requirements of the Child Support Act 1991.*

65. Mr Howard has argued that if the court does not have jurisdiction to award a lump sum in respect of expenditure incurred by the mother in relation to DD, that it can take it into account indirectly because the court must have regard to the financial needs, obligations and responsibilities of the mother pursuant to Sch 1, para 4(1)(b) or as part of 'all the circumstances'. Mr Pocock submits that the mother cannot get by the back door that which she cannot get by the front door of an order for a lump sum for the benefit of DD and relies on Phillips v Peace. I agree with Mr Pocock's submission and observe that it is difficult to see how in practice taking the mother's obligations into account could translate into an order within para 1(2) when the entirety of her income will come from the father and when any order would have to be to benefit either TD or GD.

66. The court has jurisdiction to award periodical payments (or secured periodical payments) either because the payer is in receipt of an income at or greater than the maximum amount for CMS purposes, or (as in this case) because the CMS has no jurisdiction as the payer is not resident in England and Wales.

67. There are repeated warnings in the authorities that the court must be alive to the possibility of claims being brought for the child, but which include sums for the benefit of the caring parent that are not in any way related to their care of the child. For example per Hale J in J v C (supra):

> *I accept of course that one must guard against any use of an application such as this as 'gold digging' on the part of the mother. This is a pejorative phrase which it is easy for advocates to use. The point can only be that one has to guard against unreasonable claims made on the child's behalf but with the disguised element of providing for the mother's benefit rather than for the child. I accept that entirely.*

68. However Haroutounian v Jennings [1980] FLR 62 established that the costs of a mother's care fall within a claim that can be made on her behalf. In that case Sir George Baker P and Balcombe J sitting as a Divisional Court on appeal from the justices pursuant to the Affiliation Act 1957 said:

> *"It is not wrong in principle for an allowance for a child to include an allowance for the mother, particularly if she has had to give up work, or is unable to work, because of the child." [per Sir George Baker P at para 65].*

69. Similarly, in the more recent PG v TW (No 2) (supra), HHJ Horowitz QC (sitting as a High Court Judge) considered the position of a 4 year old child, whose father was a very high earning professional footballer (he was said to have a multi-million pound income). He said:

[*28] The entire focus is on the needs of the child and not the parent as recipient directly or indirectly save as in her role as carer. So calculations of the appropriate provision to be made do not include a margin to enable the recipient caring parent to fund a pension, endowment or otherwise put away money for a rainy day or, indeed, the end of the years she has dedicated to the upbringing of the parties' child.*

[29] But within those limiting guidelines, the leading cases demonstrate that the operation of the schedule is to be applied with flexibility and on a realistic ample scale particularly in the case of a wealthy paying parent.

70. It is a curious anomaly that in the 21st-century a carer's allowance, which might be interpreted to some extent as a wage, does not carry with it any entitlement to pension provision. However no claim is advanced in this respect and so it does not require any further consideration. The court does not (any longer) look at the broad cost of professional child care and calculate the maintenance accordingly. The approach is now that set out above in re P (Child: Financial Provision) [2003] 2 FLR 865. In the same case, Bodey J in the Court of Appeal also said:

"[77] From the experience of this case, I would propose three further considerations:

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

(ii) Comparisons with the commercial cost of providing professional care are unlikely to be of great assistance and may only serve to distract.

(iii)…

[78] It is in quantifying the mother's reasonable needs as carer of the child that a tension emerges in such cases as this where the father is very wealthy. This tension is between seeking to achieve that the child has a standard of living bearing 'some sort of relationship with the father's current resources and standard of living', yet that the mother is not in the process provided for just the same as if she and the father had undertaken the commitment of marriage.

[79] Such tension is unlikely to emerge where the father is of lesser means, as (i) his lifestyle will be more modest as a comparative factor and (ii) his own needs will place a curb on the amount which he can reasonably be expected to pay.

[80] Since there will always be distinctions of fact and degree as between cases, it is not possible to reduce to words any formula for seeking to ensure that the above distinction is maintained between mother as carer and mother as former wife. There will always be some budgetary needs claimed by a mother which fall clearly within her reasonable needs as the child's carer and others which fall clearly outside those needs as carer.

[81] There will equally and inevitably be numerous grey areas, where the need asserted is of no direct benefit to the child, but is (or is arguably) of legitimate indirect

benefit in helping reasonably to sustain the mother's physical/emotional welfare. This will be most pronounced when the father is very wealthy and able without difficulty to provide for living costs of no clearly identifiable direct benefit to the child, but which would indirectly promote the mother's care of the child by allowing her such a lifestyle as not to feel 'out of place' in the society of the parents of the child's friends.

[82] It is these fine (and largely insoluble) distinctions of fact and degree within the grey areas of indirect benefit to the child which particularly justify the proposition at para [77](i) above, namely as to the desirability of a broad budgetary approach by the court in bigger money cases. Such an approach aims so far as possible to avoid subjectively driven, time consuming and cost ineffective arguments, so often fairly sterile in the result."

71. In the vast majority (although not all) instances of reported court ordered awards there has been no "delineation" of the overall maintenance award between direct costs, indirect costs and carer's allowance.

Provision for Children Over 18

72. The principle that children are entitled to be maintained and educated but that, in the absence of disability or other special circumstances, they have no claim on their parents' resources after seeking to be independent is taken from the successive cases of Chamberlain v Chamberlain [1973] 1 WLR 1557, then Lilford v Glynn [1979] 1 WLR 78 then Kiely v Kiely [1988] 1 FLR 248: "the statutory scheme is to enable the court to make financial provision for children as children or dependents". Those were the authorities also referred to by Hale J (as she then was) in J v C supra (at 155), where she briefly traced the legislative history of the 1989 Act, and the Family Law Reform Act 1987, its near identical predecessor. She stated that the 1987 Act:

"implemented two Law Commission reports on illegitimacy. The object of those reports was to remove the difference in legal positions of children. The underlying principle was that children should not suffer just because their parents had, for whatever reason, not been married to one another

Equally of course they should not get more. There is a long line of authority, beginning with Chamberlain v Chamberlain [1973] 1 WLR 1557, and continuing with Lilford (Lord) v Glynn [1979] 1 WLR 78, (1978) FLR Rep 427 and Kiely v Kiely [1988] 1 FLR 248, that children are entitled to provision during their dependency and for their educations, but they are not entitled to a settlement beyond that, unless there are exceptional circumstances such as a disability, however rich their parents may be"

73. In T v S (Financial Provision for Children) [1994] 2 FLR 883 Johnson J set out the principle that support for children extends to the end of their minority or education, but in the absence of disability or other special circumstances, not beyond that.

74. In relation to disability, in C v F (Disabled Child: Maintenance Orders) [1998] 2 FLR 1, the Court of Appeal confirmed that the court has this power to make orders under Sch 1 in relation to a child who is over 18. Expenses in relation to a child's disability should be given a broad interpretation. Thorpe LJ summarised the position at paragraph 8:

"*Although Sch 1 carries the heading 'Financial provision for children' para 2 of the Schedule specifically permits application by persons over the age of 18 for orders for financial relief. Under para 2(1)(b) a person over 18 may apply for a periodical payments order and/or a lump sum order against either or both of his parents if 'there are special circumstances which justify the making of an order'. By this route is derived an unrestricted jurisdiction for the court to order financial relief to a disabled applicant of any age providing that the disabled applicant has a surviving parent who is not cohabiting with the other parent. Paragraph 2 is complementary to the provisions contained in para 1 enabling 'a parent or guardian of a child or any person in whose favour a residence order is in force with respect to a child' to apply for financial relief including, but not limited to, periodical payments and/or lump sums. Paragraph 3, dealing with duration of orders for financial relief, provides that para 1 orders may extend beyond a child's eighteenth birthday if 'there are special circumstances which justify the making of an order'. Thus I conclude that whether the application is by a parent in relation to a child or whether the application is by a person over the age of 18, the court's jurisdiction, provided there are special circumstances, may extend until terminated by either the death of the payer or the payee.*"

75. In the same case, Butler-Sloss LJ held at paragraph 3:

"There is, therefore, no difficulty in coming to a decision in principle in this case to extend a periodical payments order beyond the age of 19. There is indisputably jurisdiction in the Children Act to extend indefinitely a periodical payments order for the benefit of someone over the age of 19. It is part of the philosophy of the Children Act that a young person ... with a total dependence upon others for the rest of his life should look for continuing financial support from his parents for whatever period may be necessary."

"The magistrates were entirely right to focus upon the expenses attributable to the child's disability. Having said that, it seems to me that it is implicit in any periodical payments application that the court will have to exercise its discretion after considering all the relevant circumstances of each individual case. That consideration will inevitably focus upon the income and assets of the parents, both applicants and potential providers, their respective obligations and financial commitments, in addition to the needs of the child, the degree of disability of the child and any income or allowances paid to the child."

76. Similarly, in T v S (Financial Provision for Children) [1994] 2 FLR 883 Johnson J had to consider para 3(2)(b) of Sch 1 in relation to five minor children of parents who did not marry. He said at 889:

"Whilst I do not think that the category of "special circumstances" should be necessarily always so limited, it does seem to me that in its reference to special circumstances in relation to the duration of periodical payments, Parliament was intending the court ordinarily to look at special circumstances related to the children – such, for example, as some physical or other handicap."

77. Whilst Sch 1 gives the court power to order the transfer of a house (or the payment of a lump sum for the purchase or provision of a home) to a child otherwise than on terms that the property reverts to the father at the end of the child's dependency, as far

as the parties are aware, there has not yet been any reported case in which a court has done so although the mother's team refer to K v K (Minors: property Transfer) 1992 1 WLR 530.

78. Mr Howard and Ms Moys argue that the authorities and the Law commission report make clear that outright capital provision can be made. The Act specifically provides for it. The limitation on the duration of orders which applies to periodical payments cannot apply to capital provision which in terms of lump sums or property adjustment orders is inapt given the nature of the orders. The question is in what circumstances can those orders be deployed when Parliament's purpose and the authorities identify that the act is designed to provide financial support for children during their minority or when there is some dependency.

79. In the case of Chamberlain v. Chamberlain [1973] 1 W.L.R. 1557, Scarman L.J., at pp. 1564 and 1565 said:

"*There are no circumstances here to suggest that any of the children had special circumstances which required them to make demands on their parents after the conclusion of their full time education. The capital asset, the house, was acquired by the work and by the resources of their parents, and provided that the parents meet their responsibilities to their children as long as the children are dependent on them, this seems to me an asset which should then revert to the parents*."

80. In the matrimonial case of Griffiths v Griffiths [1984] 3 WLR 165, in which a lump sum order out right for the benefit of the children was upheld, the Court of Appeal emphasised the fact that Lord Justice Scarman's comments in Chamberlain had been qualified by the requirement that parents actually meet their responsibilities to their children. Although decided under the Matrimonial Causes Act 1973 the powers utilised were equivalent to the Sch 1 powers. The father also relies on the dicta of Lord Justice Orr in Lilford v Glynn [1979] 1 All ER 441 which suggests that outright transfers or settlements to provide income for life are inappropriate even amongst the richest parents in respect of children who are under no disability and whose maintenance and education are secure.

81. Mr Howard also submits that the Law Commission ((1982) (Law Comm 118)) evidently envisaged that both capital orders and property adjustment orders could be used to cater for a situation in which a father "…intends to have no further relationship with the child" and emphasised that whilst substantial capital orders made in favour of children are rare they are available in an appropriate case.

82. Mr Pocock relies on the long line of authority which identifies the purpose of the powers contained within Sch 1 and the very limited circumstances in which financial provision beyond the age of 18 or the end of education are provided for in terms of periodical payments and lump sums. He refers me to what Charles J said in MT v OT 2008 2 FLR 1311:

"[87]…if you look at the powers contained in Sch 1, para 1(2)(d) and (e) on their face they could be used to make an absolute transfer of property to a child or a settlement of property which gave a beneficial interest to a child when attaining a certain age. However, if one goes on to look at the provisions concerning the circumstances in which a person over 18 can make an application, and the duration of orders for

financial relief and the definition of a child, the analogies between the provisions of the Matrimonial Causes Act 1973 and Sch 1 are so close that in my view there is effectively for present purposes a complete overlap. The cases concerning the Matrimonial Causes Act 1973 demonstrate that having regard to the scheme and purpose of the legislation – and thus as a matter of statutory construction – the powers in para 1(2)(d) and (e) should only be exercised so as to confer an absolute interest on the relevant children in special circumstances. As will appear from the cases under Sch 1, the court has held that those special circumstances are special circumstances relating to the children – and not, for example, the extreme wealth of a father. They include, for example, whether a child suffers from a disability and matters such as that."

And later

"[101]… it is only in special circumstances that capital provision should be made for a child after dependency. Those special circumstances do not include the wealth of the child; nor do they include a point that the child might not benefit on the death of the father.

83. He also draws my attention to what has been said more recently, in Re A (a child) (Financial Provision: Wealthy Parent) [2015] Fam 277, CA, at para 9 where Macur LJ referred to this "*well-established practice*":

"[9] *Bodey J ordered the purchase of the freehold but declined to depart from the well established practice of maintaining a reversionary interest for the father when S completed his tertiary education…*"

She continued, reflecting Johnson J's concern in T v S (supra), as cited in the Summary, to emphasise that Sch 1 was not to be used to make

"*by the back door, financial provision and compensation for the carer beyond that element attributable to the care of the child during his minority, or other determined duration of dependency. There is no established authority to the contrary…"*

84. In Re N (Payments for Benefit of Child) [2009] 1 FLR 1442, the district judge at first instance had determined that the settlement in favour of a child should terminate when the child attained the age of 21 or full time tertiary education, whichever is the later. Munby J held that the district judge had erred in that case in requiring the settlement to continue to the child's 21st birthday (although there was no error in continuing to tertiary education). Munby J reviewed the authorities.

[67] the position is not in fact as clear-cut as the father would have me accept. There is no doubt that the general principle, long established, is that 'special' or 'exceptional' circumstances apart, children are not entitled under schedule 1 to provision except during their dependency or for their education……

[68] special circumstances was the phrase used by Scarman LJ in Chamberlain of the Chamberlain…. I do not take up time debating whether there is some distinction in this context between circumstances which are 'special' and those which are 'exceptional', though I very much doubt it. Both phrases are surely seeking to capture an underlying concept which is clear enough whichever phrase is used.

[69] but it is important to note that there is no absolute rule that the relevant ages 18 rather than 21. As the father himself accepts, schedule one does not in terms preclude a settlement extending into adult years. In the case law is not rigid.

[74] there is, as it seems to me, considerable force in the father's argument…. 'That restriction serves to confirm the property adjustment orders should not ordinarily be made to provide benefits for the child after he has attained his independence'

[75]…. As Ward J observed in a VA (a minor or: financial provision) at 663, 'it is noticeable that they are the financial needs of 'the child', which again suggests that adult needs are not ordinarily relevant'

[77] but there is also a wider context….. Whatever may be the position in relation to child maintenance (periodical payments) after the age of 18, there is, in the context of capital provision, no justification, in my judgement, for disregarding either the general statutory principle that a child attains majority at the age of 18 or the more specific statutory principles which are to be found in schedule one.

[78]… In my judgement, 'special' or 'exceptional' cases apart,' dependency' ceases at majority. So 'special' or 'exceptional' cases apart, any capital settlement under schedule one should be expressed as terminating upon the child attaining the age of 18 or completing tertiary education.

[79] nor does the matter and there…. The evidence must establish the 'special' or 'exceptional' circumstances relied upon if the court is to be justified making provision beyond the end of dependency or education, dependency see for this purpose meaning majority…..what has to be shown is that there are special circumstances justifying the view that the child's dependency will indeed extend beyond majority.'

85. The net effect of all of the authorities is clear. Absent special or exceptional circumstances capital orders which provide a benefit beyond minority or the cessation of tertiary education should not be made. It is equally clear that what can amount to special or exceptional circumstances is restricted. Matters relating to changing societal attitudes, the wealth of a parent, or the like will not suffice. Disability creating an ongoing need for support might. The absence of a parent playing any supporting role for their child might. The appellate courts have recently eschewed glosses upon statutory language. In this case the identification of exceptional or special circumstances warranting the making of outright capital orders for the benefit of children does not seem to me to amount to a gloss but rather is an application of the statutory powers based on principles which emerge from case law. The power to make outright capital transfers exists but will only be deployed in limited circumstances and where the evidence justifies it. It seems to me that what one is focusing on is the child and whether there is something about this child or this child's situation in particular vis-à-vis that parent that creates a situation which exceptionally (i.e. as an exception to the usual rule) generates a need for the child to be provided with capital which will be of benefit to them as an adult possibly for many years.

