



Neutral Citation Number: [2024] EWCOP 18

Case No: COP13907545 / LU22F03017

**IN THE COURT OF PROTECTION AND
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15/03/2024

Before :

MRS JUSTICE THEIS DBE
(Vice President of the Court of Protection)

Between :

	Luton Borough Council	<u>Applicant</u>
	- and -	
	Mr G	<u>1st Respondent</u>
	- and -	
	Mrs G	<u>2nd Respondent</u>
	- and	
	HG	<u>3rd Respondent</u>
	- and -	
	AG (by her litigation friend, the Official Solicitor)	<u>4th Respondent</u>

Ms Katharine Scott (instructed by **Luton Borough Council**) for the **Applicant**
Ms Emma Sutton KC (instructed by **Edwards Duthie Shamash Solicitors**)
for the **4th Respondent**

The 1st, 2nd and 3rd Respondents appeared in person,
assisted by their McKenzie Friend Mr H

Hearing dates: 5th, 6th and 7th February 2024

Judgment: 15th March 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on 15th March 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE THEIS

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.

Mrs Justice Theis DBE :

Introduction

1. The court is dealing with two related applications concerning AG, age 24 years. The applications are made by the local authority and they seek orders under the Forced Marriage (Civil Protection) Act 2007 (FMCPA) and under the Mental Capacity Act 2005 (MCA). AG is represented by the Official Solicitor as AG's litigation friend in both applications. AG's parents, Mr and Mrs G, are respondents to both applications. They are unrepresented although have been assisted at each hearing by the McKenzie Friend, Mr H and an interpreter. HG, AG's older brother, was a party to the application under the FMCPA but no orders are now sought by the local authority against him.
2. In summary, the local authority seek orders:
 - (1) Under the FMCPA for a Forced Marriage Protection order ('FMPO') for one year to prevent the parents from forcing AG to get married, for the local authority to continue to retain AG's travel documents, prevent the parents from applying for more travel documents for AG and to prevent AG from travelling abroad unless accompanied by her shared lives carer. The parents oppose this and the Official Solicitor seeks interim orders for 6 months to enable further risk assessments to be undertaken.
 - (2) Under the MCA for approval of the current care plan as being in AG's best interests and for an order authorising the local authority to deprive AG of her liberty in her current placement. The parents and Official Solicitor support the order approving the current care plan but oppose any orders that authorises the deprivation of liberty as being not required or justified on the evidence.
3. The Official Solicitor seeks short term orders under the inherent jurisdiction to provide a structure around AG's contact with her family, to enable AG to retain her capacity regarding such contact in accordance with the principles outlined in *DL v A Local Authority and others* [2012] EWCA Civ 253.
4. These applications have been in existence for two years. During that time the parents have not objected to the continuation of an interim FMPO whilst assessments have been undertaken regarding AG's capacity. The court determined in October 2022, largely based on the expert assessment undertaken by Dr Rippon, consultant psychiatrist, that AG had capacity in the following areas – residence, contact, marriage and sexual relations but not in relation to her capacity to conduct the proceedings in the court of protection, or in relation to the care and support she required, or her finances, Dr Rippon has since reported that AG also lacks capacity to conduct the FMPO proceedings.
5. During this hearing the court has heard oral evidence from Ms S, the allocated social worker for AG, and Ms R, the learning disability nurse who will have responsibility for AG going forward. Mr and Mrs G both gave oral evidence with the assistance of an interpreter. In addition, there was the opportunity for me to meet AG in the presence of her solicitor and counsel. As had taken place when I have met her previously a note was taken and circulated to the parties.

6. The court is very conscious that the parents have not had legal representation and has taken every step to make sure they have been able to effectively participate in these proceedings. To their credit they have attended every court hearing. They have been supported by their McKenzie friend, Mr H, who has helped them actively liaise with the other parties. They have had the assistance of an interpreter at each hearing and the advocates have helped support them. Ms Sutton KC, in particular, has liaised with them and included in her questioning, points that she is aware the parents would wish to raise with the witnesses. The court is very grateful to the parties for the constructive and collaborative approach they have taken in this case.

Relevant background

7. AG is now 24 years old. She was born and brought up living with her parents and her three siblings. Her older brother is now married.
8. AG has a diagnosis of a mild learning disability and can experience anxiety, depression and impulsivity when unable to manage her emotions. A possible diagnosis of autism was raised by professionals during these proceedings, however AG did not present with symptoms suggestive of an autism spectrum disorder when assessed.
9. In September 2019 the hospital Trust informed the local authority that AG had ingested bleach two weeks prior to her wedding, and been discharged after psychiatric assessment. AG later reported she had done this as she wanted to be heard. AG's parents report this was caused after an argument with a girl at college.
10. On 27 September 2019 AG married her cousin, Mr Q, in Pakistan under Sharia law. According to AG's parents she spent 10 days with him afterwards.
11. In early September 2021 the Home Office made a request for the local authority to undertake an assessment of AG's capacity to consent to marriage.
12. When Ms S, local authority social worker, spoke to AG to make the assessment appointment she considered AG was being told by her father what to say.
13. At the assessment appointment the following day AG said she had been told what to say by her father and brother. Ms S concluded AG lacked capacity to enter into the marriage.
14. In December 2021 AG reported to Ms S that when her family discovered that she had a boyfriend, Mr O, they locked her in the house, would not let her out alone and took her mobile phone away. A few days later AG alleged that her mother and father had slapped her because she had a boyfriend.
15. In early January 2022, AG was found by a member of the public wandering on a dual carriageway at night. The police were called, AG disclosed she had ingested bleach, had been to A&E but had left before she was triaged. The police returned AG to A&E and she was placed in a hotel overnight as a place of safety. AG's parents reported that AG drank bleach after an argument with her brother. AG later told her solicitor she drank bleach after her family had told her boyfriend she was married, and she feared he would break up with her.