Mechanism: Trust vs. Contractual Lease:

86. The usual mechanism for the provision of a home has been a trust mechanism. In a limited number of cases the vehicle of a long lease has been used. This is not an order that the court can make but rather has been deployed by way of undertakings. It may have financial advantages in some situations in terms of the tax consequences.

This Hearing

87. In advance of the hearing commencing I was provided with a core bundle comprising two lever arch files. I was also provided with two lever arch files of exhibits. In addition I was provided with two lever arch files of authorities containing 22 separate authorities. In the course of the hearing I was provided with seven further authorities. Various other authorities were referred to in the parties' documents which were not provided to me.

88. On behalf of the parties I was provided with some agreed documents. These were:

    i) a case summary

    ii) a chronology

    iii) an agreed summary of the law

    although these were agreed documents that masks wide ranging disputes between the parties both on the law, the facts, and on matters of evaluation. However they have assisted me and they are in various ways incorporated into this judgment.

89. The mother's team provided me with a skeleton argument of 20 pages. Although Mr Howard indicated that he would not provide any written document for his closing submissions, I having made clear that I would accept either written submissions or oral submissions but not both, in fact Mr Howard and Miss Moys sought to have their cake and eat it by providing detailed written submissions on legal points which Miss Moys intended to address following the completion of Mr Howard's submissions. By the time Mr Howard finished his submissions at around 4:20pm it was not possible for me to deal with the detailed legal submissions that Miss Moys wished to make in support of the mother's contention that the court could make a lump sum order in respect of TD who is now 18 and has not made an application himself, and including an invitation to me to conclude that Sch 1 was discriminatory in respect of the children of unmarried parents and that in accordance with s.3 of the Human Rights Act 1998 I ought to interpret various provisions of Sch 1 so as to permit the court to make orders in respect of DD, a child who had reached the age of 18 prior to the date of application. Having stated that I would not accept both oral and written submissions and given the time we had reached I directed that the issues of law set out in Ms Moys' document would have to be considered by me on paper after the father had had an opportunity to respond in writing. That has necessarily delayed my decisions and the preparation of this judgment.

90. On behalf of the father Mr Pocock and Ms Kelsey provided me with a 21 page Skeleton Argument. That was supplemented by a very detailed position statement setting out the father's case in respect of each of the agreed key issues and those which had emerged immediately prior to the hearing.

91. The parties invited me to pre-read the following documents:

i) Skeleton arguments/preliminary documents and agreed legal summary at [A/21 onwards];

ii) Parties' open proposals at [A/1-A/20];

iii) Parties' statements in relation to F's removal of Antiques from the London Apartment at [C/189-C/195]

iv) Parties' statements in respect of the issue of whether or not the investor visa was a gift or a loan at [C/67-C/188];

v) Statement of HF at [C/204-C234];

vi) Parties' final narrative statements at [C/235-C308]

vii) M's holiday schedule at [D/53];

viii) Parties' property particulars inc. Fraser Dyer reports obtained by F [D/86-D/206]

ix) Judgment of Recorder Genn at [D/11-D/40]; Schedule of findings of Recorder Genn at [D/41-42]

x) Extracts from final CAFCASS report of Naomi Lacey at [D/43-D52].

92. Prior to the commencement of the hearing and during the course of the hearing I was able to read a number of other documents and was taken to many of the exhibits in the course of the oral evidence. In particular I have read the original Cafcass report of Ms Bond of July 2018. I was also provided with a variety of additional documents including

i) further photographs of the N City Property prior to the vandalism,

ii) the father's statement in the children act proceedings of April 2018

iii) a comparative schedule of alternative properties provided by the mother,

iv) translations of further emails in relation to the repayment of the investor visa monies in August 2016,

v) originals of emails from 2009 relating to the exchange of the £1 million of the monies for the earlier sums transferred by the father to the mother

vi) a medical report in relation to the father relating to an admission to hospital in March 2018.

93. I heard evidence from the mother over the course of a day, from the father over about 1 & ½ days and from HF.

94. Oral submissions were made on 27 January and as a result of the way in which the issues on jurisdiction to make orders in respect of the adult children had emerged I adjourned to enable the father's team the opportunity to respond in writing to the mother's written submissions. The way in which the legal issues relating to my

jurisdiction to make orders in respect of DD and TD developed was unfortunate. It did not enable me to explore the issue in oral argument. The way in which the mother's case was presented was to focus on the factual and evaluative issues with Mr Howard devoting the vast majority of his submissions to those issues and delegating the legal issues to Ms Moys. Given the boldness of the submissions, their reliance on s.3 of the Human Rights Act, issues of discrimination, and the interface between legitimate statutory interpretation and declarations of incompatibility, the way in which the mother's team prioritised matters plainly did not permit of any detailed consideration in court. Given the considerable number of other issues in the case I confess it has not been possible in the course of the preparation of this judgment to dedicate the time to those legal issues which they might otherwise consume if time were unlimited. I have allocated what I consider to be a proportionate amount of time to them having regard to the apparently relatively limited priority that the mother's team gave them.

The Evidence

95. Insofar as I am required to make findings of fact (for instance in relation to whether the investor funds were a loan or a gift) my decision is made on the simple balance of probabilities. Mr Howard submitted that the burden on the investor funds issue lay on the father to prove that the monies were a loan and not a gift given that the funds were held by the mother in her account. In the event I do not consider that where the burden lies makes any difference in this case.

96. In reaching my conclusions I approach the evidence seeking to weave together all of the various aspects of the evidence; contemporaneous evidence, the parties' written statements, the written statements of others, photographs, the oral evidence of the parties, the evidence set out in Cafcass reports, the findings contained in the judgments previously delivered in the case and all of the other diverse range of documentary material put before me. Insofar as material may be hearsay or untested by cross examination I bear this in mind in terms of the weight that I give it. In respect of the accountancy and buying agent evidence it does not have the status of part 25 expert evidence but I take it into account as documentary hearsay. I remind myself that drawing inferences from evidence is legitimate but speculation is not.

97. Plainly the credibility of the evidence of the mother and of the father is of considerable significance given some of the factual issues but also the evaluative issues that are in play in this case. Issues such as the basis on which the investor funds were provided to the mother as well as issues relating to the needs of the children in relation to housing and the maintenance of the children including the carer's allowance will be significantly influenced by my conclusions as to whose evidence is the more reliable.

98. In assessing their credibility I have had regard to the consistency of their evidence over time, its consistency internally, its consistency with contemporaneous documents or other known facts or other witnesses, how it was given and whether the individuals had a motive to tell something other than the truth. I remind myself that the demeanour of the witness in giving their evidence can only be part of the picture. Some people are confident liars. Others are anxious tellers of the truth. Memory is in any event unreliable and a witness can be entirely genuine and indeed honest in their recollection but they may still be mistaken. However that does not mean that demeanour and body

language are irrelevant. It is all a matter of context, judgment and degree. In respect of lies told by the parties I give myself a Lucas direction and remind myself that a party may lie for many reasons including fear or embarrassment and that the fact that a party has lied about one matter does not mean that they have lied about everything. In particular the fact that the father was found to have been dishonest in the fact-finding hearing does not mean that all his evidence is dishonest. Their evidence must be approached as set out above.

99. My overall conclusions in relation to disputes of fact are contained within the chronology at paragraph 128 below. In reaching my conclusions I have focused on the material which appear to me to be most significant. However the fact that I do not mention a piece of evidence or a point made either in examination of the witnesses, in a statement, or in the written or oral submissions of the parties' counsel does not mean that I have not borne it in mind. In a judgment which will inevitably be of significant length it is simply not possible to rehearse all of the many and diverse pieces of evidence or advocacy that I have borne in mind.

The Mother

100. The mother gave evidence through an interpreter although her statement did not require a translator's declaration. She clearly has some facility in English. Her written and oral evidence were in the main consistent with each other. Her written statements are detailed and are in the main also consistent with each other. There is some development of her evidence over time, for instance in relation to the investor funds but given the purpose for which the original statements were deployed the absence of some detail in respect of various matters is not in my view an indication of subsequent fabrication. Most of her written and oral evidence was consistent with the documentary evidence that is available. Considerable criticism was directed at the mother in relation to her alleged dilatoriness in the presentation of her evidence or offers. I do not consider any matter which relates to the presentation of her open offer or her final statement are indicative of anything that would undermine her credibility; they are more likely to be a product of the logistics of the process. She was composed, moderate and polite in her approach. She is clearly highly intelligent and is fluent in money matters; her description of what various bank statements showed and her correction of counsel well illustrated this. On occasions when talking about matters directly relating to the children's situation or the impact of events on them, for instance having to move, she became emotional. Not surprisingly as their primary carer throughout their lives she showed considerable emotional attunement with the children and insight into their states of mind. She said in relation to GD that when they moved to London her heart was in N City and still is. She also spoke of GD's love for her father and how difficult it had been for her; she clearly being his favourite. Although at times she gave rather long narrative answers I did not gain the impression that she was being deliberately evasive. On several occasions she stopped to correct or clarify an answer she had given and she had the appearance of someone who takes care in what she says. There were occasions when she was demonstrated to have exaggerated, for instance [C286] when she asserted that the London Apartment had been their home throughout most of their lives. This was plainly inaccurate however it was a relatively isolated example. When she spoke of the father and her relationship with him she appeared in some respects to demonstrate regret, bitterness or anger, however this did not seem to dominate her thinking. The impression she gave was of someone who had been very much in love with the father and who had committed

herself wholeheartedly to him notwithstanding that he had not reciprocated. She described how she had always been loyal to him and how he trusted her in relation to financial matters. I think she is probably correct in this. In this respect she at times appeared to be rather naïve about him saying that she had always known or believed that she and her three children were the most important to him. Although there were elements of her budget where her evidence suggested a degree of discomfort with the subject matter (bicycles and the dog) suggesting perhaps that these were exaggerated, her evidence about financial matters did not display an unhealthy focus on money. Her evidence as to the developing affluence of the father and its impact on the housing and lifestyle of herself and the children seem to me to be genuine in that she accepted what the father provided rather than her pushing for it. Her evidence chimed with the father's in this regard. It was he who clearly was in control of the purse strings and who took the significant financial decisions which led to the developing standard of living for the family. It was clearly he who directed the purchases of property in Russia, the purchase of the London Apartment and the lavish furnishings which accompanied it. The mother did not come across as a gold-digger. Indeed if anything her evidence including her bank statement suggests that she is content with a more modest lifestyle than the father is. When she gave evidence of how the father had stopped her having a cleaner she was not indignant but matter of fact. Her evidence of the father's spontaneous generosity, for instance in relation to the 4 carat diamond ring, appeared to be entirely genuine in her recall of how he came to give it to her. In her schedule put together to demonstrate the cost of re-furnishing the flat were the father to remove the antiques, there are many examples where in her like-for-like replacement she has identified pieces which are considerably lower in price than the valuation given by the father or the price originally paid. One example is item 24 [E328] whether the mother's replacement item is priced at £8,879 compared to the price paid for the item the father seeks to remove which was £61,250. Overall her schedule is priced lower than the value attributed by the respondent. This does not suggest that the mother is deliberately exaggerating to artificially inflate her claim.

101. My overall conclusion in relation to her evidence was that she was for the most part an honest and reliable witness who was not prone to exaggerate and was not motivated by greed or anger at the father. That is not to say that there is not some element of spin or exaggeration or opportunism in respect of some of the items she is claiming for. However where these are present I believe that it is motivated through insecurity for herself and for her children at what the future holds when the father's obligations terminate.

102. This conclusion is consistent with that of Recorder Genn who found that notwithstanding times when the mother was not entirely straightforward, or where there were inconsistencies, a good deal of her evidence was compelling. She also found that money whilst an important backdrop was not the central issue for the mother. The findings she made in respect of the abuse that the mother alleged both in respect of herself and the children demonstrates, as indeed does the judgment overall, that Recorder Genn considered the mother and the children were for the most part giving a truthful account. Having regard to the extremely serious nature of some of the allegations which might at first blush have seemed florid, exaggerated or improbable the conclusion that the mother and children were telling the truth about them is important.

The Father

103. The father also gave evidence through an interpreter. His written statements are accompanied by a translator's declaration. His evidence and his demeanour were far more variable than that of the mother. I shall deal with this in some more detail below. In general he was polite and respectful to the court although at times he and Mr Howard clashed. On occasions he became emotional when speaking of GD. It was abundantly clear that she holds a special place in his heart as his first daughter and that his attitude to his sons and GD were quite different.

104. Although the broad narrative of his written statements has generally remained consistent there have been changes of detail or emphasis in relation to facts or intentions which are significant. For instance in his statement of 12 April 2018 he stated that it was in 2008 that the mother suggested that she should relocate abroad in order to provide the children with an international education and that '*it was very much a decision of her own making*'. In a later statement of 24 January 2019 he said that it was shortly after GD's birth in 2005 that he and the mother began discussing the possibility of her and the children relocating abroad. In his oral evidence he was clear that the idea for the mother and children to relocate was very much his idea. In his April 2018 statement he said that the London Apartment isn't really a suitable home for the mother and children whilst in his statement of January 2019 he says that he had always intended the London Apartment to be the home of the children and the mother for as long as they were in her care. In April 2018 he said he and his wife and child would like to live at the London Apartment; I'm not sure why it would be appropriate for his wife and young child but not for the mother and the two older children. By January 2019 his position had changed on the basis that the London property market had changed very significantly over the previous two years. He did not elaborate on why some nine months before he wanted to retain it as his main home in London. His position in relation to the furnishing of the London Apartment has also altered. In April 2018 he said they furnished the London Apartment with a number of valuable antiques because they knew it was his home and his investment. In his statement of 7 May 2019 he describes how he has been collecting antiques with the principal purpose that he would *'like to help to promote and develop cultural life in my home town of N City'* and the only reason they were in the London Apartment was because he had put them there. These are a few examples of the shifts which are evident from his statements. In oral evidence he maintained that he had never said he would buy apartments for the other children and that DD was a special case because of his vulnerability. I was not really able to understand what the vulnerability was as the father seemed to be describing difficulties in DD forming attachments to women. However it is clear that in evidence to Recorder Genn [D29, #77] he had said he would by TD a flat. Thus there is considerable material which points to the father being inconsistent in his account.

105. The father is clearly a highly intelligent man and also a man with an extremely good memory. In his oral evidence he was able to identify without hesitation paragraphs within the mother's evidence when he wanted to refer to something she had said. This made his apparent inability to recall various other matters very hard to understand. His answers to questions about the mother's jewellery both in terms of what he had taken from her and in terms of the list of items which the mother had described being bought was wholly unconvincing and evasive. He suggested that an email from him to Credit Suisse directing the transfer of funds to the mother in 2006 may be a fake or had been modified. The mother produced the original. He said he could not give that money as it was the Foundation's and all he could do was make a request as a beneficiary. When

HF gave evidence he said that in fact under the Foundation by-laws the father had the power directly to manage the funds.

106. Given his intelligence and his memory I do not believe that inconsistency is inadvertent. Of course there may be some examples where his memory has failed but the nature and extent of the inconsistencies which emerge are such that they point to a tailoring of his evidence to further his own case or to rebut a point made against him; it suits him now to say that DD was a special case because the mother argues that TD and GD should also have a flat because he bought DD one.

107. Most of the father's evidence on contentious issues was rejected by Recorder Genn. She found that at times he was *'making up points on the spot',* he was *'long winded and evasive overall'*, his evidence was '*highly implausible*' and '*he rather astonishingly said that [a document] was a fake'.*

108. The father's willingness to suppress information or to reframe to suit his cause or indeed to lie is illustrated from numerous sources. In his own statements he acknowledges that the emergence of his 7 year relationship with the mother caused his wife HD to divorce him and that he made the same mistake again concealing his relationship with the mother and the existence of his children from his second wife RD who also divorced him when she found out about them. His capacity to maintain a deception for seven years and then to repeat it with his second wife speaks volumes for both his willingness to deceive those closest to him and his ability to cover his tracks.

109. Both GD and TD have expressed their own concerns about their father's honesty. When seen by Ms Bond TD portrayed his father as a '*bullying, frightening, untruthful and manipulative father figure who he is anxious will influence [GD] against [the mother] and her two brothers by lying to her about them and denigrating them'* [E424] GD said '*he's lied so many times…the bad memories are too strong'* [E424]. Later GD told Ms Lacey that *'she has many questions for him [the father] but she is concerned that he will not be truthful in his answers'* [D46]. In her letter [D47] she said '*Today I don't have contact with my dad and don't plan on having any. Because I was lied to so many times by him, I do not trust him, and I feel that if I meet with him or FaceTime him, he will lie to me like he always has'.* The father maintains that the children have made up the allegations of abuse, rejected a relationship with him and have depicted him as they have as a result of manipulation by the mother. He said he himself lied to support his mother when his parents separated. He says he does not blame his children for this and expects them to seek him out when they realise their errors.

110. The application for the investor visa required that the mother have control over the funds in her account and that they derived from her partner. The father was present at the meeting with lawyers. On his case he was neither the mother's partner (he says intimacy ended in 2006) and nor did she have control over the funds and yet the application was made at his direction in circumstances which would indicate he was knowingly misleading the Home Office, even if he were not a signatory to the application. On the mother's case there was no deception as she believed she was his partner and that she had control of the funds.

111. Thus there is a wealth of material which demonstrates that the father is capable of dishonest and deceptive behaviour when it suits him. He is not in general a reliable witness on any matter which might either be an affront to his pride, his status as head of the family, or which might otherwise be contrary to his position.

112. Although the father undoubtedly has qualities both as a businessman, as a father and as a partner he is also highly flawed. His desire to see his children make their way in life through their own efforts as he did, is in many respects laudable. However it ignores the very different life he has created for them both by his decisions as to their lifestyle and where they should be brought up but also by their domestic arrangements that he has created by his multiple families. It also of course ignores the abuse he has subjected them to, abuse which he simply does not accept. His characterisation of the very serious findings as behaving very inappropriately do not get close to an acceptance of the findings or acceptance of the impact on the mother and children of what he did. In his oral evidence he was difficult to pin down in terms of what he accepted. His ultimate position appeared to have reverted to his position as it was before Recorder Genn which was that the majority of the allegations had been fabricated by the mother in her pursuit of money. He did seem to acknowledge, although again I was not entirely clear from his oral evidence precisely what, that he had said and done things in the heat of the moment that he regretted and which were inappropriate. Although in general he gave his evidence in measured terms his capacity to become angry was demonstrated in exchanges between himself and Mr Howard when he became irate and said he would shout at Mr Howard if Mr Howard shouted at him.

113. He plainly was uncomfortable when being challenged in cross examination on a variety of issues. There were many occasions when he appeared to seek to regain some degree of control of the process by stopping Mr Howard, requiring clarification, insisting on giving lengthy narrative responses or by other means. When questioned about the investor funds he sought to control the questioning by insisting on precise figures being given albeit he undoubtedly knows the amounts being spoken about (his precision over paragraphs earlier shows this) and was just doing it in order to put himself in control. His later precision over the amounts of interest that she got on the investor visa bonds showed his facility with numbers and memory. Having earlier said that lawyers were present at the investor visa meeting he was later highly evasive about who was present at the meeting. When asked about the 3 day fact-finding hearing he asked for clarification of which hearing.

114. His oral evidence demonstrated a desire to be in control. Recorder Genn identified similar issues [D36, #105]. At one stage he commented in relation to the events of late 2017 and 2018 that he felt helpless. It seemed to me in reality that the problem was that he could not control events or in particular the mother and children at that stage. That he should seek control is hardly a surprise given his position. He has become an extremely wealthy and influential entrepreneur and is no doubt used to being in complete control of the business empire around him. The nature of his relationship with the mother and the children and that of his other partners and children would tend to reinforce his being in control. This is a product not only of his control of the finances but is a product of his personality and indeed at times he is a charismatic man. The force of his personality would I think be hard to resist. His evidence in relation to, for instance DD's ears, was to the effect that he took charge and organised

everything. This is typical of his approach. He needs to be in charge because he believes that he is best placed to be in charge.

115. The father clearly loves his children; his evidence about his '*princess'* was associated with obvious displays of emotion. His evidence in relation to his sons also displayed an element of pride and affection. However his attunement to them and their emotional needs is limited by the dominance of his own personality and needs. He answered many questions about the mother and children by saying something about himself. It is self-evident that the father's needs come first in any situation. The needs of his wife or partners and his children may be taken into account or met insofar as they do not clash with his. He seemed utterly oblivious to the impact on the mother or his wives, still less his children, of the parallel lives that he developed to suit his not their needs. His evidence both in written statements but also orally that he asked the mother if he and his new wife and daughter could come and reside at the London Apartment whilst they were in London and his apparent surprise at her angry rejection of this suggestion demonstrated he is oblivious to how others might feel. The emotionally abusive, indeed coercive and controlling behaviour, that Recorder Genn found him to have perpetrated both in threatening to tie the mother to a chair and stab her, in saying to GD that he was going to come to London and slit DD's throat, in telling TD that he should beat up DD to make him return the money, and in threatening to evict the mother and children from their home and to return GD summarily to Russia showed a degree of ruthlessness, cruelty and utter disregard for the impact on the children's emotions which can only be a product of an overwhelming need to fulfil his emotional need to be in control. His rejection of the findings, his characterisation of them as fabricated and a product of the mother's pursuit of money demonstrate the continuation of this approach. There is no suggestion in his evidence that he has accepted any of the serious allegations; the effect of his evidence is to minimise them and even then to blame his behaviour on stress and his health. He has taken no responsibility for it.

116. He is plainly angry and frustrated by the mother's behaviour since January 2018. After years of following his lead or bowing to his will her show of resistance in seeking an injunction and orders in relation to the children continues to rankle with the father. She was nothing to him now following her cruel behaviour in smiling as he suffered a heart event, and his dismissal of the allegations as a product of her manipulation of the children for financial gain plainly demonstrate his attitude to her now. His degree of frustration with her led him to breach a court order.

117. It is clear from his evidence that whilst he holds the mother very much responsible he absolves the children of any responsibility because he dismisses their evidence of his abusive behaviour and their evidence of how they feel as being an understandable product of the mother's manipulation. Indeed he inverts responsibility saying that he forgives the children for what they have said rather than taking responsibility for what he has done. He said that he does not believe that GD is fearful of him. He relies on those parts of the Cafcass report and the mother's evidence which identify that GD misses the father as supporting his position. What he does not recognise or accept is the psychological impact on GD of the conflict she feels internally trying to manage her fondness or love for her father with the awful behaviour that she knows he is capable of. He did not appear to accept there was any genuine need for the three children to have therapy as a result of his abusive behaviour; this being a logical corollary of his non-acceptance of it. It is plainly evidenced both within the Cafcass

report and the mother's own evidence. The evidence supporting the psychological and psychiatric consequences of exposure to domestic abuse is overwhelming and even without the evidence of Cafcass, the mother and the children there would be sufficient evidence to conclude on the balance of probabilities that the children have suffered considerable emotional harm and will need restorative therapy and future protection.

118. The father's older sons SD and ED are both part of his close circle and accompanied him to London for this hearing. Having built up a business empire he is keen to pass it on to his children. He was clear that he wished all of his children to return to Russia and participate in some shape or form in the business. This was particularly so in respect of the boys but it was clear that he also wished GD to return although perhaps there was some more flexibility to allow GD to pursue her artistic side. He said it was necessary for the children to take over the business and to continue the family dynasty.

119. The father is therefore a far more challenging character to gauge than the mother. Whilst of course he is capable of telling the truth and indeed did so in respect of various uncontentious matters in his statements and in the course of his oral evidence, where either his financial interests or his emotional interests were engaged his evidence can be highly unreliable and entirely subjective. This is particularly so in relation to any matter relating to his behaviour towards, relationship with and in regards to the future of the children. He is at present unable to be objective about the mother. Given she is, I conclude, able to identify with a good degree of emotional insight what her children's emotional and other needs are, and insofar as it is possible for a mother in this situation to be objective about them, she is able to put her children's best interests before her own. I consider her appraisal of the children and their needs to be far more reliable and accurate than the father's which is wholly divorced from the reality of his behaviour and the issues that that gives rise to. In relation to factual matters and issues of finances which fall to be evaluated by reference to the parties' evidence, for the most part I prefer the mother as a witness in terms of honesty, reliability and accuracy both on matters of fact and in her evaluation of the children's current and future wishes and needs.

HF

120. HF is an attorney (not based in England). He has assisted the father since 2004 when the father instructed him in relation to estate planning. He acted for the father with two Lichtenstein trustees as a member of the board of the Foundation.

121. He was called to give evidence by the father in relation to the sums paid to the mother in 2006 and in 2009. He provided a statement dated 12 November 2019 and he had previously provided letters dated 31 May 2018 which addressed the payments made to the mother from July 2009 to June 2010. He had also previously provided a letter dated 5 February 2019 dealing with the payments made to the mother in 2006.

122. It is clear that HF and the father have a close working relationship. He identified him on first name terms in his evidence and wrote to him similarly. He described regular telephone conversations and meetings and said that he trusted the father.

123. In distinct contrast to the sort of records that I expect would be kept by an English solicitor, the position in relation to HF's recording of transactions arising from the father could not have been more different. That is not a criticism as I have little doubt

HF was following accepted practice in his field. No attendance notes were kept of telephone discussions or of meetings. He said it was a matter of trust. Thus in relation to the payments to the mother in 2006 and 2009/10 there is absolutely no contemporaneous record which corroborates HF's memory. He said that he remembered it because it had been an ongoing theme.

124. In the course of his evidence HF accepted that there were a number of inaccuracies in documents that he had prepared including in his witness statement which was of course accompanied by a statement of truth. In that he maintained that a payment from the Foundation of £46,850 on 9 June 2010 was a payment made to the mother in relation to the investor visa. This assertion had also been made in the letter of 31 May 2018. Cross-referencing to the mother's bank statements made very plain that the payment was not made in relation to the investor visa but rather was made in relation to the rental of a property for the family. There are other inaccuracies including his assertion within his witness statement at paragraph 15 that following the obtaining of citizenship in late 2016 the mother should have repaid the funds to the Foundation. Given that he had accepted that the payments to the mother represented a distribution of funds to the father the mother had no obligation to repay the funds to the Foundation. HF described this as "imprecise". He used the same phrase in relation to a letter written by him on 22 December 2017 [E311] where he described the Company as being owned 100% by the father when in fact it was owned by the Foundation. This not only illustrated imprecision but also demonstrated as did many other areas of HF's evidence that the Foundation was the alter ego of the father. Although it had been plain from the evidence that the father was the sole beneficiary of the Foundation and could in practice direct the board to distribute the assets of the Foundation according to his will with in effect no practical discretion to decline to do his will, what had not been evident (at least to me) was that the terms of the Foundation actually allowed the father to manage the assets directly and to require for instance the bank Credit Suisse to make payments at his request and without further input from the board of the Foundation. This was certainly the case in relation to the payments made in 2009 and may have been the case in relation to the payments made in 2006.

125. HF referred to the Home Office guidance in relation to the requirements for an investor visa. At paragraph 12 C he set out an extract from it which confirmed that the funds that an applicant relied on could be money owned solely by their unmarried partner. What he did not include was that the applicant must have permission from her unmarried partner to have control of the money in the UK. I asked HF to explain how the mother had the father's permission to have control of the money in the UK if she was under an obligation to repay the funds to the Foundation (or the father). The father himself had made clear in his evidence that it was his view that the mother had no right to deal with the capital at all but rather was entitled to receive the interest on the sums. The inference that one has to draw from HF's evidence that the mother was under an obligation to repay the funds, not an equivalent sum but the same funds, was in line with the father's evidence and would indicate that the mother in fact did not have control over those funds contrary to the requirements. HF and the father both gave evidence that they had been involved in the process of obtaining the visa. This would be entirely consistent with the pattern of the father being in control of events in the lives of the mother and the children. This raises the possibility that some form of misrepresentation may have been made to the Home Office as to the mother's control of the funds if the father and HF's evidence is correct.

126. The purchase of the London Apartment was originally made by the Company and was dealt with by HF. He was unable to recall much of the detail of this although it took place in 2010 and was thus much more recent than the 2006 payments. His evidence in relation to the letter of 22 December 2017 was also couched in cautious terms. He was 'probably' given the information in the letter by the father; it seems to me self-evident that he was undoubtedly given the instructions in the letter by the father, in relation to both the alleged ownership of the antiques, the nature of the antiques, the fear that there might be a conflict and the father's intention to involve the police.

127. The overall impact of all of these matters leads me to the conclusion that HF's evidence may not be as reliable as it appears at first blush. It is clear that he has a very close relationship with the father and his loyalties are to him. Relying on memory in relation to events 14 years ago is unsatisfactory. Memories are not recording devices and it is well recognised that sincerely held beliefs as to the accuracy of memory may well be wrong. The accumulated effect of the passage of time, later discussions and loyalties all play a role in affecting the reliability of memory. Apart from anything else even if HF were correct in his memory there is the possibility that the father in fact was saying something different to the mother and that his intentions were in fact quite different to those relating to HF. Overall I therefore do not gain much assistance from HF's evidence in relation to the issue of why the funds were paid to the mother in 2006.

Chronology and Some Factual Findings

128. Set out below is a chronology of relevant events. Incorporated into it are aspects of the evidence which I consider relevant and where indicated constitutes my conclusions on the facts.

Regular font: agreed facts/chronology
Underlined font: Mother's position
Italic font: Father's position
Bold font: Conclusions and comment

Date	**Event**
14/05/1962	Respondent UD (F) born (57). Self-made businessman.
04/02/1965	Applicant DN (M) born (54) Took degree in economics and subsequently worked in banking before joining F's company as Head of Finance
01/09/1986	Respondent in relationship with WG. F's son SD born (now aged 33) (WG and F did not marry and their relationship was short lived.) SD studied in England for several years and worked for the father's business during his vacations, working up from the warehouse to now being managing director. F said SD does not own his own flat. He gave him his own watch for his 30th birthday.
July 1996	Parties commence relationship. M is working for F's company, P, at that time. **At the time F was in a relationship with HD but (contrary to his statement of April 2018 and December 2019) was not married to her at this time.**
November 1996	M tells F she is pregnant
18/04/1997	DD born (now aged 22). F was not registered as his father but

	subsequently legally adopted him. M says F provided financial support in $. *F says his paternity has always been the subject of discussion but that he treated him as his son.* Finding Recorder Genn: the respondent has always had an acrimonious relationship with DD. He blames him for "ruining his life". He has beaten him on several occasions. He has made false allegations that he has mental difficulties. The respondent has often told DD that the applicant is a "prostitute" and he is not his biological father. The respondent has also hit TD and GD on a number of occasions.
31/05/1997	F marries HD. M says she became aware of this only when work colleagues told her. *F says M was aware he was happily married to HD when they commenced their relationship*
June 1997	M says she resumed work part-time for P Co. at the request of F's then business partner.
July 1997	Parties resume their relationship.
29/12/1998	F purchases a flat for M at Flat 3, 11 J Street, N City. It was placed in the mother's name and she and F furnished it. F paid all the costs.
6/5/1999	HD and F's son ED born (now aged 20) M says F lived with her and DD during the week at her flat and returned to his wife and ED at weekends
5/1/2001	Parties' son TD born (now aged 19) The mother says that her private medical care was undertaken in Switzerland at the father's insistence and that it was intended that the child should be delivered in a country in Eastern Europe
November 2001	M returns to work at P Co.
22/8/2002	F purchases second, larger, flat at Flat 2A R Street for M and registers it in M's sole legal name. The certificate of ownership is dated 4/9/2002. M's evidence is that she was involved in decisions in relation to the refurbishment and furnishing of the property but that it was the father's decision as to the location and financing. She said that she was consulted on the properties but never had cause to disagree with the decision as the moves always involved larger properties.
04/11/2003	F divorces first wife HD *F says this was because she discovered the existence of the mother and the father's other two children.*
2004	*F adopts DD* M says it was a legal recognition of paternity rather than adoption and that there is a certificate of paternity for each of the parties' children
2004	The Foundation (Liechtenstein) established on F's instruction to HF. *F and HF say the Foundation was set up for estate planning*. **Ultimately little turns on the reasons for the creation of the Foundation or even the assets it held. Although not critical to my decisions the impression that both the written and the oral**

	evidence of the father gave was that although the father was the sole beneficiary decisions as to the deployment of the funds had to go through the board of the Foundation. It transpired in the evidence of HF that the Foundation by-laws in fact allowed the father to deal directly with the assets of the Foundation without the prior approval of the board. HF said that he would know of a transaction simply because the Foundation received the bank statements. The impression I got from the evidence of both the father and HF was that whilst they spoke or met several times a year it was a relatively hands-off administration that was operated with relatively little documentation.
02/03/2005	GD born (now aged 14) M says that during this pregnancy the father told her she should not drive as she was over 35 and that he provided her with his driver and later with her own personal driver. The mother says that she has virtually never driven since.
2005	F builds a property at 26 R Street as a home for the mother and children
Summer 2005	F ends relationship with M as he has commenced a relationship with RD
2006	F purchases a new BMW jeep for M's use in N City in the name of his company, P Co.
2006	M transfers her P Co. shares to F which she understood coincided with P Co. being transferred to the ownership of an offshore company (**presumably the Company)**
2006	*F says the mother and he had no intimate relationship after this and that they lived separate lives other than spending time together with the children*
August 2006	Account set up in M's name with Credit Suisse
15/8/2006	Transfers from the Foundation current account *370-32 [C223] to M's Credit Suisse account of (a) €400,000; (b) £250,000; (c) $500,000. [**Credit Suisse require a minimum deposit of CHF 1m in a new account:C206]** The mother's case [C301] is that this was at the height of his romance with RD and following his ending their relationship the year before. He called her into his office and told her that he wanted to experience everything that life could bring but that he also felt a lot of guilt doing this to her and that he was sorry. He said he would support her and make sure she was all right with the children but that when the children grew up she was free to live her life how she wanted and she needed to plan as such. For that reason he had opened an account for her with Credit Suisse and was transferring funds into it. In evidence she said that he had given her different currencies to protect against exchange rate movements, that he had advised on the initial investments and that subsequently she had been in control of the funds and had directed their investment. She said that the father had also had a power of attorney in respect of her account. *The father says that it was shortly after GD's birth in 2005 that he*