16. AG returned home the following day. She was provided with a police issue mobile phone to allow her to make calls for assistance, if required. A police memorandum of understanding was completed and five days later the police undertook a safe and well check on AG.
17. On 21 February 2022 AG attended the GP to have her fingers dressed after jumping out of a first floor window. It was alleged she had done this to go and see her boyfriend. AG's mother, Mrs G, said she had done this because she was depressed as her husband, Mr Q, could not come to this jurisdiction.
18. Following this, AG met with Ms S and her capacity was re-assessed regarding marriage. At that meeting Ms S reports AG's mother asked AG to leave the room and then told Ms S that AG was asking to go to Pakistan to have her wedding reception. This had not been mentioned by AG to Ms S during any of the three occasions Ms S had met with AG and discussed her marriage.
19. On 9 March 2022 the local authority issued an application for a Forced Marriage Protection Order.
20. On 17 March 2022 a forced marriage protection order and deprivation of liberty order was made by HHJ Hildyard QC and on 21 March 2022 AG moved to a supported living placement.
21. On 24 March 2022 the local authority applied for personal welfare orders in respect of AG under the MCA against a background of concerns regarding AG's vulnerability and pressure is said to have been placed on her by her parents, which they did not accept.
22. On 1 April 2022 AG informed Ms S she would like to wear western clothes rather than those chosen by her parents.
23. On 23 May 2022 AG spoke to her brother who informed her that their parents had changed and would let her marry who she wants and end her current marriage.
24. On the following day AG had contact with her parents. AG's father was observed to greet AG while telling her he is being sent to prison and it was her fault.
25. On 9 June 2022 Mostyn J continued the FMPO and made orders within the court of protection proceedings for supervised contact between AG and her family.
26. On 15 June 2022, during a period of supervised contact, AG went to the toilet with her sister who passed her a message from her mother not to tell the local authority everything they discuss as it causes more problems. Later that day AG was seen to be distressed after her boyfriend cancelled a visit and was seen trying to jump out of a window.
27. On 21 June 2022 AG disclosed suicidal ideation to staff, she was seen at A&E and then discharged with a recommendation to get sleep medication.
28. Dr Rippon's first expert report dated 28 September 2022 concluded AG did have capacity to consent to marriage and she did so in 2019. She also concluded she had capacity to make decisions regarding her residence, contact, sexual relations and

social media but lacked capacity to conduct proceedings in the court of protection and make decisions regarding her care and support and finances.

29. As a consequence of that assessment, I approved orders made on 19 and 21 October 2022 that continued the FMPO with a plan for AG to return to live at home with a statement of intentions signed by all the parties recording AG's capacious wish to continue her relationship with her boyfriend, that AG should be allowed to choose what she wears and a schedule of visits between AG and her Social work team in the absence of her family was arranged. This followed the conclusions of Dr Rippon's report, AG's own wishes and what was considered to be in her best interests regarding her care and support, in respect of which she lacked capacity in. AG returned home on 23 October 2022.
30. On 26 October 2022 Ms S received a phone call from AG's boyfriend, Mr O, reporting AG had ended their relationship by text which did not look like it had come from AG and he felt AG did not seem herself when they spoke.
31. On 3 November 2022 Ms S had a video call with AG who sounded so guarded she hardly said anything.
32. Ms S visited AG on 8 November 2022, AG's mother could be heard instructing AG what to say and when Ms S met with AG the family were outside in the hall listening in.
33. AG's father informed AG's boyfriend on 18 November 2022 that AG was married. AG's relationship with her boyfriend ended.
34. At a round table meeting on 22 November 2022 AG's parents stated AG wished to remain in her marriage and wanted to resume contact with her husband in Pakistan.
35. The following day AG's boyfriend reported that AG had contacted him and stated she did not want to be married any more.
36. On 24 November 2022 Ms S met with AG who denied being pressured by her family to remain married. On the following day, Ms S was accused by the parents McKenzie friend, Mr H, of pushing AG back to her boyfriend.
37. On 1 December 2022 AG's boyfriend contacted Ms S and said he and AG were back in contact but AG did not wish her parents to know. He reported that AG's parents took her phone at night and she was monitored 24 hours a day.
38. On 2 December 2022 Ms S had a video call with AG and asked to speak to her alone, AG had to ask her mother's permission. Ms S considered someone remained monitoring the call as AG seemed to be seeking guidance from that person how to respond.
39. On 4 December 2022 AG's family reported AG had absconded. AG's boyfriend later reported that AG had telephoned him as she was not feeling well. She had run away from home with no shoes or coat on. He drove to pick her up and she was vomiting, stating her parents would not want to take her to hospital. He took her to A&E and they returned to his house for the night.