	and the mother started discussing the possibility of the mother and children relocating abroad to benefit from an international life and education in Western Europe. He says that they had not then decided which country would be most appropriate. He says he undertook most of the planning and because he was aware that whichever country was chosen the mother would need to show she had significant funds in her own name which she could invest. He therefore instructed the Foundation to pay those sums into her account but they did not have the power to make a gift to her as she was not a beneficiary. He said he had complete control over the account and that the funds were invested in bonds and other stocks. [D82] HF says there was no personal file for this period and no documents relating to these transfers other than, he expected, the direction to the bank might exist. However he was unable to say in respect of these transfers whether the father made the request directly to the bank (as he did in 2009) or whether the Foundation itself did the administration. No attendance notes or instructions exist relating to the period. He said he recalled the subject being discussed with the father dating back to 2006. The money was paid as a distribution to F not to M and it was a matter for him what he did with it. Although his statement said the mother should have returned the funds to the Foundation when she secured her visa in his evidence he said this was not correct and there was no obligation on the mother to do so as it was treated as a distribution made to F. **It is not easy to disentangle this initial transfer of funds from the later transfers. Although in her statement in support of the without notice application the mother did not state she had been given the monies in 2006 I do not consider that that is an indication that she has subsequently fabricated it given the nature of the applications at that time and the relative urgency. The father's evidence and that of HF to some extent was presented at times in a way to suggest this was a payment by the Foundation to M which she was obliged to return but the oral evidence made clear this was not so – why then was it presented in the way it was? The father's evidence that it was only in 2008 that he began thinking of the family relocating abroad would plainly be wholly inconsistent with his current case. He is a man who has an excellent memory and so it is curious that he should get the date wrong particularly when his current case is that discussions of relocation commenced very shortly after GD, 'his Princess' was born. The evidence suggests that the father is capable of spontaneous and extraordinarily generous gestures. This is in particular illustrated by his purchase of a flat for DD but is also supported by the mother's evidence as to the purchase of a £149,850 ring and the very considerable sums spent on individual items of furniture for the London Apartment. Whether his generosity is linked to his emotions or to the state of his finances or perhaps both, the evidence supports his spontaneous largesse. The father is by nature more**

	demonstrative whether in showing affection, distress or anger. It seems clear that the father had fallen heavily in love with RD as he terminated his relationship with the mother and the children. This is not something he did when he married his current wife. His personality is such that the mother's evidence of him having been captivated or obsessed with RD is entirely plausible. It is also certainly within the capacity of the father's personality to have felt sufficient guilt and for that to have manifested itself in his transferring very substantial sums to the mother to provide security to her and the children who were then aged only 9, 5 and 1. It emerged in the course of HF's evidence that the estate planning in the Foundation made provision only for the children and not for the mother. This would also lend support to the mother's account of the father's sensitivity to her insecurity. The father was well aware of the mother's financial acumen as he had been working with her and had witnessed her abilities in P Co. He knew she was not the sort of person to squander funds or to invest them dangerously. He was also probably aware that the nature of their relationship (she in general doing as he asked and he being the dominant partner) would mean that if he did want the funds back at some point in the future she would probably return them anyway. This had occurred with the shares. Taking account of all of this and my general conclusions as to the credibility of the mother and the father I consider that the transfer in 2006 was more likely than not made in the circumstances the mother described. From her point of view it was a transfer to her for her security in the future; in terms a gift. I conclude that the father must also have intended her to perceive it in this way although it seems probable that although he described it as such to her he had in mind that if he wanted it back he could probably secure its return from her.
Sept 2006	F transfers 6m roubles to M for maintenance at 250,000 pcm (then approximately £5,000 per month. Previously he had given her cash either directly or via his driver
13/10/2006	F purchased two flats for M next to each other in a multi-occupancy building (flats 11 and 12, Block 4, 6A R Street, N City) with the intention of merging them together to create a larger home for M and the children. The flats are bought in M's sole legal name. A garage was also purchased at around the same time, also registered in M's sole legal name. Due to the design of the flats they were difficult to join into one home and the family did not move into them.
23/6/2007	F marries second wife RD
2007	M says F occupied a penthouse at 6 S. R Street until about 2016
22/1/2008	F and RD are divorced
17/3/2008	Having concluded that it was too complicated to merge the two flats at R Street, F agrees with M that she should have 26 R Street as a home for her and the children instead. The property is transferred from F's name to M's name on this date. M transfers the two flats at

	6A R Street and the flat at 2A R Street to F. Contracts are signed and exchanged. The flat at J Street remains registered in M's sole legal name
April 2008	M sells her flat in J Street for approximately USD 75,000. M says that when she told the father about the sale he told her that she and the children should live off the proceeds and use the proceeds of sale as maintenance. As a result of which no maintenance is paid by F to M between August 2008 and April 2009. *In evidence the father said he did not make the mother use the proceeds of sale for maintenance. He said he was unaware that the flat had been sold until he asked that it be sold and the proceeds be put into the purchase of another property he was purchasing (I could not identify which), at which point the mother told him it had been sold but did not tell him what had happened to the money. He said that he believed she had stolen the money and that when he visited her family in a country in Eastern Europe her brother-in-law thanked him for the windows. He thus took it that the proceeds of sale had been spent on her family.* **The father's evidence in relation to the purchase of the windows appears to be spontaneous and recalled from memory. However buying windows for a modest property would hardly have consumed the entirety of the proceeds of the sale of the property. It seems more probable that the father was put out that the mother had sold the property without discussing it with him first and that his response was to make her deploy the proceeds in her own support.**
Spring 2009	Parties agree that M and the children should move to London, predominantly for the children's education. The mother said although the father had often mentioned buying a holiday home abroad and eventually purchased in Miami it was only in the spring of 2009 that the father told the mother that he wanted her and the children to move to London. He described the move as 'the English project' *The father said that the upbringing of the children was his responsibility and he was thinking of various options for the children's future. He said having studied the London option he proposed to the mother that she go to London to arrange the education of the children. He accepted that it was his idea and that he raised it in 2008 and that he described it as the 'English project'.* **It is clear from the pattern of the parties' lives in Russia from 1996 through till 2009, that a dynamic had emerged in which the father became the dominant partner, doing essentially as he decided whether in terms of his personal life or in terms of the residence of the mother and children and the pattern of their lives. Although the mother says that issues were discussed with her and she agreed to them because they always seemed a good idea, this seems to me to be a reframing of the reality to depict herself as having been more involved than she actually was. By this time the mother was in reality a subordinate who by and large the father made decisions for in relation to their lives.**

	Although the mother may have continued to work for the father's company and used her considerable intelligence and financial acumen in that environment, in terms of her relationship with the father she was very much at his beck and call.
27 Jul 2009	F writes to Credit Suisse asking them to transfer £1 million from the Foundation to the mother. The document is signed by the father [C111]. *The father questioned the genuineness of this document when asked about it, suggesting that the signature might not be his.* **The document demonstrates the father's ability to directly control funds held by the Foundation and the lack of scrutiny or control exercised by the board.**
31/7/2009	Steps are taken to organise M's UK investor visa. The transfer of £1,000,000 is credited into M's account on 31/7/2009. Further sums of €33,000 were paid on 14 August 2009, £110,000 on 26 November 2009 and £46,850 on 10 June 2010. M says that the plans for the English project commenced in the summer of 2009 and the father told her that he was making the arrangements for the investor visa through HF and McFarlane's. The father told her that she needed to have at least £1 million in cash in her account which she was free to invest as her own money and that he would arrange for her to receive this on the basis that she transferred all of her Credit Suisse monies including bonds back to him, he having already given her £1 million in 2006. She says that she believed the money transferred to her was as much hers as the money she had transferred back. She says she invested the funds on the father's advice in bonds. She accepted that the sums transferred to her were more than the sum she transferred back but explained this by saying that this was because she was exchanging a mix of currencies for all £ and was thus more at risk. *The father and HF said that these were all transfers from the Foundation to the mother in support of the investment for her visa. The father said he was advised that it was more sensible to show an amount greater than the minimum of £1 million. He said that it was agreed that the mother would transfer to the Foundation all of the US dollar currency from her account and that the bonds would also be transferred. The mother transferred some $668,000, €33,000 and the balance of the bonds.*
Summer 2009	DD spends a month with a host family in Eastbourne to improve his English before commencing school in England in September 2009.
14/08/2009	A further €33,000 transferred from Foundation current account to M's Credit Suisse account
26 Aug	M transfers £1.011m into a financial bond [C112]
2 Nov 2009	Credit Suisse write to mother for 'the attention of UK border agency, British Embassy, Moscow'. The bank confirms that she has maintained a banking relationship in her sole name since 2006 and that the assets deposited with us exceed the amount of £1 million

	and has not fallen below £1 million in the three months preceding the letter. They confirm the funds are freely transferable to the UK
16/11/2009	F transferred a further £110,000 through the Foundation to M
Nov 2009	Meeting with lawyers about the visa. *F said that he attended a meeting with the mother and lawyers in London who were arranging the investor visa. He said his eldest son was present and that in the course of the meeting they asked whether it was a gift or returnable. He said that he would never write it as a gift and that because he was against this being a gift how could it influence the citizenship the fact that it was not her own money. He said they told him there was a small risk. He said that whilst the mother had the right to take the interest on the money she did not have the right to use the money and it was to be returned after the investor visa was obtained.* The mother did not give any evidence about this as it was a spontaneous disclosure by the husband under cross-examination. **There was no reference in the father's written evidence about this meeting and no documentation has been produced from it. It seems surprising, given the focus in his statements on whether this was a gift or not, that this emerged only in his oral evidence. The extract of the immigration conditions [C227] relating to the investor visa state at paragraph 60 that applicants may rely on money that is owned solely by their unmarried partner but they must have unrestricted rights to transfer and dispose of the money and permission from the unmarried partner to have control of the money in the UK. The father's case before me is that he was not the mother's partner and that the mother did not have unrestricted rights to dispose of the money or to have control of the money in the UK. It seems improbable that lawyers versed in these applications would have allowed an application to be submitted if they were aware that the father did not accept being in a relationship with the mother or that she was under an obligation to return the monies to the father after the visa was obtained and that therefore she did not have an unrestricted right to dispose of the money or to have control of it in the UK. By this time the father was free of his infatuation with RD which had led to his gesture in 2006. He and the mother were in my view back in a relationship including an intimate one by this stage. He was back in control of the lives of the mother and children and I find it hard to believe that he did not consider that the funds were being gifted to the mother. It seems likely that as a result of the requirements in relation to the visa and the need for the mother to have the right to dispose of the monies and to have control of them, that the precise terms on which she was exchanging the original funds for the £1m were left hazy in order to ensure that the immigration application was honestly made. It may well be that the mother at the time chose to interpret this as a direct exchange or it may be that as time has passed and events have occurred that she has reinterpreted matters.**

30 Nov 2009	F writes to UK Border Agency in support of their visa applications. Describes M and children as 'his family' [E383]
2010	H commences cohabiting relationship with ND (whom he subsequently marries). M aware of their relationship from 2012.
9 Jun 2010	Payment of £46,850 from the Foundation to M and then payment of £46,844.17 to Knight Frank as deposit for K Gardens (in London). [C113] **Both the father and HF asserted in written statements that the transfer of these funds from the Foundation to M was part of the investor monies and was thus subject to being repaid. On closer examination in fact it is quite clear that the monies were transferred in order to pay the deposit on K Gardens. This illustrates HF's imprecision and perhaps the extent to which he relies on the father for his recollection as to the purposes of payments.**
June 2010	M and children move to London. M has not worked at all since she and the children moved to the UK. *F says she stopped working for his company earlier, around the time GD was born.* F rents an apartment at Flat 4, 28 K Gardens in an exclusive part of London for M and the children at a rental cost of £200,000 p.a.
June 2010	The Foundation transfers £3,556.16 to M for the deposit for a new family car, a BMW X1. Then in October 2010 F upgraded the vehicle to an X5.
2010	F obtains St Kitts and St Nevis citizenship for M and the children
April 2011	F purchases the London Apartment for £6.4 million via the Company. In excess of £800,000 is spent on renovation prior to the family moving in. The legal title to the family home was initially owned through the Company. It is now owned by F personally. F has always accepted that he has been the 100% beneficial owner of the property throughout The mother describes the process of renovating and furnishing the London Apartment as a family endeavour and described how in particular the children were looking forward to moving into their new rooms once it was completed. She appeared to accept that the selection of the location both of K Gardens and the London Apartment were determined by the father. She described the instruction of a designer who helped them to select the decor and furnishings. She described it as a home with which the children were familiar and where they had lived for several years. Although she accepted that to a very considerable extent the contents of the London Apartment were purely decorative and were not used either by her or the children on a day-to-day basis she was clear that they were integral to the home that she and the father and children had created. *The father's case about the London Apartment has to some extent changed over time. He said that the rent was so high on K Gardens (£200,000 per annum) that he thought it was better to purchase a property and to purchase one which would be a good investment. He says that it was initially intended to be his home in London as*

	well as that of the mother and children. **Given he only visited four times a year for a few days this is an interesting way of describing it**. *He says he purchased it in 2011 and carried out extensive renovations to it. His case is that it was always intended to be sold when it was not required as a home for the mother and children. He says that it was always anticipated that the mother and children would return to Russia after the London project was completed.* **Whilst this may have been his intention it is based on his perception that he continued living in Russia. It overlooks the fact that GD would by the time she left university have lived the vast majority of her life in England and that TD, DD and the mother would have become essentially London based by the passage of time.** **The photographs and the video depict a stunning, beautifully presented home. It is abundantly clear that very considerable time and expense went into the creation of it. Although the father may well have had in mind the purchase of a property that would also be a good investment I have no doubt that the principal reason for purchasing the property was to provide a home for the mother and the children and the father when he visited. His statement earlier in the proceedings that he had wanted it also to be the home for his new wife and his child illustrates his thinking. The mother's evidence about the process by which the renovation of the London Apartment was undertaken, the use of a designer and the father's decision that the property would better be furnished with antiques rather than modern furniture appeared to me to be both consistent with the other evidence as to the father's decision making but also appeared to be an account drawn directly and spontaneously from her memory. A reference to communications between the parties at this time also appeared to me to be genuine. The father's changes in his position as to the ownership of the antiques or the loan of them undermines his assertion that they were in some way bought for display purposes. I am quite satisfied that all of the items purchased for the London Apartment and currently in situ were purchased as part of the plan to create a stunning family home in which the mother and children were to live for many years and which the father would enjoy on his visits. Had the father wished to purchase them as items to display in Russia he could have shipped them to one of his many properties in Russia or warehouse them there.**
2012/13	Finding: Recorder Genn: the respondent's violence towards the applicant began in 2012/13 whilst in London and continued when the respondent and children would return to N City for holidays. The respondent often hit the applicant. The respondent has physically assaulted the applicant in the presence of the children. His mood can quickly shift from being calm to screaming, shouting and hitting the respondent.
March 2014	Parties move into the family home at the London Apartment