40. On 5 December 2022 AG was due to start fortnightly visits with the community coordinator to assess independent living skills.
41. On 6 December 2022 I made directions for the parents to set out in a statement the steps they had taken to end AG's marriage, AG having informed the court at that hearing that she wanted her marriage to end.
42. On 14 December 2022 Ms S had a meeting with AG and her mother to look at why AG's phone always goes straight to voicemail. Ms S concluded AG is not allowed access to her mobile phone and notes that AG was instructed by her mother to tell Ms S she wanted to go back to college.
43. On 19 December 2022 AG jumped out of a first floor window at her parents' home injuring both her legs. She was moved back into the house by her parents before the ambulance was called. Initially, due to an incorrect account being given of what happened by her parents (reported to be a fall in the garden), AG was only diagnosed with a broken ankle and underwent surgery for that.
44. On 4 January 2023 further medical investigation was undertaken after AG disclosed that she had fallen out of the first floor window at the family home. It was discovered she had fractured her knee, which required surgical intervention.
45. On 9 January 2023 AG was assessed as having capacity to consent to a move from hospital to a rehabilitation placement, CG, where she remained until moving to the shared lives placement (SLP) on 22 January 2024. During that period AG's parents visited AG at CG most days, and more recently AG would visit her parents' home returning back to CG each night, save for one occasion when she spent the night at her parents' home.
46. On 1 February 2023 Dr Rippon undertook a further desk top report, her capacity conclusions remained unchanged.
47. Orders made by this court in February, May and June 2023 extended the FMPO and made directions in the court of protection proceedings for the local authority to instruct an expert to report on the issue of AG's marriage.
48. On 5 July 2023 the Sharia Council confirmed that AG is not yet divorced but that her husband could complete the divorce on 3 August 2023.
49. On 27 July 2023 a further FMPO was made and directions for AG's parents to file further evidence regarding the progress of AG's divorce.
50. On 17 October 2023 a further FMPO was made and the order recited that *'The only issue before the Court is AG's care and support needs, as she has capacity at this time to make decisions about all matters set out below, including in relation to her residence and contact with others.'* The parties agreed at that hearing that no further capacity evidence was required. Prior to that hearing the court had made directions that certain matters AG did not want shared with her parents were redacted from the documents filed in the court of protection proceedings. Initially the parents did not object to that course, as it accorded with AG's wishes, however the issue needed to be determined in advance of any final hearing. The redaction issue was resolved at

the hearing on 17 October 2023 when the parties agreed the only issue for determination by the court was AG's care and support needs (as she had capacity in relation to all other relevant matters) and the historic documents (which included those with information AG sought to be redacted) were no longer relevant to the issues to be determined and were removed from the court bundles. This resulted in all parties having access to the same material.

51. On 2 November 2023 AG was divorced according to Sharia law and this was confirmed on 9 November 2023 by the Sharia Council confirming *'the couple are now fully divorced under Pakistani and Islamic law'*.
52. On 27 November 2023 an assessment was undertaken by Ms R which concluded AG had capacity to make the decision to enter into a tenancy agreement.
53. On 8 December 2023 the court made a further FMPO, and directions for this final hearing. At that hearing AG asked her solicitor for her passport to be returned to her, it subsequently transpired this was in the context of a proposed visit to Pakistan.
54. On 22 January 2024 AG moved to a shared lives placement having made a capacitous decision to do so (as set out in the evidence and care planning documents filed by the local authority). AG felt unable to tell her parents that this is what she wanted. She had told them she was returning to live at home.
55. Following her move and with considerable support from Ms R, AG was able to tell her parents about her move. Mr and Mrs G did not accept that was AG's decision, and AG became very distressed by her parents reaction.

The evidence

56. The local authority relied upon the statements and oral evidence of the social worker, Ms S, and the lead nurse in the Community Learning Disability Team, Ms R.
57. Ms S has been the allocated social worker since September 2021 when the matter was first referred to the local authority by the Home Office regarding the request for an assessment of AG's capacity to enter into a marriage following the application by AG's husband to join her here in the UK. Her statement outlines the steps she has taken since then and the basis of her concerns regarding the pressure AG is put under by her parents, as outlined in the relevant background above, and the extent of what she considers is their coercive and controlling behaviour. Ms S considered that following AG's return home in October 2022 she was having to rely on AG's boyfriend to get a true picture as to what was going on as AG was very guarded when she spoke to Ms S, and was unable to share her wishes and feelings and her fears of what her parents would do if she shared any information.
58. In her most recent statement Ms S sets out her assessment of the risks to AG of being forced into a marriage by her parents. In her view the risk to AG being forced into another marriage arranged by her family remains. She bases that on her view about AG's vulnerability and what she considers to be the coercive and controlling behaviour towards her from her parents, which Ms S states she has experienced first-hand as described in her most recent statement. In addition, she considers that AG is

not able to stand up to any pressure from her family and cites as examples AG's inability to place boundaries around her parents visiting her at CG, she relied on the staff to do that at AG's request. That dynamic combined with the family not being willing to accept any boundaries increases the risks to AG. As Ms S notes, AG has a history of saying one thing to her family and another to the professionals, which strongly suggests AG is not able to express her true views to the family. An additional risk, in Ms S's view, is the inability of AG's family to work constructively and openly with the public services that are there to protect AG. The circumstances surrounding the fall from the window in December 2022 illustrate this issue. Due to the inability of AG's parents to give a full account of the events of the fall there was a delay in AG receiving the treatment she should have had. This had serious implications for AG as it delayed her knee injury being treated, and it resulted in two operations rather than one. All these factors feed into Ms S's assessment that AG will be under pressure to marry again. Ms S acknowledges an arranged marriage is not a forced marriage but Ms S considers, due to the risks of AG becoming anxious about this issue, she is at risk of losing capacity about this issue and would be unable to resist any pressure from the family to get married.