6 Nov 2014	Finding: Recorder Genn that the father behaved threateningly to the mother: "stop manipulating the girl! I'll tear your head off. Take out your things from my living zone! If you do not take them out, I'll put everything in a bag and throw it in the trash".
Nov 2014	M alleges F took several pieces of valuable jewellery [E342] The mother says that following an argument over the positioning of a safe in the London Apartment the father became aggressive and in a fit of anger began throwing her possessions on the floor and emptying the contents of the wardrobes into the hall. GD was present. The mother left GD and the father alone. She slept in a different room and the next day noticed that her jewellery was missing. She identified six particular pieces - A 4 carat 'Bucherer' diamond ring worth £149,850 which was given to her by the father in a restaurant in Dubai in front of the children in appreciation for what she had done - 2 carat diamond earrings worth £42,300 (GD's birth) - 3 carat diamond earrings worth £23,400 (TD's 10th birthday) - 'Happy Diamonds' earrings worth £14,200 (her 40th birthday) - heart-shaped diamond ring worth £10,000 given on her birthday - a chain worth £10,000 (her birthday in 2006) GD has provided a statement in which she describes the events. **Not surprisingly it is very similar to the mother's statement.** In an email sent on 31 January 2018 the father says "I have taken away bling (he says the word is better translated as toys) [or perhaps trinkets] …. They are located in a safety deposit box. I will give it to GD at her wedding" *The father accepts that there was some sort of incident in relation to him taking jewellery but he maintains that the jewellery he took was silver jewellery which belonged to his mother and which he took back.* **The father's evidence on this was evasive and unsatisfactory. I'm quite satisfied on the balance of probabilities that he did take back valuable items of jewellery in a fit of temper and has retained them since. Whether they are capable of being the subject of an order for their return within the parameters of this case I shall consider elsewhere.**
	2015
25 Jan – 31 Jan	Mother and children on holiday in Switzerland
29 Mar – 18 Apr	Mother and children on holiday in USA (this may have been at the father's property in Miami)
10 Jul -26 Jul	Mother and children on holiday in a country in Eastern Europe
28 Jul – 30 Jul	Mother and children on holiday in Moscow
30 Jul – 6 Aug	Mother and children on holiday in Greece
6 Aug – 8 Aug	Mother and children on holiday in Germany
20 Aug – 23 Aug	Mother and children on holiday in Saint Petersburg

27 Oct 2015- 1 Nov 2015	Mother and children on holiday in Italy
	2016
June 2016	F marries current wife ND The mother said the children were unaware of the father's marriage and only discovered it at Christmas 2016.
8 Jul – 24 Jul	Children on holiday with mother in a country in Eastern Europe
26 Jul – 4 Aug	Holiday on a yacht in Croatia and Montenegro. The mother said the parties as she understood it rented a large yacht. She, the father and their three children together with her sister and her niece went on the holiday together. The yacht had a skipper and crew, cook and hostess. This may have been the last occasion when she and the father shared a bed [C275]. *The father said he had to persuade his new wife that he should go on this holiday. He said she wanted to go on a honeymoon but eventually relented and said that if he was so dedicated to his children he would be dedicated to any children they had together and so he went. He said the cost was limited because it was a friend's yacht and he only had to pay for the expenses rather than to hire the yacht itself.* **I conclude that the mother is correct in her account of when the parties were last intimate and when their, one might say, unusual relationship really ended, although of course their parenting of the children continued**
11 Aug – 14 Aug	Mother and children on holiday in Poland.
17 Aug	Mother, children and father returned to N City. F emails M to ask her how much her investments are worth. M has £11,925 in cash and £990,000 in bonds at this time. The mother says that upon their return to N City the father demanded the return of the £1 million. She says he gave no reason for it but threatened that he would not permit her and the children to return to the UK unless she did so. *The father says that he did ask for the return of the investor visa funds which he would never have done if they were a gift. He agrees that she was extremely reluctant to return them which he says he found very frustrating and that it emerged she had spent some of them. He says that she did eventually agree that she would transfer the remaining balance and that she did so once she was back in England. He says that she said she wanted to retain £300,000 as security for herself and that he didn't agree but there was very little he could do. In his Children Act statement of 12 April 2018 the father said that she said she only had £690,000 remaining. He did not mention the issue of £300,000 being kept by her as security. In his statement of 24 of January 2019 he says that when the mother agreed to be repaid at the end of the summer she said she would repay the remaining £300,000 at a later date [C130] and he decided he would pursue it later.*

	Some criticism was made of a document that the mother had produced in English setting out the emails. It appeared to be suggested that she had only produced part of the information provided so as to suggest that in fact she only had £690,000 worth of bonds left and that the rest had been spent. This did not seem to be consistent with the father's own evidence. On the father's case the mother would have had no reason to argue about the return of the funds when she was not primarily motivated by money (as found by Recorder Genn and my own impression) and given that she had not in fact spent anything other than the interest. Thus the fact that there was a disagreement over the return of the funds would suggest that the mother believed she had rights to the funds. This would be consistent with her evidence about the 2006 and 2009 transfers and what was said to the Home Office in support of her application for a visa and perhaps citizenship. Given the father's later threats in relation of eviction from the London Apartment it is in my view plausible that he would issue a threat to prevent the mother and children leaving Russia. He said it would not be possible for him to prevent the mother leaving which must be right but would not be the case in relation to TD and GD who were both under 16. I therefore accept the mother's evidence that she returned the £690,000 under pressure from the father but held out to retain the £300,000 as security. I accept that the father's response led the mother to believe he had agreed to this as he did not require the return of the £300,000. I do not accept that there was nothing he could have done. His character is such that if he had decided he wished the full amount to be returned he would have taken the necessary steps to force the mother to return it. Thus as a result of these discussions whatever the position was in relation to the 2006 funds or the 2009 funds it seems that an agreement was reached that the mother should return £690,000 and retain £300,000. I appreciate that the mother may have some argument that this agreement was reached under duress but I have not heard sufficient evidence or submissions on this issue to explore it in more detail. It seems to me that the dynamic between the mother and the father at this time was such that in general the mother agreed to do what the father wished although this may have been a rare moment when she found the determination to stand up to him in a small way particularly having regard to her beliefs as to her ownership of the 2006/2009 funds. In general terms, though, she was then (and still appears to be) grateful for all that he has provided for her and the children, and so I doubt that it would have taken a great deal of pressure to make her agree to return a large part of those funds. Thus those £300,000 in funds are to be regarded as legally and beneficially owned by the mother. The remaining £690,000 were returned to the father and I am not satisfied that they constitute a debt owed to the mother.

18 Aug	M emails Credit Suisse asking for information about the bonds in her account. The bank reply without the full value but setting out what they would yield [C118]. The mother forwards this to the father.
26/8/2016	M sends email instruction to Credit Suisse to transfer £690,000 to the Company. She forwards the email to F to show she authorised the transfer of funds. The transfer is effected on 8 September 2016. M and F both agree she was to retain £300k as 'security' [C260]
6/9/2016	M and children's British Citizenship Ceremony
22 Oct – 30 Oct	Mother and children on holiday in UAE.
31 Dec	M says that F took the children out for lunch with his new wife and told them that he had married her. TD and GD were shocked and upset as they had thought she and the father were married.
	2017
25 – 29 May	Mother and children on holiday in Malta
13 -30 Jul	Mother and children on holiday in a country in Eastern Europe
July	Mother says the father visited them in London and informed her that he was staying in a hotel with his wife and that she was pregnant. He asked for the mother's help to talk to GD and explain that she would be having a sibling soon. *Although it is not clear that this is the same time, the father does say that at some point (and I think it is during 2017) he asked the mother to allow him and his new wife to stay in the London apartment when they were visiting. He identifies this as a cause for conflict between him and the mother.*
20 -29 Oct	Mother and children on holiday in UAE
6 Dec	Liquidation/dissolution of the Foundation on F's instruction to HF.
14 Dec	F makes payment of 12,500 to M.
15 Dec	F transfers £607,000 to DD (Recorder Genn made a finding that this was a gift to enable DD to purchase a property for himself and that F then changed his mind about the basis upon which he had gifted the money) **It is not entirely clear how this developed into the crisis that it eventually did. The judgment of Recorder Genn explores the evidence in detail. The mother said that [#45] the father was complaining about the way she looked after the children and was saying he was going to stop giving her money and that was the context when he first raised him being given ¼ value of the N City house, although the issue of such a property being purchased had been raised in September or October. At that time the father was saying that he had expected to sell the mother's N City flat and to pay the lump sum out of that whilst also buying a small flat in N City for the mother. Record Genn did not accept this and concluded [paragraph 92] that it was his impulsivity that underpinned the crisis and that he had a change of mind about the basis upon which he would give the money. DD's refusal to bow to his father's demand and to either say he would transfer any share he had in the N City Property to the father or to return the money led to the father's abusive side emerging with full force.**

22 Dec	[E311] F causes HF on behalf of the Company/the Foundation to write to the managing agents to terminate the licence of M and children to occupy on 10 February 2018. The letter asks them to keep an eye on the antiques and says the father will arrive on 10 February 2018 and he has reservations about the licensees' (i.e. the mother and children) 'timely vacating the property' and he fears a conflict may arise and that if that is so F will involve the police.
29 Dec	Message threatening eviction **This is referred to at paragraph 80 of the judgment of Recorder Genn. I have not seen the original but it may be the email that the mother referred to which was sent to her.**
Dec	The Company makes payment to M of £16,760.
20 Dec - Jan	M and children spend festive period in St Petersburg and N City returning to the UK on 2 January 2018.
2017	Over the course of this year the father paid to the mother £185,000 and in addition she received £17,000 from the Company
	2018
5 Jan	Email from F in which he refers to the property being put up for sale and that the children would be found schools in N City. A letter from the managing agents also stated that it was the intention to sell the property. Judgment of Recorder Genn paragraph 79
6 Jan	Finding: Recorder Genn: the respondent called GD and threatened her with returning to Russia. GD was hysterical after this conversation.
9 Jan	Finding: Recorder Genn: the respondent told GD over Facetime of his plans to come to London and kill DD by slitting his throat. The respondent also said that he is going to speak to TD to see whose side he is on.
18 Jan	Finding: Recorder Genn: the respondent told TD that he should beat up DD and to report back to him the next day once he has done it.
	Messages from F to DD [#74 judgment Recorder Genn] **The Recorder found that messages from the father to DD saying that he needed to return the money or give it to charity because it wouldn't bring him happiness were an example of emotional manipulation. He also sent messages referring to DD's legitimacy, referring to the mother as a slut, referencing the proposed sale of the family home and Recorder Genn found these were further examples of emotional manipulation.**
19 Jan	F writes to DD demanding return of money and threatening court proceedings. HF copied in [E354] Finding: Recorder Genn; the respondent called TD and told him that as he has not done what he has asked (beating up DD) he is going to come to London and will have the applicant and DD killed. TD had a panic attack and threatened to commit suicide following this conversation. TD has not spoken to his father since then.
23 Jan	Finding: Recorder Genn; The respondent called the applicant's driver while on the way to take GD to school and asked him to give GD the phone so he could speak to her. He threatened to take GD back to Russia as the applicant and DD have taken his money from him and that the respondent and DD will end up on the street. GD

	had a panic attack and was unable to attend school.
	Recorder Genn found that there were many threats in relation to eviction which demonstrated the lack of security that the mother and children had in the London Apartment. At paragraph 93 she said: **"I find that the issue of money, whilst forming an important backdrop, was not the central issue for the applicant mother. It was an important backdrop because I find as a fact that she was dependent on the father and from the email exchanges, and indeed from much of the father's own evidence, it was quite clear that he used both the security of the London Apartment and his continuing support as an emotional tool against the mother and the children. So, to that extent, money is indeed central to this case but central insofar as, and I accepted mother's evidence on this, her need to keep the children secure both in terms of a roof over their head and their maintenance. In that context, I accept father's evidence that whilst the £607,000 was a very generous sum of money, it was not particularly significant to him. What was significant to him was the need for respect and his imperative to teach his children lessons about the meaning of life and, to that extent his toughness training for his boys.** **[95] … However having observed the father give his evidence and heard his repeated reliance on what I describe as emotional elements, his ill-health, the prospect that he might die, the emotional stress of having to work long hours to support the family, the fact that he was giving everything to support them and so on, all served, in my judgement to keep the family in line.** **[97] having looked across the evidence and listened to all of it very carefully, I consider it much more likely than not that having put up with a relatively consistent and what may have seemed in some way a manageable level of abusive behaviour, that the change to the much more extreme and potentially risky behaviour and threats in January 2018, as I have said, much of it ultimately conceded by the father, indicated a much more extreme and frightening level and different quality of threats…** **[102]… However, given the fact that I find all of the family were exposed to those ongoing threats that the family could lose their home, that they would suffer as a result of the father's anger, it seems much more likely than not that GD's views were views that she had formed herself.** **[105]** **The father I found, as he had indeed described himself, to be impulsive, volatile and emotional… his very long and expansive answers, rarely to the point and invariably focused on his own concerns, seem to me to be the hallmark of an individual who was both used to getting his own way and one who was used to coercing others to do as he wished….. All of which pointed, in my judgement, to the allegations that mother makes at least in relation to physical and emotional abuse and controlling**

	behaviour being made out. **[106] his controlling behaviour can be seen in my judgement in various places but particularly perhaps at the so-called attempted reconciliation in February 2018… Against the mother in cross examination but it was a communication from the father which, in my judgement, was designed controlled by fear that the proceedings would kill him.** **[107] I was struck throughout by how little concern the father had for a number of the more serious allegations that were made in relation to his conduct. I've already made reference to his response initially to the allegation of tying the mother to a chair and threatening to stab her which she seemed to think was a joke. It seems astonishing in the context that he thought to make light of that allegation but that was one of a number of examples, as I have set out through the course of this judgment.**
	The Company pays M £16,706.05. F pays £12,500 [C59]
25 Jan	M commences Children Act/Family Law Act proceedings seeking protective orders. Without notice orders are made (DJ Hudd).
26 Jan	Ex parte orders made on 25.1.2018 are served on F by email.
31 Jan	F writes e-mail to M: [E345] **He said he didn't understand the nature of the order and that sending it was a breach and yet within the body of the email he says 'are you going to put me in jail'**
8 Feb	M issues Sch 1 proceedings on Form A1; on the same date, return date hearing in respect of the FLA 1996/CA1989 proceedings (DJ Mauger). Protective orders continued and FHDRA listed.
10 Feb	Date licence expires.
13 March	F's solicitors write to M's solicitors requesting adjournment of hearings on 21 March (First Appointment, Schedule 1) and 5 April (Children/FLA proceedings) due to F's ill health Medical Discharge Summary re F: - inpatient from 13 March to 20 March - diagnosis hypertension three stage. Risk four. Ischaemic heart disease. Coronary sclerosis. - Discharged in satisfactory condition. Daily medication on a long-term basis
21 March	Consent Order: - FDA relisted for 22/6/18 - Forms E1 to be exchanged by 18/4/18
9 Apr	M travels to N City to find that her property had been vandalised.
11 Apr	F issues application to discharge prohibited steps order and makes an application for a child arrangements order
17 Apr	FHDRA (DJ McGregor).
18 Apr	Forms E1 due in accordance with consent order (21/3/18)
10 May	F's solicitors write to M's solicitors asking whether M will be in a position to exchange Forms E1 by 14 May 2018
15 May	F files Form E1
17 May	M's solicitors write to F's solicitors to say they have arranged to

	meet with their client on 21 May and will be in a position to exchange Forms E1 after that
23 May	F issues application for 'unless' order dismissing M's Sch 1 claim if Form E1 not filed by 31/5/18. Listed to be heard on 31/5/18.
25 May	M files Form E1; Forms E1 also exchanged on this date
31 May	Consent order: M having filed her Form E1 on 25/5/18, hearing of 31/5/18 is vacated with costs reserved.
22 May	First Appointment (DDJ Todd). • Hearing adjourned and relisted on 10 September 2018, the hearing to incorporate any application made by M for MPS/LSPO; • Permission to M to file and serve an amended questionnaire and a schedule of issues; • Timetabling for MPS/LSPO application.
7 Jul	Order DJ Gibson (on paper): • Extension of time for F to file statement in response to M's application for interim financial provision to 3/8/2018
5 Jul	M issues application for interim maintenance and LSPO. Hearing listed on 10/9/2018
10 Jul	First CAFCASS report (Gemma Bond) filed [E420] **Both TD and GD were seen by Ms Bond and she spoke to the parents. Some of the salient points in the report for my purposes would appear to be:** - **GD described a changing relationship with her father and now feels that after everything he has done to her and the family that she could never regain that closeness with him. But she is grieving that relationship. She recalled physical abuse to her mother and herself but more importantly verbal abuse including humiliation. She was emotional and distressed throughout the meeting and appeared to fear for her safety. On the cusp of adolescence it is important that she feels safe and protected in her family life if she is going to successfully navigate the challenge of separating healthily from her parents and becoming an independent adult** - **TD presented as an angry young man who portrayed a bullying, frightening, untruthful and manipulative father figure who he is anxious will influence GD against the mother and her two brothers by lying to her about them and denigrating them. He reported that his father attempted to enlist him in trying to oust DD and the mother from their home and asked him to witness arguments and to choose sides. He feels constantly anxious around him especially of displeasing him and about what he will do next.** - **The descriptions by the mother and children of the alleged abuse fit most accurately with coercive and controlling abuse.** - **There is a value placed on material wealth in this family and the impact it has on the family's lifestyle is significant. What this means is that when an argument about money takes place, it is of great significance, far-reaching consequences, and has emotional as well as financial implications.** - **She recommended that GD was provided with individual therapy as a matter of urgency as in her opinion she had been traumatised by recent events. She should not be living under the**

	threat of being relocated suddenly or being forced to spend time with anyone who's going to make her anxious or distressed. Equally she should not carry the burden of divided loyalties should she wish to maintain a relationship with her father when her mother and brothers may not. - **She recommended that if findings were made against the father that he complete a domestic abuse perpetrators programme and that a further risk assessment be provided.**
31 Aug	F's solicitors write to M's solicitors requesting that F be given access to the London Apartment to remove a number of antiques which he claims belong to a man named GV or, alternatively, that she pay him a lump sum of £420,000 to give to GV. M refuses this request and disputes that the antiques are owned by a third party.
10 Sep	Hearing before Recorder Reardon re interim maintenance and M's LSPO application. No LSPO made as M required to use remaining savings in the first instance but the Recorder orders interim maintenance to be paid to M of £10,000 pcm backdated to the date of Form A1 (8.2.2018). Undertakings given by F to safeguard his beneficial interest in the London Apartment on transfer of the property into his name and out of the name of the Company and to protect M's Sch.1 claims by way of a restriction against the title. F confirmed to the Court that *"…his objection to the Applicant, GD and TD remaining in the [family home] during the said children's dependency is not based upon affordability and that, if the Applicant and the children do remain there for such period, this will not impact upon his ability to meet his needs and those of his immediate family"*.
1 -3 Oct	Fact finding before Recorder Genn F seeks to reach agreement [D12]
12 Oct	F's solicitors serve documentation pursuant to paragraph 16 of the order of Recorder Reardon; further documentation provided by email on 2 November in response to further query from M's solicitors. M disputes that all relevant documentation in F's possession has been provided.
19 Oct	Judgment of Recorder Genn following 3-day fact finding in s.8 proceedings. Findings made in respect of 6 out of 7 allegations – see schedule of findings. **Some of the relevant findings and conclusions are set out earlier.**
5 Nov	Parties' replies due
21 Dec	F serves his replies (dated 10 December)
	2019
6 Feb	FDR before Francis J. Francis J directs that the FDR be adjourned to a further day of negotiations on 22/5/19 on the basis that if either party does not wish the FDR to be resumed then they shall inform the clerk to Francis J by 22/2/2019 and lodge agreed directions re M's proposed application for a LSPO, so that the Court can make appropriate directions. Court also lists hearing on 30/7/19 as a directions hearing in the substantive proceedings and M's application for LSPO.
8 Apr	F's solicitors write to M's solicitors requesting that he be permitted

	to remove a number of antiques from the family home which he says he required for an exhibition.
6 Mar	Addendum CAFCASS report filed (Naomi Lacey) [D43] **Some of the salient points for my purposes are as follows:** - **She saw GD and spoke to the mother and father. She also saw a report from a psychotherapist regarding her initial consultation with GD.** - **GD immediately started crying during the meeting and appeared to be concerned that the judge did not believe her. She was distressed by the details she had previously shared with Ms Bond. Her appearance and mood distinctly changed when talking about things other than her family.** - **She appeared to have a low risk of developing depression and had separated her day-to-day life from the family difficulties she had experienced.** - **She was clear she did not want to see the father and although she has many questions for him she is concerned he will not be truthful in his answers and is fearful of him.** - **She wrote a letter over the space of 40 minutes to the father. [D47] the letter makes for sad reading and reflects considerable distress, anxiety fear and probably regret. She says she has memories which she cannot raise and which will stay with her for life she says that she had trusted her father. She says she now wants to enjoy her life and heal from all of this by herself without being told how to think from either her dad or mum. She thought having contact with her dad again would put her in a bad place and make her have to relive all of her horrible memories.** - **Ms Lucy did not think the mother had attempted to alienate GD from the father. She identified that the mother wanted GD to have a relationship if the father was able to change his behaviour. She considered the father's behaviour was the cause of GD's rejection of him including his attempts to induce guilt in her by calling her a betrayer.** - **The father appeared to show some level of child-centred thinking by asking whether there was any point in continuing. He suggested he may wait until GD is 18 and can make her own decision before pursuing a relationship.** - **Ms Lucy considered that GD had experienced significant emotional harm during her childhood through being exposed to domestic abuse towards her mother and brothers perpetrated by her father. She has personal memories of being directly involved in the abuse.** - **Dr Loveridge had suggested that GD should not be the only member of the family to engage in therapeutic work. She advised caution over the father and mother engaging until the risk of further domestic abuse had been properly assessed.** - **The father would need to engage in an intensive treatment plan to mitigate the risk of abusive behaviours being repeated in the future. Even then GD is likely to need therapeutic support to come to trust her father again. The father would need to apologise to her and the onus will be on him to convince her that he is changed.** - **Although GD has displayed great strength and resilience during her life so far she needs to access support when she is ready to process her painful experiences in a safe place. This would be for**

	the sole purpose of her emotional healing.
14 Mar	Parties sign consent order continuing non-molestation order to 5 March 2020 (incorporated into FLA order of 14/5/19) F withdraws his application for a CAO **The father declined to undertake the psychological risk assessment and has not undertaken any domestic abuse perpetrators work. In his evidence to me the extent of his acceptance of his abusive behaviour appeared to be even more limited than that which he may have appeared to accept before Recorder Genn. In the absence of acceptance and the undertaking of work the only legitimate inference that can be drawn is that the father continues to present a risk of abusive behaviour of a type and magnitude that is recorded in the judgment of Recorder Genn and in the findings made.**
7 May	F issues application seeking immediate delivery up of certain antiques in the family home to him and permission to enter the property to inspect the condition of the remaining antiques with a view to collecting those at a later stage. The application is listed before Roberts J on 6/6/19
8 May	F's solicitors write to the Court to say F is no longer agreeable to the adjourned FDR taking place on 22/5/19 and asking for the hearing to be vacated.
17 May	Adjourned FDR that had been listed for 22/5/2019 vacated at F's request
3 Jun	M issues LSPO application and application to amend Form A, requesting these be heard 3 days later at hearing on 6/6/19
6 Jun	Hearing before Roberts J. F's application for return of antiques located at the family home is dismissed with costs. Directions on M's application for LSPO Permission for M to amend Form A to include application for settlement of property without prejudice to F's case
25 Jun	F files statement in response to M's LSPO application
30 Jul	Hearing of M's LSPO application (Williams J). F ordered to pay LSPO as follows: (i) A lump sum of £45,942 payable forthwith (no later than 4pm 6 August 2019); (ii) A lump sum of £241,766 to be paid in the following instalments commencing 1 September 2019:
1 Sep	First instalment of LSPO due. F does not pay the instalment on the due date.
20 Sept	Letter F's solicitors to M's solicitors saying F has been experiencing "liquidity issues" and will pay the LSPO instalments for September and October on 10 October 2019
1 Oct	October LSPO instalment due under Williams J order but F does not pay on the due date.
8 Oct	F pays outstanding September LSPO instalment but not October instalment
16 Oct	M's solicitors write to F's solicitors saying they will issue

	enforcement proceedings in respect of the outstanding LSPO instalment if not paid by 18 October 2019
16 Oct	F's solicitors write to M's solicitors to say that the late LSPO instalment will be paid by Friday 18 October 2019. Payment is made.
22 Oct	M's open proposals due but delayed
1 Nov	November LSPO payment made. M serves updating financial disclosure.
12 Nov	M's open proposals served
13 Nov	F serves statement of HF (dated 12 November 2019)
1 Dec	December LSPO payment made
22 Dec	Lump sum of £159,000 paid under LSPO January LSPO payment made (final payment)
	2020
8 Jan	Parties exchange final narrative statements and exhibits
20 – 24 & 27-28 Jan	Final Hearing (Williams J)
5 Mar	Non-molestation injunction expiry date (unless extended)

Financial Information

129. Given the fact that the father has deployed the millionaire's defence it is not necessary to go into the father's financial position at any length. He has accepted that his wealth is sufficient to meet any reasonable order which the court might make and that his objection to the mother and children remaining at the London Apartment is not based on affordability. He accepts that if they were to remain there it would not impact upon his ability to meet his needs and those of his immediate family. The evidence suggests that in addition to a very prosperous factory in N City the father also has fairly extensive property interests. At times he has held, through the Tallmann Foundation, very significant sums of money in investments. Although HF declined to disclose the total value of the interests held by the Foundation, whether in terms of the value of the Company which held the shares in P Co. or the cash and investments held, the impression he gave was that the transfer of £1 million was not a significant sum. The purchase of the London Apartment for £6.4 million, its refurbishment at a cost of £800,000 and the sums spent on antiques and jewellery measuring in the tens and hundreds of thousands of pounds indicate a man of very significant albeit not fabulous wealth.

130. The suggestion within the father's recent statement that his financial situation has suffered a 'very substantial impact' [C241] by reason of the legal fees he has paid totalling £633,000 does not sit easily with the deployment of the millionaire's defence. His assertion that his income from business activities has reduced very significantly because he is no longer the managing director of the P Co. group is hard to understand given he is the sole shareholder in the group. Although his son SD is now the managing director there was no indication from the father that this carried with it the

huge remuneration which the father has obviously derived from the business down the years.

131. His account of life in Russia and holidays by the Baltic seems to indicate that the family did not at least initially lead a highly luxurious lifestyle, even when the father was affluent. His description tied in with that of the mother in this respect. However over the years it seems that when it has mattered to the father he has been capable of spending extraordinary sums whether it is £500,000 for a painting, £150,000 for a 4 carat diamond ring, or £6.4 million for the London property and £800,000 to furnish it. The father was capable of lavish spending on the mother and children for holidays as well as entertaining in London or elsewhere. However even allowing for this the depiction of both the mother and the father of their lifestyle was not one of constant high spending and opulence. What it did demonstrate was that when the father wishes it he is able to have access to very considerable sums of money to make lavish provision for himself and his family.

132. I therefore approached the assessment of the mother's application on the basis that the father has very substantial assets and that he can meet any award within the parameters requested and offered.

Discussion and determination of the issues

133. Returning then to the issues identified and consideration of the parties' cases in respect of each, in the light of my conclusions in relation to the factual background and the legal jurisdiction in respect of the issues raised. In particular I bear in mind the arguments made in the parties' skeleton arguments and in the father's position statement although I shall refrain from repeating them in their entirety.

134. In determining them I apply the legal framework set out at length above in particular having regard to the Sch 1, para 4(1) criteria, and all of the circumstances including the welfare of the children, the standard of living that the children have enjoyed and the standard of living that the father and his wealth warrants. To the extent necessary rather than immersing myself in the detail of budgets or itemised and costed lists I stand back and survey a broader perspective taking them into account but not being ruled by them.

Whether the applicant and children should remain in the family home and, if so, the legal framework for their occupation

The mother's case

135. This rests on the cornerstone of the property having been purchased and renovated, including furnishing, for the specific purpose of being the family home and it having been such for the last six odd years. It also rests on their need for security (emotional as much as physical) over the coming years. There is no financial need to sell it given the father's millionaire's defence. He never complained about the cost of the service charge when he was using it as his home or when he first decided to purchase the property. The father concedes that in terms of size and amenities and general characteristics it is commensurate with the children's needs and those of their mother. A spare bedroom does not make it inappropriate. The father's list of comparative properties are of similar or greater size. The London housing market means this is not

a good time to sell. Mr Howard also relies on the fact that part of the abusive behaviour was the threat to evict the mother and children from the family home which was controlling and abusive and designed to reassert his control. It is a bad message for the children if having threatened to evict them he now is able to remove them from their home. The children need to stay there for their emotional security and stability and the court is entitled to take account of their welfare. The father clearly remains a risk to them given he is totally in denial. The evidence shows him to be ruthless, impulsive, volatile and unassessed. He hates the mother and has breached the order by communicating with the mother and harassing the mother's lawyer in Russia. The reality is he wants them removed to regain control and so he can install himself. The unparalleled security arrangements contribute to its value. However they also contribute to the sense of safety that the mother and children need. This is a real and continuing issue. The history of his abuse and his denial of it results in him being an unassessed and ongoing risk. The mother and children are with good cause highly fearful of the father and they know that their current home is safe and secure. Removing them from it will have a detrimental emotional impact on them.

136. The mother maintains that the usual approach of a settlement of the property should be adopted. In particular she relies upon the involvement of independent third-party trustees and the security that this will give the mother and the children and the court's disapproval (see Re N) of parents being involved in the control of the property. The father's proposal of a lease would leave open the possibility of emotional control being exerted because he would remain the beneficial owner. Loopholes exist which would allow for the possibility of a judgment against the father being obtained and enforced against the property. This could not happen with a settlement. Furthermore the father suggests that the lease should terminate upon the death of the mother. This would leave the children without a home and unable to require a fresh lease. Alleged or minimal tax savings should carry little weight given the millionaire's defence.

The father's case.

137. His deployment of the millionaire's defence does not mean he accepts that the London Apartment being retained is a reasonable order to make. He is not fabulously wealthy in the league of billionaires and oil sheiks. The reported cases such as Re P and Re A involve properties in the region of 3 ½ to £4 million where the father was fabulously wealthy and so the value of the London Apartment is disproportionately high even by those standards. There are many other properties which are significantly less costly both in terms of their capital value and their annual upkeep as shown in Mr Dyer's report which would be more than adequate for the mother and children in terms of their location, size and amenities. Selling the London Apartment would enable the father to purchase both a property for the mother and children but also another property for himself and his wife and young daughter. The mother and children do not need the level of security that comes with the London Apartment and which leads to the increase in its price from effectively a £3 million to a £10 million flat. He has not been a threat for the last two years, he will not have keys to a new property and any non-molestation order will have the effect of protecting the mother and children if (which is not accepted) he does present a risk. Part of the property is not occupied and they do not need a spare bedroom. One of the properties identified by Mr Dyer would be more than adequate to meet the mother and children's actual housing needs and their need for a sense of security. If an alternative property is selected it does not need to be of the sort identified by the mother in her schedule. She seeks brand-new and the

most expensive properties. A property valued at £3 million is appropriate having regard to their need and all of the other circumstances.

138. Trust arrangements have not been the norm since 2006 when the inheritance tax rules changed so as to impose substantial tax charges upon trusts at their creation and periodically during the existence of the trust as well as upon termination. Long leases at peppercorn rent have therefore been devised to sidestep the tax consequences associated with a trust. The father has obtained tax advice from Lisa Mead at Crowe LLP. The permutations are:

i) Retaining the London Apartment and leasing it at a peppercorn rent will result in a CGT charge on the gain over the duration of the lease. That would be charged at 18%/28% subject to prevailing rates and taking account of any annual exemptions. No principal private residence relief would be available to the father.

ii) Transferring the London Apartment into trust would result in a CGT entry charge at 18%/28% subject to prevailing rates and any annual exemptions together with a CGT exit charge in respect of which the mother might be able to claim PPR relief. An annual inheritance tax charge would arise which would be £464,400 payable on exit.

iii) Purchasing a new property for approximately £3 million and leasing it to the mother at a peppercorn rent would result in an SDLT charge of £363,750 together with CGT upon future disposal.

iv) Transferring cash into a trust would result in SDLT of 273,750 assuming a purchase price of £3 million, possible CGT on exit for which PPR relief might be available and an annual IHT charge of £128,400 payable on exit

The effect of the advice points to a lease of a new property being the least costly way of securing a home for the children and the mother. In MT v OT the father was worth at least 40 million and in that case the court did not require him to become involved in a settlement and allowed him to organise a lease.

Decision

139. The reality is that this was the children's and the mother's family home and has been since 2014. Although it was purchased and renovated for the whole of the family, the day-to-day lives of the mother and the children have been spent living in it. The day-to-day life of the father has been spent living in his home in N City. Although it may be his London home it is that for only a couple of weeks each year. Conversely although the children return to N City for several weeks each year and are on holiday for several more weeks their day-to-day lives during school term time are lived here, and so for the vast majority of the year London and consequently the London Apartment is their home. They were relocated from Russia because the father desired it and so were uprooted from their home, schools, culture and all that was familiar to them since their births in order to make new lives in London. Although the father may have perceived it as a temporary relocation, from TD and GD's perspective given they were only nine and four at the time, the fact that they have lived in London, been schooled in London and made their lives in London through their formative years

makes London and the London Apartment their home. The evidence from the mother and from Cafcass and to some extent from the children themselves demonstrates their need for emotional security over the coming years as they complete their transition from childhood to adulthood, complete their education, come to terms with the abusive behaviour of their father and the termination of their relationship with him and undergo any therapy that they need. The fact that the father sought to evict them from the property in my view also adds weight to the argument that they have an emotional as well as physical need to remain there. What sort of message does it give if the father who seeks to evict them by foul means ultimately succeeds through the courts? The children need to know that it is right that they should remain in their home.