59. In her oral evidence Ms S explained the basis upon which she felt AG was under the influence of her parents through her own observations and the parents lack of understanding about AG's needs. For example, their non-compliance according to AG with the statement of expectations when AG returned home in October 2022. Ms S remained clear about the two conflicting accounts given about the December 2022 injuries, first the parents reporting a slip on the ice and then in January 2023 AG referring to jumping out of the window. By the time she was discharged to CG both legs were in a cast.
60. When asked about the discussions with AG about where she should live on leaving CG, Ms S said AG was clear and consistent about wanting to live in her own accommodation.
61. Ms S agreed with Ms Sutton that this was her first FMPO case. She also agreed there had been no assessment of risk at the start of the proceedings and she had not explored the differences in accounts regarding the circumstances of the marriage. For example, how many times AG had met Mr Q. Ms Sutton pressed Ms S regarding what steps had been taken to discuss with either AG or the parents about the trip back to Pakistan in March 2021. Ms S accepted she had not discussed that with either AG or her parents. Ms S agreed this was important information she had not properly analysed. Ms S stated the basis upon which she considered the marriage in 2019 was forced was because AG went to Pakistan not knowing she was going to be married. In considering the future risk and the matters Ms S said she took into account, she accepts she did not discuss those with AG's parents, she said she based it on what AG told her only. Ms S accepted there is no evidence of a person AG is going to be forced to marry. Ms S said that she based her assessment of there being a high risk on the grounds of how the parents have behaved to date, particularly not being able to comply with the statement of intentions when AG returned home. Ms S accepted that AG was now in a different situation as she is not living at home and that protective factors were now in place. Ms S considers if an order is not in place it gives the family freedom to arrange a marriage and she thinks that would happen, however she accepted the protections in place now (with the support from AG's

placement) and that the situation is different. She agreed an updated risk assessment was required to reflect the changed position of where AG was now living.

62. Ms R oversees AG's assessed care and support needs. She has supported Ms S since mid-2023 and taken a more active direct role with AG since December 2023 during a period when Ms S was not available. Ms R considers that the risks arise from AG's own impulsivity and learning disability and any coercion and control she feels from her parents, which increases her anxiety. These factors, either individually or together have, in the past, caused AG to engage in very serious self-harming behaviour (such as drinking bleach and jumping out of a first floor window). As a consequence, Ms R said AG needs a robust care plan to help her manage both her relationship with her parents and her own impulsivity and anxiety.
63. In her current placement the care plan outlines AG will have a carer present at all times to supervise and support her and manage risk. This support also includes 30 hours of 1:1 support each week, with a plan for it to be reduced once she has settled into her new placement. Carers will be sleeping there each night and be on hand, if required, and in agreement with AG assistive technology will also help mitigate risk, such as window restrictors, and door alarms that will be activated at night only, should AG leave the accommodation without her carers knowing. AG will be able to visit her family with the knowledge of her carers and have access to the main door key. It is only locked at night for security purposes.
64. Ms R considered that the combination of these arrangements could amount to continual supervision and control and mean that AG is not free to leave her shared lives placement, as whilst she can access the local community her carers will need to know where she is at all times. The risks to AG from her own learning disability and impulsiveness are such that her care and support needs could not be met if she lived independently in the community.
65. Ms R supported AG when she moved to the shared lives placement on 22 January 2024. As her statement sets out, AG was unable to tell her parents that she was moving to that placement, she told them she was going home so they took her suitcases home. It ended up with AG ringing her parents once she had arrived at the shared lives placement to inform them what had taken place. Ms R was present and is able to understand Urdu. According to Ms R, AG informed her parents that when she was ready to leave CG the social workers had moved her to another placement. To her parents, AG denied it was her wish to move to her own accommodation. The parents were upset and felt that AG was not being truthful. They said they did not want to speak to her anymore and put the phone down. Ms R described AG becoming very upset and crying uncontrollably. When AG spoke to her parents a little later she denied the decision to move to the shared lives accommodation was hers, stating it was the social workers decision which her father didn't accept.
66. In oral evidence Ms R described how due to Ms S being away from work for a period of time she had direct dealings with AG since November 2023 and had met AG on three occasions. Prior to that she had involvement in a supervisory capacity through case discussion with Ms S. Ms R said her team will now take over. She considered their shared cultural heritage and Ms R's ability to speak Urdu has assisted. She was present when AG telephoned her parents after she arrived at the shared lives placement. It struck her when AG telephoned her parents about her

move, that her parents kept pressing AG that this was not her decision which caused AG distress. Ms R described how she talked through the options with AG about collecting her belongings from her parents' home and how AG was able to reach a decision with that support. She said that took about two and a half hours, and this demonstrated that with the right level of support AG is able to return to make her own decisions and reduce the risk of impulsive behaviour. Whilst recognising how upset AG's parents must have been, Ms R did not consider AG's parents displayed much understanding of AG's position. Ms R has not met AG's parents.