140. In terms of size the property is appropriate for the mother, TD and GD. The fact that it has a spare bedroom is entirely in keeping with the standard of living to which the children have become accustomed and the probability that either family or friends will need accommodating from time to time. A number of the alternative properties put forward by the father would also have spare bedrooms. The exclusive location and the accompanying security are features which attracted the father to the property in the first place. That is why he considered it would be a good family home and a good investment. Apart from the fact that he will not be able to occupy the property as his home those features remain. Although the father argues that it may no longer represent a good investment there is no expert evidence that this is so and it seems to me there is an equally valid argument that the exclusivity of the address and the features which go with it will make it more resilient to variations in the market as it will always have appeal to the ultra-rich. The father may be right that objectively speaking the mother and children do not require the level of protection from him that goes with the address. However the reality is that both the mother and children have been subject to extremely serious threats and a degree of actual violence by the father and so it is hardly surprising that they are anxious and fearful about what he will do. He certainly proved himself capable of quite unexpectedly vicious behaviour in late 2017 and early 2018. The level of security though seems to me a minor factor overall. Nor does it seem to me that the issue of the value of the London Apartment should dictate the outcome. It may be disproportionate compared to alternative similar properties which can be secured in London. The value may be disproportionate compared to other reported cases. However this is the property that the father (and the mother to some extent) chose for the home for the children in London. Albeit this was to be the father's home as well, given his limited periods of time in London, it must have principally been chosen as a suitable home for his children and the mother. Given the deployment of the millionaire's defence and the father's acceptance that the property's retention will not impact upon his ability to meet his needs and those of his other families, the question of value assumes less prominence. Thus I conclude that the London Apartment ought to be retained as the home for the children and the mother.

141. Given the combination of the findings of controlling and manipulative behaviour, in particular the attempted eviction of the mother and children from the home and the fact that financial considerations are not pressing given the millionaire's defence, I am quite satisfied that the home should be entirely independent of the father even if that carries with it a further cost. I accept that the overall effect of the tax advice (albeit not independent expert advice) points to the retention of the London Apartment and its provision under a trust as perhaps being the most expensive of the options available. However all the circumstances, in particular the children's need for security (both emotional and actual) in their home combined with the behaviour of the father leads

me to conclude that it would be wholly inappropriate for the father to retain any power over the housing (whether actual or theoretical). Indeed it would be inappropriate for the children even to have the perception that he might have some control over their home. Even in a case where there was simple acrimony between parents, the involvement of a warring parent in the administration of a property would be inappropriate. In a case where findings have been made of the nature concerned here it simply should not be contemplated.

142. The terms should be that the London Apartment be settled on trust for the mother and children to reside in until six months after GD (or TD) completes tertiary education First degree), including a gap year if taken. I do not consider it appropriate to order a sale immediately upon completion of the period. This would not be to her benefit but would rather leave her last year at university or her gap year with the prospect of the immediate sale of her home upon its completion. This would not be in accordance with her welfare. The Trust will be settled by counsel at the father's expense.

Whether, conversely, the family home should be sold and a new property purchased for the applicant for the benefit of the children (and, if so, the appropriate level of any such replacement housing and the legal framework for the applicant and children's occupation);

143. This is answered by my discussion and conclusions above.

Whether there should be an order for the settlement of the contents of the family home (including antiques owned by the respondent) or they should be returned to/retained by the respondent;

144. The mother maintains that the chattels are part and parcel of the property at the London Apartment. The property was designed and furnished according to the taste of the mother and father and the court should settle the property and its contents. They are integral to the home that was created for the family and to allow the father to remove them would be to allow him to exert control. It would be upsetting to the children to dismantle the home that was created for them. She says that the evidence of the father is not to be relied on. At one stage he wanted to move in and he would have kept the furniture there then even though he has a young daughter. It is absurd to suggest these are museum pieces; prior to the separation it had never been suggested the contents should be removed to a museum.

145. The father maintains that the contents of the London Apartment should be returned to him. He maintains that they are either his or are on loan to him and that there is no argument that they are his and his alone. The mother conceded in cross examination that they are mostly decorative and are not in day-to-day use. It cannot be reasonably said that the children need these sort of substantial antique chattels furnishing their home. He submits that in the event that the court settles the London Apartment on trust for the mother and children, the court cannot settle the contents of the property because Sch 1, para 1(5)(B) provides that the court may not make more than one settlement of property order against the same person in respect of the same child.

146. It seems to me having viewed the video that the majority of the contents are indeed part and parcel of the home environment that the father and mother created for the children in the renovation and furnishing of the London Apartment. Although looked at individually one can see how one might remove items without substantially

changing the nature of the home environment, to remove them wholesale would be to fundamentally change the home that the children have lived in and to rob it of its character. The schedule of replacement items that the mother has drawn up demonstrates that she has not exaggerated the price of every replacement item and so to return the items to the father (as the mother accepts she will do if so ordered) would result in a very substantial sum having to be spent to try to recreate the home environment. The children have a physical and emotional need for a secure home and the contents of the home are a part of that.

147. The effect of Sch 1, para 1(5)(b) is to prevent the court making subsequent settlement or transfer of property orders following the initial order. It prevents further bites at the 'property' cherry. Although it may not matter I do not consider that a settlement of property within the meaning of Sch 1, para 1(2)(d) connotes settlement of only one item of property. This property and its fixtures, fittings and contents are essentially indivisible save in respect of small personal items and so I will direct that a settlement of the London Apartment, its fixtures fittings and contents shall be made for the benefit of GD and TD that being property to which the father is entitled.

148. However I also recognise that there may be some particular items within the home that are of particular significance to the father and in respect of which their removal would not significantly alter the home environment. If the father and mother so wish I would be prepared to approve an agreement between the parties that on the basis that the father returns the mother's items of jewellery identified at E342 to her, that the father should regain possession of some of the contents of the London Apartment and be able to select items from the schedule at E327 up to a total value of £249,750 according to the column headed respondent's valuation. I believe that the children would see the exchange as representing a fair outcome and that the removal of a limited number of items together with the satisfaction of the return of their mother's jewellery would not materially affect their view of the family home.

Whether (and in what sum) the respondent should pay the applicant a lump sum (or sums) to, inter alia, furnish a replacement property (or furnish the family home in the event the court orders the contents of the family home to be returned) and provide cars;

149. The furnishing of the property is dealt with above. In the event that there is the exchange of items by agreement I do not consider that there will be a need to provide replacement furnishings at the father's cost. There are a limited number of items of furniture which I shall deal with in respect of the other lump sum items.

150. In respect of a car the mother submits that a replacement for her current car which was purchased new in 2013 at a similar level (albeit petrol) is appropriate. This she says is the car that the father selected as the family car and a replacement at a similar level (Mercedes GLE450 AMG) is reasonable. The full cost of the car sought is £73,232 which with a trade-in of £21,500 results in a need for a lump sum of £51,732 now and further lump sums every four years until GD ceases full-time education after a gap year i.e. in 2023 and 2027.

151. The father agrees that the car should be replaced now and should be replaced every four years as argued for by the mother. He submits that there is no need for such a large vehicle (apparently the largest vehicle in the Mercedes line-up) now that DD has moved out and TD and GD are becoming more independent. He submits that it was

purchased at a time when the father was purchasing antiques and that it was used as a form of transport for these which is no longer necessary. He maintains that an appropriate replacement would be a BMW five series or Mercedes E class which would cost no more than £40,000 and he offers a lump sum of £16,000 now and every four years allowing for a trade-in value of 24,000 for the mother's current car.

152. It seems to me that there is some merit in the father's arguments that DD having moved out and GD and TD becoming older and being more independent reduces the need for such a large vehicle. I note that the father's stable of cars in Russia does not include the latest models or the largest of vehicles although his ownership of a Bentley indicates a high level of luxury. A budget of £55,000 for the purchase price will allow the mother to select either a large but lower specification vehicle or a more luxurious but smaller vehicle for herself and the children. Given the father agrees it ought to be renewed every four years I will provide for this. An allowance for the trade-in value of the mother's vehicle will reduce the headline figure. No indexing is required, the need will reduce over time anyway as the children become more independent of the mother.

<u>The quantum of periodical payments for the children including the element of carer's allowance</u>;

153. The mother has produced a very detailed budget. This amounts to approximately £240,000 per annum. This does not include the service charges ground rent or re-decorations. It does include the other utilities.

154. The father criticises a number of the particular elements as well as the overall total which he notes would amount to roughly £1/2 million of gross income excluding service charges which are £50,000 per annum. He points out that her budget in her form E which included education costs and costs for DD came to a total of £14,416 per month and so it has jumped in the region of £4,000 per month plus the education fees. The father submits that the mother has provided a budget which does not reflect the lifestyle that she actually leads or that the parties led together but has presented a grossly inflated budget, perhaps in order to give her leeway to save out of it. He says this would be impermissible. The father says that the mother's actual spending in 2017 was £125,000. Particular aspects which the father criticises include:

i) A sum of £15,600 per annum is included for DD.

ii) Essential repairs and maintenance for the London Apartment, redecoration of the London Apartment, and other items are also not included but are provided for elsewhere and the mother has conflated capital and income expenses in various ways.

iii) The N City Property expenses amounting to around £7,000 per annum including sums for weekly inspections. He says that these are grossly excessive and that the real cost is around £1,000 per month.

iv) That it is completely unnecessary for the mother to have a full-time driver at a cost of £25,740 per annum because she is able to drive herself and can use public transport.

v) Holiday expenses of £45,000 per annum are far in excess of the sorts of sums spent historically. In 2017 they would have been in the region of £10,000. The

mother's own evidence suggested her flight costs were £1,100 in a year. Even allowing for the fact that the father paid for accommodation and all other expenses her holiday costs are inflated by £30,000 per year.

vi) The cost of a cleaner at £1,248 per month (£14,976 per annum.). At present the mother does not have a cleaner and has not had one for some years and so this is unnecessary.

vii) Costs of £3 ½ thousand pounds per annum for a dog are included. GD has never had a dog

A detailed critique appears at E242 onwards.

155. The mother accepts that the court can paint with a broad brush but the court must take account of the luxurious lifestyle the family has developed and in particular where they live. She says her sacrifice has been considerable and this should be reflected in a generous carer's allowance. Mr Howard says that the maintenance should be backdated to the date of application and index linked and paid to the mother. The mother submits that in total the father provided her with £185,000 in 2017 which she spent. The father's figure of £125,000 spent does not include cash the mother was provided with in N City or the cost of holidays. In respect of some of the particular criticisms the mother submits that:

i) In regards to holidays the Miami property has now been sold and is not available for the family to holiday in. The sums the mother has paid on holidays herself do not reflect the true cost which was borne by the father or the cost to the mother of providing similar holidays in the future.

ii) DD can be included either in his own right or as part of the mother's obligations.

iii) The cost of a cleaner and a driver is justified. The mother and children have had a driver ever since they moved to London, they have one in Russia. The father also has one in Russia. It is part of their established lifestyle.

156. I do not intend to descend into the detail of the budget and the particular criticisms. This is a big money case and I consider it appropriate to paint with a broad brush. This is a case where the father is very wealthy and the children have lived a high standard of living and should continue to experience a standard of living that bears some sort of relationship with the father's. I remind myself that I must of course not seek to provide the mother with a standard of living the same as if she and the father had undertaken the commitment of marriage. But she should have control of a budget that reflects her position and that of the father both socially and financially. In calculating a carer's allowance I have regard to the fact that the mother has given up work since she moved to London and the father's involvement with the children over the last two years and into the future is likely to be either non-existent or very limited. She will therefore have the sole responsibility for their upbringing. As I have set out above I do not consider the mother to be primarily money motivated and nor do I consider her to have provided a way of life for the children which has been dominated by living a luxurious existence. However their way of life has involved living in one of the most exclusive parts of London, having a driver as part of their family retinue, experiencing extensive

holidays whether in Russia, the Middle East, Europe or the USA and being able to experience life in all its forms at the top end of the scale whether in terms of extracurricular activities, clothing, entertainment or otherwise. There are some aspects of the mother's budget which are plainly impermissible, in particular expenses claimed in respect of DD which she cannot obtain by the back door of her own needs. However including within the budget items which relate to the mother's personal expenses including personal grooming, clothing etc. are clearly indirectly of benefit to the children. Having a cleaner, having a driver, a high standard of foreign holidays [D53] all seem to me to be part of the reasonable needs of the children albeit the family may need to make some choices as to how the gross amount of maintenance is actually deployed. Some of the sums are manifestly not extravagant for instance food at £200 per week and eating out at £200 per calendar month. On the other hand a total of £23,295 the bulk of which is made up of additional lessons for GD seems, as the father suggests, on the high side. I have regard to the fact that the amount the mother spent in 2017 cannot have included all of the holiday costs and so the £120,000 identified by the father is probably the bottom end of her expenditure. He said that in the period 2011 to 2017 that on average he paid her £9,000 per month or £108,000 per annum. He said this included DD so her current expenditure ought to be lower although this ignores both inflation and the fact that the mother will now be meeting expenses that the father used to meet directly. The receipt and spending of some £185,000 directly from the father together with a further £17,000 from the Company, some of which may have been referable to 2018 expenditure, probably represents broadly an upper limit. Even a relatively shallow dive into the competing budgets shows that simply adding in the costs of the driver at roughly £26,000 per annum, the more generous holiday allowance of an additional £30,000, a more generous clothing allowance for all of £10,000, extra cleaning of £4,000 and something towards the costs of maintaining the N City Property brings the total towards £200,000.

157. I therefore conclude that the sum of £200,000 per annum represents the appropriate global sum for maintenance. This will be RPI linked, back-dated to the date of the application (giving credit for sums already ordered and paid). In broad terms and having regard to the fixed costs of items such as housing or the driver which will not alter when for instance TD falls out of the equation it seems to me that allocating 20% of the total sum to each child with the remainder being the carer's allowance would properly reflect the balance between the children's direct costs and the carer's allowance. Thus £40,000 per annum per child until 18 or ceasing full-time tertiary education (to first degree but including a gap year) with the remainder as the carer's allowance. As a cross-check to this division I note that the mother allocated about 17 ½% per child and the father allocated about 25% per child. The carer's allowance element will of course come to an end when the second of the children's maintenance terminates.

Whether there should be an outright provision of capital for a home for each of the children whether by way of settlement, property adjustment order or lump sum on a sale of the family home (either the London Apartment or any alternative home provided for by my order and, if so, in what sum);

158. The mother submits that I should identify this as an appropriate case to use the statutory powers which are undoubtedly provided by Sch 1 to make capital provision for the children even though the benefit will endure long after they leave university. The fact that the statute permits property transfers and settlements recognises the

possibility that an order will have effect well into adulthood and long past dependency in its strict financial sense. Mr Howard submits that there are a number of features in this case which justify the court making an award. In particular he relies upon the following:

i) The children have been damaged by their father's actions and the findings made by Recorder Genn as to his manipulation and control, particularly in respect of housing, demonstrate there is a real risk of him seeking to control them in the future through finances.

ii) When the maintenance comes to an end and the luxurious lifestyle that has been provided for them terminates they will be vulnerable and need protection from the possibility of coercion and control.

iii) The father has set up SD and ED in Russia and will no doubt seek to do the same with these children. If they do not comply he will wash his hands of them as he has now done with DD.

iv) He clearly contemplated providing homes for them. Not only did the father provide a home for DD but he told Recorder Genn that he was contemplating purchasing a home for TD. The children should not lose out on the possibility as a result of the dispute between the mother and the father and the mother's decision to seek to protect herself and the children from the father.

v) The reality is that the responsibilities for these children will now be met solely by the mother and thus this is the sort of case that Lord Justice Scarman identified.

159. The mother's preferred route is for provision to be made within the settlement of the London Apartment. She submits that I should make provision for 10% of the eventual proceeds of sale to be paid to each of TD and GD to enable them to purchase outright a property. Mr Howard accepted that it could be paid as a lump sum or as a property adjustment order but preferred the inclusion of the capital as part of the settlement.

160. Mr Pocock on behalf of the father submits that this is simply not in the category of cases where a capital award which might benefit the child post dependency is possible. Although he accepts that the case law identifies exceptional circumstances where such provision might be made this was referable to matters such as long-term disability. In addition he submits that the court cannot make an order when the child is an adult and providing for GD once she is after 18 or for TD now he is over 18 is impermissible. Both the jurisprudence and the purpose lying behind the Sch 1 provisions make clear that the court's powers are targeted at children who are dependent adults. Hence there is no reported example of the court making long-term capital provision for a child which extends into their independent adulthood. It is entirely inappropriate to seek to dictate to the father what dispositions of his money he should make to his children during his lifetime. If he wishes to provide a home to them that is a matter for him; equally if he does not wish to do so he should not be obliged to do so.