67. Ms R was asked about the conversations she had with AG about the proposed trip to Pakistan. Ms R considered only limited information has been given, with AG unable to provide any further reliable details. Ms R is clear that without an effective structure the historical risks will re-surface.
68. As regards the restrictions Ms R was clear if AG tried to go out the carers would bring AG back. They would consider if AG was making a capacitous decision or not and if it was not the carers would call the police if they could not manage the situation any other way. Ms R does not consider the care plan could work in the family home due to the risk history and a lack of understanding by AG's parents about AG's mental health and her impulsive behaviour. Ms R made clear that AG has talked about the importance of her family and loves her family but she considers AG is a different person when she is away from her family, her character is more evident and she is better able to express her wishes. Ms R considers that whilst AG has made some improvement she still needs support. Ms R agreed with Dr Rippon that AG is not able to outline the risks of not getting the right support but the situation should be kept under review, confirming the current care plan will be reviewed every three months.
69. As regards the level of supervision Ms R accepted the carers did not need to have AG in the line of sight but they would have an awareness of where AG is although she agreed the carers were not controlling what AG was doing.
70. Ms R set out her concerns about the planned trip to Pakistan in answer to questions from Ms Sutton as being the lack of clarity about whose wedding it was, AG was guarded around discussions about the trip and could provide only very limited information about it.
71. In answering Ms Sutton's questions relating to matters raised by the parents Ms R was clear AG could not travel on her own due to her learning disability and the uncertainty that remains about the details and precise purpose of the trip to Pakistan.
72. Both Mr and Mrs G gave oral evidence with the assistance of an interpreter. Mr and Mrs G have filed a number of joint statements that have been read to them by their McKenzie friend, Mr H. In each of those statements they have remained clear that they wish for AG to return to live at home and believe that accords with her wishes. They consider they were not given sufficient time to consider the care plan and oppose any application in relation to deprivation of liberty and consider that the local authority are taking steps to '*close the avenues for [AG] to get close to the family*'. In their view the pressure of these proceedings, from the local authority and the professionals, has been a factor in AG losing capacity. They consider '*Things were beginning to take a turn when the "boyfriend" got out of [AG's] life, but the*

Applicant's Social Worker encouraged [AG] to restart the relationship and the "Boyfriend" started to control her in everyway and was dictating to her all the time and turning her against her parents and family'. In their final statement submitted on the second day of this hearing, after hearing the evidence from Ms R and Ms S, they stated they had decided not to contest the evidence about AG's care needs and that she is best suited in her current accommodation where she will have the necessary support mechanisms in place 'with our full support'. They have told AG of their position and just want her to be open and honest with them. They set out that they feel the family home can provide a bigger and more productive role in AG's life and suggest consideration is given to a shared care arrangement, as they consider if AG is 'deprived of the family input and the community exposure through the family she may have this deficit in her life'.

73. In his oral evidence on the third day of the hearing Mr G stated that he found Ms S to behave in a superior way towards them, they tried their best to co-operate with her but had great difficulty in making contact with her. He said they only became aware of Ms R's involvement when she gave oral evidence. He considered Ms S's analysis of the cultural and religious considerations in this case to be superficial.
74. He said he did not want any restrictions put on AG if she wanted to move, including if she wanted to travel abroad, however he said he will listen to what the local authority say. As regards the marriage in 2019, he said it was AG's own choice. He suggested Mr Q as her husband as he considered that Mr Q would have a tolerance if AG became angry. He denied AG ever expressed any doubt about marrying Mr Q. Any suggestion by AG that she had not met Mr Q previously was wrong and she knew before they left for Pakistan about the wedding. He maintained that AG drinking bleach a couple of weeks before the wedding was due to difficulties she had at college and was not related to the wedding. Although he did not go to Pakistan in February 2021 AG went with her mother and brother for AG's brother's wedding. Mr G said he understood AG spent time living with Mr Q.
75. Mr G said he first became aware that AG did not want to be married when the local authority became involved and AG's boyfriend, who Mr G referred to as the 'third person'. Mr G denied slapping AG although accepted he got angry and did take her phone, he said only for a limited time. He couldn't explain why AG had told Ms S that she was locked in the family home, which he denied was the position. He said the ending of AG's relationship with her boyfriend in late 2021 was due to the boyfriend finding out she was married and not due to any action taken by Mr G. Mr G considered the reason why AG drank bleach and ran away in January 2022 was because the boyfriend 'was guiding her'. He said his wife heard them argue and it was due to that stress that AG did what she did. Mr G could shed little light on the reasons that caused AG to try to jump out of the first floor window in February 2022, other than it being because of 'that boy'. Mr G denied any suggestion of coaching or coercing AG.
76. When Ms Scott took Mr G through the detailed statement of expectations that resulted in AG coming back home in October 2022 he confirmed he agreed the matters set out in that document. When asked about the need for AG to have privacy when there were social work visits he said 'they are putting restrictions on us' but denied any suggestion that Ms S had difficulties in speaking with AG in private. He maintained AG did not ask him to end the marriage, he said it was the social worker

saying that. He couldn't explain why AG would say different things to the social worker and her solicitor and her parents.