161. There is considerable force in Mr Pocock's submissions. It seems to me that the circumstances in which capital provision can be made which will benefit a child into adulthood will be very limited indeed. All of the jurisprudence supports this approach

and confirms the rationale for it. Having said that, it is clear from the authorities that in some circumstances where the court identifies some continuing dependency such an order can be contemplated. The obvious example would be that of a disabled child who might need a specially adapted home long into adulthood. However I do not think that dependency is necessarily so narrowly confined. Dependency connotes some form of vulnerability or need continuing from childhood into adulthood which can be remedied by capital provision. I am satisfied on the evidence that I have read and heard that both TD and GD carry with them a vulnerability arising from their childhood which will endure into their adulthood. The children have seen a psychotherapist and the preliminary report was available to Cafcass. It is quite clear that both TD and GD need therapeutic support as a consequence of the father's abuse. Quite how one comes to terms with your father threatening to slit your throat or your mother's throat and threatening to throw you out of your home I am unsure. Long experience in children's cases and the research into the long term effects of abuse on children (see amongst others the report of Drs Sturge and Glaser [2000] Fam Law 615) suggests to me that whilst these children may be able to get on with their lives they are likely to carry the emotional scars in some shape or form for a very long time indeed. This is a product of the abuse that they have been subjected to by the father. Another component of this is the ongoing risk that the father presents. He is used to getting his own way and determining what his family does. He was quite clear in his evidence that he hopes or even expects the children to return to his fold when the scales fall from their eyes and they see that he was the victim of the mother's manipulation rather than vice versa. That of course is a complete inversion of the findings made by Recorder Genn and my own conclusions. That he says he forgives the children rather than seeking their forgiveness encapsulates his unrepentant rejection of the real substance of the findings made by Recorder Genn.

162. I therefore conclude that it is more probable than not that the father will in due course seek to resume a relationship with the children and will seek to persuade them to join him and his business in Russia. He is likely to approach that on the basis that he is the wronged party with the expectation that the children will realise the wrong their mother has done. That of course is completely contrary to their reality. His track record of using his financial muscle to seek to control was most evident in his actions in relation to the family home in December 2017 and January 2018, but his behaviour towards DD over the £607,000 and in relation to the investor visa monies in August 2016 are further examples of him exerting control in relation to financial matters. It therefore seems to me more probable than not that when the children do reach adulthood and do not willingly return to his fold that they are likely to face some sort of financial ultimatum from their father. At that point they will be peculiarly vulnerable as the maintenance will have come to an end and they will have lost their long-term home in the London Apartment. At that point they will be at their most vulnerable to the exertion of financial control whether directly or indirectly via the mother who will also be vulnerable at that point. I therefore consider that their vulnerability or potential dependency upon their father results in a clear need for financial and emotional protection. This protection can only be provided by giving them a sufficient degree of financial independence from the father to allow them to withstand the sort of pressure that is likely to be brought to bear upon them through some sort of financial ultimatum and which the emotional abuse they have sustained makes them so vulnerable to. That, I am satisfied, amounts to an exceptional circumstance which justifies the making of a capital award which will endure beyond their minority, beyond their dependency whilst in education and into an indeterminate

future. Only by giving them the means to say no to their father's exertion of financial control can they be properly protected and provided for in the future. I'm quite satisfied that this is a legitimate use of the Sch 1 provisions. I do not consider that the existence of a non-molestation order, even if it extends long into the future, will address the issue. I ask myself rhetorically, if this situation does not amount to an exceptional circumstance justifying their deployment what, other than physical disability or clear lack of capacity, would? Thus I consider that they need and that their welfare justifies the provision of a 'financial ultimatum' (FU) fund to enable them to deal with this probable scenario.

163. The FU Fund should be of such an amount as to equip them with the financial tool to resist any such financial pressure. I conclude that the appropriate capital award for the FU fund should be broadly referable to that which enabled DD to find independence from his father by the provision of a sum which allowed him to buy a flat. In broad terms it seems to me that the sum necessary would be in the region of £650,000, including purchase costs.

164. This could be achieved by an instalment of a lump sum but this would need updating in line with inflation. The alternatives would be to make a property adjustment order in respect of the London Apartment for a percentage equivalent to £650,000 which would be roughly 6.5%. Another alternative would be to provide within the terms of a settlement for a sum equivalent to 6.5% of the gross sale price. It seems to me that a property adjustment order provides the greatest security to the children allowing for the fact that I do not consider it likely that the value of the London Apartment is likely to fall significantly compared with the rest of the London property market. However as there was limited time and to explore the alternative mechanisms should the parties wish to make further submissions on this in relation to the drafting of the order I will permit that.

<u>Method (and amount) of security to be provided by the respondent to ensure payment of any ordered lump sum/s and periodical payments</u>;

165. The mother seeks security in respect of the various sums she claims. In her open offer she sought the settlement of a capital fund to cover the ground rent and service charges and any other expenses relating to the London Apartment, including repairs and maintenance, buildings insurance, redecoration, the costs of the administrator of the settlement and contents insurance. No figure was specified for this lump sum although during submissions I queried the amount that would be necessary even to cover the ground rent which would seem to require £350,000 odd simply to cover the service charges at £50,000 per annum.

166. The mother also seeks security in respect of other payments not included in the capital fund including the lump sums for the replacement cars in 2023 and 2027, GD's school fees and extras and the children's university fees and extras. No sum was specified for these. The father has offered to pay various sums in respect of the school and university education of TD and GD and these will be incorporated in the order.

167. The father agreed to set aside a capital sum of £820,000 as security for maintenance, new car costs, service charge costs and administration of any settlement. This was on the basis that the London Apartment was sold though and that that sum was set aside out of the proceeds of sale. On the basis that it was not sold the father did not consider

it appropriate for a capital sum to be set aside to meet any costs relating to the London Apartment as it would be in his interests to maintain it.

168. Although I have been critical of the father in relation to his abusive behaviour, and although the mother criticises the late payment of various sums for instance those due under the LSPO, in general terms the father has made the payments due. In his evidence he confirmed that he would comply with any order that I make. I therefore do not consider that there needs to be security in respect of all of the sums which are likely to fall due under the periodical payments or instalments on a lump sum. However there needs to be some form of cash security to reflect the modest risk of the father's financial situation worsening or him proving non-compliant notwithstanding his evidence to the contrary.

169. In respect of the the London Apartment costs there should be some modest security in the form of a capital sum which would enable the administrator the time to find alternative funds to meet any shortfall in payments. The administrator will receive the payments directly from the father for the ground rent, service charges and other expenses including insurance, redecoration (if required by the lease) and insurance. The insurers will need to be given access if necessary to inspect the antiques.

170. I propose that the settlement include a clause that allows the trustees to borrow against the equity in the property to meet any default in respect of the payments due under the order whether periodical payments, in respect of the London Apartment or otherwise. Plainly any such borrowing is likely to be at a rate of interest which is far in excess of that which would usually be payable. In the event that the mother has to meet any costs herself which have not been met by the father they can become a charge against the property under the terms of the settlement bearing interest at eight per cent per annum compound.

171. The total security in cash terms that I propose the father provide is £300,000. This will cover a significant part of the annual costs associated with GD and TD's educational costs, and maintenance. It is only to be drawn on in the event the father doesn't pay a sum due.

<u>The needs of the parties' adult child DD including whether the respondent should pay a lump sum to the applicant for past and future expenditure reasonably incurred by her to support and maintain DD and, if so, in what amount</u>;

172. As I have set out above I do not consider that I have any jurisdiction to make any orders in respect of DD.

<u>Whether the respondent was responsible for the vandalising of the N City Property and, in any event, whether it is reasonable for the respondent to pay a lump sum for the restoration of that property and, if so, in what amount;</u>

173. I ruled at the outset that the findings made by Recorder Genn were not being reopened. The consequence of those findings is that the father is not responsible for the damage which took place to the N City Property. However that does not mean that it does not need repairing and refurbishing. It is the children's Russian home and they have been accustomed to spending several weeks there each year. They have not returned since 2018. Given the litigation and the hostility between the mother and the father the

father questions whether the property will be used by the children as a home again. I very much hope that when this case ends that the acrimony will reduce and the mother and children will feel able to take up their Russian roots again by returning to the home in N City during holiday periods. I consider that the children do have a need for that home to be put into a state where they can resume occupation of it.

174. The mother's budget for the refurbishment of the property was the subject of considerable debate [E290]. In his evidence the father identified that many of the items had been given an excessive price tag and he gave some particular examples where he considered that the price given was somewhere between three and 10 times the cost that he considered was reasonable. He questioned who had provided the quote and considered that they were grossly overcharging. In his open offer he had said a realistic figure was £25,000. The mother's figure amounted to £300,000. The schedule she provided identified the cost of the items damaged to amount to £154,000 and the total quote which I think was including labour was given at £300,000. On further exploration the father accepted that his figure of £25,000 was perhaps on the low side and he said that he could refurbish it for £32,000 which he described as a very significant sum in terms of the cost of housing and labour in Russia. However he did acknowledge that the figure he had given was what he could refurbish the property for given his extensive knowledge of and contacts in the construction industry. He said that if anybody else did it it could be much more and went so far as to say the cost could be infinite.

175. Plainly given the findings made against him the father cannot be involved in the refurbishment of the property and so the opportunity to refurbish it at a significantly lower cost is not available. It may be that the mother will face some difficulties in having the refurbishment undertaken given the father's status in Russia. However I remind myself that the total cost of the refurbishment of the London Apartment was £800,000. That was in London and that was on the basis that the property was both renovated and furnished with high value antiques. The international living cost index in at a glance 2019/ 2020 identifies London at 100 and Moscow at 64. I think it reasonable to assume that N City is cheaper than Moscow. Thus the estimate of £300,000 seems more likely to be the estimate of a builder pricing by the wealth of the client rather than by the actual cost of undertaking the work with a sensible margin of profit. Given the vast disparity between the mother's and the father's position my capacity to get to a genuine or reliable figure is limited. Neither party has produced costed schedules from builders/designers in N City. Given that the property is no longer intended to be the primary home of the children I do not consider that it is a reasonable need to refurbish the property in a manner identical to that which existed prior to 2018. It was created then as the children's principal home. £32,000 is likely to be the very bottom end of the cost of refurbishing the property and I think a realistic figure is 2 ½ times that to create a holiday home for the children when they are in Russia. Thus a lump sum of £80,000 is the appropriate sum.

<u>Whether the sums given to the applicant in respect of the investor visa were a loan (as the respondent says) or provided to the applicant in exchange for sums she had transferred to the respondent and which are in any event not repayable (as the applicant says);</u>

176. I have concluded in my evaluation of the evidence that the sum which the mother retained following the dispute in August 2016 was intended to be hers. It was intended to be her security for the future. It has been spent. Insofar as it has been spent on DD I

do not consider that it falls within the parameters of the jurisdiction that I have to reimburse the mother pursuant to para 5 of Sch 1. DD reached the age of 18 in 2015 prior to this sum crystallising as the mother's security for the future.

177. The mother's case is that out of these funds she has also spent the sum of £67,361.61 in relation to the Children Act and Family Law Act proceedings. She submits that these proceedings were for the children's benefit and so thus are expenses which she should be reimbursed for. She invites me to adopt the approach outlined by Recorder Reardon (as she then was) at paragraph 39 of her judgment of 11 September 2018. The father says that there is no reason why he should reimburse her.

178. The order at the conclusion of the Children Act proceedings [B43] recorded the mother's intention to seek reimbursement within these proceedings. The order itself provided no order as to costs; however this does not amount to a bar to the Sch 1 claim for reimbursement of expenses reasonably incurred for the benefit of the children. Whilst there is some element of the Family Law Act proceedings which were to the benefit of the mother the majority of the costs were incurred in the Children Act proceedings and in the context of a fact-finding which was principally directed to the issue of child arrangements rather than the Family Law Act application. Again applying a broad brush it seems to me likely that 80% of those costs were incurred for the benefit of the children and thus the mother should be reimbursed in the sum of £53,600.

179. There is also some element of the mother's costs incurred to date which she has met out of those funds. The Sch 1 proceedings are plainly for the benefit of the children. Subject to any application for costs I consider that those would represent expenses incurred reasonably by the mother for the benefit of the children.

<u>The extent to which the applicant and/or DD are at risk of litigation (both in this jurisdiction and in Russia), orchestrated by the respondent, including with regard to: V Company; the beneficial ownership of the N City Property; and the respondent's assertions regarding sums given to the applicant which he says were a loan. This issue includes the need to consider how (if at all) any such risks should be factored into the final orders made in these proceedings</u>;

180. I consider that the link between the mother's costs incurred in defending herself in Russia and the children is tenuous. I do not consider that they can be characterised as expenses reasonably incurred for the benefit of the children. They are beyond any grey area that might exist. If those proceedings have been improperly brought the mother's remedy it seems to me is in Russia. The father expressed the wish for there to be no further litigation during his evidence (or at least I think that was what he said) and in his position statement there is a proposal that the parties drop hands in respect of any matters outside Sch 1. If the mother and father wish to enter cross undertakings not to litigate further against each other and to cross indemnify each other in respect of any costs should they breach that undertaking that would appear to be an appropriate resolution. I do not consider there is anything further that it is either available to me or appropriate to order.

<u>The quantum of any additional capital lump sums for defined capital expenditure for the benefit of the children in the foreseeable future in addition to the cost of therapy for the children following the findings made by Recorder Genn in the s.8 Children Act proceedings;</u>

181. The other lump sums which have been identified by the mother include her schedule at [A8] which amounts to £95,936 plus future dentistry costs and past therapy costs (not quantified). The mother advances a claim for the children for generous presents on their special birthdays and for graduation presents and parties. The total sum advanced for these is some £52,500. She submits that the father bought DD a very generous watch for his 18th and TD and GD should benefit similarly which she cannot afford to do herself. The father says that he gave DD one of his old watches and that this is a good father-son tradition. The cost of the purchase of a dog for GD are some £4,500. New iPhones and laptops are costed at £6,900. Pergolas at the London Apartment is costed at £5,200 (£2,600 now and £2,600 in 2025) new furniture for the children's bedrooms or studies is costed at roughly £21,000.

182. The father offers £4,600 in total for modest watches bikes and computers.

183. The mother's budget includes provision for birthdays, Christmas, parties and replacement of items in the household. I do not consider that the extremely generous provision contained within additional capital budget can be described as a reasonable need for the children. Watches, graduation presents and parties are part and parcel of day-to-day living and I do not consider that the evidence establishes a clear tradition in this family that establishes a need in this regard beyond the ordinary annual budget. If GD had desired a dog there have been funds available to the mother which could have been deployed to buy her one. I do not consider that she has a need for a dog which the father should be obliged to meet. Driving expenses for TD and GD it seems to me are an income expense and can be incorporated out of the budget. Given that the children have lived in London for some 10 odd years it is somewhat surprising that if they wanted to bicycle around a London Park bicycles have not been acquired for them so far. The costs of obtaining phones, computers and the maintenance of the pergola due now and some additional or replacement furniture seems to be reasonable. However I do not consider that a sum in excess of £10,000 is required to meet these reasonable needs. £10,00 is the lump sum I will order in respect of this head. Dentistry costs and past therapy costs are part and parcel of day-to-day living and to the extent that there will be dentistry costs in the future there are elements within the mother's budget for meeting health needs. The past therapy costs have as far as I can tell not identifiably been met from the mother's funds rather than maintenance but I consider these should be reimbursed if quantified by provision of relevant proof.

184. The mother advanced a claim for a lump sum in respect of the cost of the jewellery. That amounted to £249,750. The father denied that claim in its entirety and submitted that even if accessories such as jewellery could properly form part of a lump sum in this sort of sum it was wholly unjustified and outside the jurisdiction of the court. Mr Howard maintained that it could be characterised as a need of the carer which fell into the grey area identified by Mr Justice Bodey. Whilst I have concluded that the father did remove the jewellery and whilst I'm sure the children would welcome its return, I do not consider that it can be properly characterised as a need of the children for the mother to have it restored to her which should sound in financial orders available to the court. As I have set out above if the father wishes to exchange the jewellery for some of the items in the London Apartment that would appear to me to be a pragmatic solution albeit not one which the court can order.

Whether there should be a continuation of the non-molestation order due to expire in March 2020;

185. In his Position Statement the father accepts that the non-molestation order can be extended if the court thinks it appropriate so to do.

186. I conclude that it is appropriate to extend the order for a further period of two years.

Conclusion

187. Those are my decisions in relation to the issues identified. If an order can be agreed between the parties without the need for a further hearing that can be submitted to me. If an order cannot be agreed a further date will need to be identified.