77. As regards the incident when AG jumped out of the first floor window in December 2022, Mr G accepted AG had told them she had jumped out of the window. When asked why that information was not given to the ambulance or the hospital he said *'At that time not sure if jumped or fallen'*. When asked why she jumped he said it was due to *'that boy'* breaking up with her and the pressure caused by the local authority leaking a video which meant she had a panic attack and jumped.
78. Mr G said he could not understand why AG had not told them she wanted to live away from home. He said when they spoke to her he had a feeling *'something was not right'*. He said he was aware Ms Law (AG's solicitor) had said AG wanted to see them twice a week and when asked why they were asking for more he responded *'every parents wants to see their child more and more'*. When asked about what effect that may have on AG bearing in mind her learning disability he said *'I can't explain her mother explain better'*.
79. Ms Scott asked Mr G about the proposed trip to Pakistan and who is getting married. He was not able to give much detailed information stating it was a *'very close family member...'*. When pressed further he said it was a female friend of AG's called T. He denied there were any plans for AG to get married in Pakistan and said even if she wanted it at the moment he would say 'no' because of the stress they are going through.
80. Mrs G was clear that AG had lived with them all her life and they did not have any problem. According to her, AG was actively involved in the wedding preparations for her marriage to Mr Q in 2019. When asked about the difference with that account and what AG told Ms S, Mrs G responded *'her social worker herself said AG did not answer all her questions'*. When asked what happened to the mobile phone given to AG by the police in January 2022 she said AG did not use it as she didn't need it, and the police had given it to her as she had broken her phone. When it was suggested to her that it was so she could call for help she responded *'Why she in danger?'*. Mrs G denied any suggestion she sought to control what AG said to the social worker and denied she had not given the correct information as to how AG came to be injured to the ambulance or hospital in December 2022. She agreed this was a serious incident continuing *'I don't see why you don't notice this boy forcing her to jump from the window. If he good person why he giving this advice – you jump I will catch you'*. Mrs G considers there was *'no problem'* prior to the boyfriend. When asked if she had any regrets about the way she spoke to AG when AG moved to her current accommodation in January, she responded that AG told her she was coming home. Mrs G's view is that she thinks AG wants to live at home.
81. The court has the benefit of a number of documents that set out AG's views and I have met her by video link on three occasions, the most recent occasion was at the conclusion of the evidence at this hearing. AG has been able to express her views to her solicitors, counsel and to the court. She has been clear that she would like these proceedings to end and she does not wish to be subject to a FMPO. At the hearing on 8 December 2023 she first raised the issue of a trip to Pakistan in the context of her passport being returned, which had not been raised before. At this hearing she

raised the issue of a shared care arrangement involving her parents which she had not raised before, although it aligned with the position set out in the document submitted by her parents the day before.

Legal framework

82. Section 16 MCA gives the court power to make an order on behalf of a person who lacks capacity in respect of their welfare. Such decisions are governed by what is in that person's best interests, having regard to the matters set out in s 4 MCA.
83. When determining whether there is a 'deprivation of liberty' within the meaning of Article 5 of the European Convention on Human Rights, three conditions must be satisfied (per Lady Hale in *P (by his litigation friend the Official Solicitor) v Cheshire West and Chester Council v another* [2014] UKSC 19 ("Cheshire West") at [37]):
- i) an objective element of a person's confinement in a certain limited space for a not negligible length of time;
 - ii) a subjective element, namely that the person has not validly consented to the confinement in question, and
 - iii) the deprivation of liberty must be one for which the State is responsible.
84. In relation to the objective element the 'acid test' is set out in *Cheshire West* at [49] which provides as follows: *"that the person concerned "was under continuous supervision and control and was not free to leave"*. At [54] Lady Hale stated the key question is: *"whether a person is under the complete supervision and control of those caring for her and is not free to leave the place where she lives"*.
85. The guidance in relation to a FMPO is provided by the Court of Appeal in the case of *Re K (Forced Marriage: Passport Order* [2020] EWCA Civ 190 at paragraphs 44 – 55 where the President sets out route map for a case of this nature. This can be summarised as follows in the context of this case:
- a. Stage one - the underlying facts.
 - b. Stage two - a determination of whether or not there is a need to protect AG from being forced into marriage or from any attempt to do so. As AG is now divorced, there is no need to consider whether there is a need to protect AG from her previous marriage.
 - c. Stage three - an assessment of the risks and the protective factors that relate to the particular circumstances of AG.
 - d. Stage four - achieving an accommodation between the necessity of protection and the need to respect their family and private life under article 8.
86. In *Re K* the President stated at paragraph 54 *'In each case, the court should be encouraged to establish a bespoke order which pitches the intrusion on private and family life at the point which is necessary in order to meet the duty under article 3, but no more. The length of the order, the breadth of the order and the elements within the order should vary from case to case to react to the particular factual*

context; this is not a jurisdiction that should ordinarily attract a template approach.'

87. The court is also being asked on behalf of the Official Solicitor to consider orders under the inherent jurisdiction for the purpose of making orders to support AG maintaining her capacity regarding the contact that she has with her family.
88. The court's powers to make orders under the inherent jurisdiction in relation to adults is as wide as its powers when exercising its inherent *parens patriae* jurisdiction in relation to children (*Re SA (Vulnerable Adult with capacity: Marriage)* [2005] EWHC 2942 (Fam), [77]), however, whilst wide, the focus should be those adults whose ability to make decisions for themselves has been / can be compromised by matters other than those covered by the MCA (*DL v A Local Authority & others* [2012] EWCA Civ 253, [53]).
89. In *DL* the court specifically endorsed the approach of Macur J (as she then was) in *LBL v RYJ and VJ* [2010] EWHC 2665 (COP), that the court has the power under the inherent jurisdiction "to facilitate the process of unencumbered decision-making by those who they have determined have capacity free of external pressure or physical restraint in making those decisions".
90. A recent case where these principles have been applied is by Cobb J in *Re RK (Capacity: Contact: Inherent Jurisdiction)* [2023] EWCOP 37.

Submissions

91. In her detailed written submissions Ms Scott considers each application separately.
92. In relation to the FMPO she follows the route map outlined by the President in *Re K* (ibid). Turning first to the underlying facts there is no issue that at the time of AG's marriage to Mr Q in September 2019 she had capacity to make decisions about marriage. There is a dispute about whether AG met Mr Q prior to the marriage or was involved in any of the wedding preparations, as the parents state she was. Ms Scott relies upon the evidential picture that is built up from what AG told others and the local authority evidence about the parents coaching AG. Ms Scott submits that the only basis for a finding that the marriage in 2019 was a forced marriage would be for the court to find that AG's ability to consent was vitiated based on the records of what she told the police, Dr Rippon and her solicitor. The doubts she expressed to those third parties were not shared with her parents, which is consistent with AG not being able to share her true wishes and feelings with them, the dynamics of their relationship and the parents clear approval of the marriage.
93. Ms Scott accepts that AG is now divorced but submits this needs to be looked at in the context of Mr and Mrs G's strong disapproval of her relationship with her boyfriend and the steps they have taken to put AG under pressure to end the relationship. Mr G accepted that it would not be allowed in accordance with their culture or religious beliefs for AG to have a romantic relationship with a man outside of marriage. Mr G did not accept it would bring shame on the family, but this appeared to be on the basis that the wider community would not be aware of it.

94. Ms Scott invites the court to reject Mr G's evidence that it is up to AG whether she gets married again as being a matter entirely for her bearing in mind the background of controlling and coercive behaviour by the parents and their inability to accept any decision that AG makes that does not coincide with their wishes. This has to be considered in the context of the evidence that demonstrates AG is unable to communicate any decision of hers that does not accord with her parents' wishes. The risk is heightened by the lack of a consistent account about the proposed trip to Pakistan. Ms Scott invites the court to draw the conclusion that there is no wedding in Pakistan and the trip was for the purpose of AG getting married.
95. The second stage is whether there is a need to protect AG from a forced marriage. Ms Scott submits it is relevant to this issue that the history demonstrates AG is unable to share with her parents what she wants and in those circumstances there is a high risk of AG being forced into a marriage due to the dynamics of the relationship between AG and her parents and their strong cultural and religious beliefs around marriage. In the circumstances of this case she submits very little pressure may suffice to bring about the desired result and reminds the court of what was said in *Re SA* when Munby J (as he then was) stated: '*where the influence is that of a parent or other close and dominating relative, and where the arguments and persuasion are based upon personal affection or duty, religious beliefs, powerful social or cultural conventions, or asserted social, familial or domestic obligations, the influence may..... be subtle, insidious, pervasive and powerful. In such cases moreover, very little pressure may suffice to bring about the desired result.*'
96. If the court is satisfied there is a need to protect AG, the third stage requires the court to make an assessment of the risks and protective factors that relate to AG. Ms Scott accepts the local authority has not carried out a formal assessment of the risks to AG of a forced marriage. She submits it is for the court to carry out that assessment. The protective measures that are in place in this jurisdiction mitigate the risk, however she submits that is not the position if AG goes to Pakistan where the following factors significantly increase the risk, namely AG is divorced, Mr and Mrs G would disapprove of any other relationship AG may have outside of marriage, Mr and Mrs G are likely to get AG to behave in the way they deem appropriate in circumstances in Pakistan where AG would be unable to freely express her wishes.
97. The final stage is where the court must achieve an accommodation between the necessity of protection under Article 3 and the need to respect family and private life under Article 8. The court will need to consider the degree of risk in AG suffering a forced marriage, the quality of available protective measures and the nature and extent of the interference with family life. This, submits Ms Scott, will involve work with Mr and Mrs G and AG. Consequently, she seeks orders for 12 months that have the effect of preventing AG from travelling abroad other than with her shared lives carer, preventing Mr and Mrs G from applying for further travel documents and allowing the local authority to hold AG's passport.
98. Turning to the application under the MCA the local authority seek orders that confirm the proposed arrangements for AG's care and support meet her best interests. The arrangements are set out in the care plan dated 22 January 2024 and there is no real dispute between the parties regarding that plan.

99. In addition, the local authority submit the care arrangements amount to a deprivation of liberty that should be authorised by the court. They submit all three conditions are met, namely: (i) an objective element of a person's confinement in a particular restricted place for a not negligible time; (ii) a subjective element, namely that the person has not validly consented to the confinement in question, and (iii) the deprivation of liberty must be one for which the State is responsible. There is no issue that the last requirement is met.
100. Ms Scott submits the evidence establishes the first element that the person concerned "*was under continuous supervision and control and was not free to leave*" per *Cheshire West* [49]. Due to the vulnerability of people like AG she submits the court should err on the side of caution in deciding what constitutes a deprivation of liberty (*Cheshire West* [57]). The care arrangements mean that the carers are aware of where AG is and her movements are known and noted. If she tried to leave in circumstances where she is assessed as posing a risk to herself, steps would be taken to persuade her to return and if not successful the police would be called. Her care needs cannot be met in the family home due to the control exerted by her parents, her need to gain life skills to increase her independence, to be able to access the community and the management of her psychological and emotional needs arising from her impulsivity and heightened anxiety.
101. Ms Scott submits without the power to prevent AG leaving the SLP there is a high risk of harm to AG and that the approval of the care plan results in AG not being free to leave the SLP.
102. The subjective element involves the court considering whether AG has capacity to consent to her confinement in the SLP. Ms Scott puts the question as follows; can the person decide whether or not to be accommodated in the particular setting for the purpose of being provided with the care and support they need. She relies on the approach taken by Baker J (as he then was) in *A Primary care Trust v LDV* [2013] EWHC 272 (Fam). She submits it is '*unfortunate Dr Rippon was not asked to assess this particular question. Instead she was asked to consider [AG's] capacity to make decisions about her residence and care separately*'.
103. Ms Scott submits that even though AG has capacity to make decisions about where she should live, she cannot consent to the deprivation of liberty at the SLP because it is for the purpose of providing her with care and support. The local authority acknowledge AG has been resident in a previous placement, CG, where her care and support needs were being met, and where there was no standard authorisation in place. In relation to her stay at CG they submit the mental capacity requirement was not met then as it was for the purpose of rehabilitative treatment for her physical injuries.
104. Ms Scott submits that if the court does not accept the analysis by the local authority, the care and treatment of AG will be '*practically impossible*' as AG could decide to return to live in the family home and relies on her recent change of position, which echoes what the parents have said. If she did that there is a real risk she would come into conflict with her parents as has happened in the past, with the consequent anxiety which then gives rise to a very real risk that AG will again act impulsively and cause herself significant harm. The court should resist considering capacity in silos and that when looking at AG's capacity when making a decision about where

she is going to live, it must include information about whether her care needs can be met in that placement. Viewed from that perspective Ms Scott submits the conclusion that Dr Rippon should have come to was that AG lacked capacity to make decisions about options for her residence that are not able to meet her care needs.

105. In her closing submissions Ms Scott sets out the way the local authority propose to protect AG's autonomy going forward, supporting her making decisions that she has the capacity to make and making sure she has sufficient space and a clear framework to enable her to make the decisions.
106. On behalf of the Official Solicitor, Ms Sutton submits the evidence about capacity is clear. The declarations made on 19 October 2022 remain in place and the order dated 17 October 2023 recites the agreement of the parties that the only issue before the court is AG's care and support needs as she has capacity about all the matters set out in the order, including in relation to her residence and her contact with others. The order continues that the parties agree no further capacity evidence is required.
107. Neither Dr Rippon (consultant psychiatrist) nor Dr Lilley (clinical psychologist) have been asked to update their expert reports. Dr Rippon last saw AG on 28 September 2022 and Dr Lilley has never met AG. As Ms Sutton notes, Dr Lilley was not asked to specifically report on capacity, she was instructed to consider what further steps should be taken to support AG, which focusses on care planning advice.
108. Ms Sutton submits that AG continues to develop her independence, and has now lived away from her parents since December 2022. Neither expert has been asked to reassess capacity and Ms Sutton suggests there has been no evidence of a change in her presentation that would require further assessment. There is no basis, she submits, to undermine the declarations in place which promote AG's autonomy and Ms R accepted that in her oral evidence.
109. The Official Solicitor recognises AG's ability to make capacitous decisions regarding where she lives will be affected at times of heightened anxiety and distress, as that can impact on her capacity to think a situation through. This underpins why the care plan and risk management plan need to be robust, to help AG think through situations rather than behave impulsively. As Ms Sutton observes, that is what happened on 22 January 2024 when AG was supported to wait before collecting any belongings from the family home as well as the management of her feelings about the move. The care plan specifically addresses that purpose when it states how AG *'will be supported by her shared lives carers in dealing with any conflict that arises. They will support to manage her emotions and prevent [AG] making decisions due to impulsive behaviour'*.
110. The Official Solicitor supports an order being made that it is in AG's best interests to be provided with care and support in accordance with the care plan and risk assessment dated 22 January 2024: that care and support to be provided at the SLP in accordance with AG's capacitous wish to live there.
111. Ms Sutton does not support the analysis of the local authority that the restrictions in AG's new placement at SLP constitute a deprivation of liberty within the meaning of

Article 5 EHCR such that authorisation of the court is required.

112. In relation to the objective element she does not accept the evidence demonstrates AG is under the complete supervision and control of those caring for her and is not free to leave the place where she lives (per Lady Hale at [54] *Cheshire West*). Ms Sutton relies on a number of matters including the local authority's own observation in their position statement in December 2023 that this placement fell '*well short*' of continuous supervision to amount to a deprivation of liberty; AG is not under complete supervision in the placement; the restrictions (such as window restrictors) do not equate with complete control; AG is not subject to personal searches; there are no limits on who she has contact with in the sense that she requires the permission of her carers; and in due course the intention is that she will access the local community independently. Ms Sutton does not accept this case is similar to the authority of *Local Authority v AB* [2020] EWCOP 39 (as relied on by the local authority), as there *AB* lacked capacity to make decisions regarding her residence, which is not the case with AG. Ms Sutton submits that even erring on the side of caution (per [57] *Cheshire West*) AG is not under the complete supervision and complete control of those caring for her and she is free to leave the place where she lives, should she wish to do so.
113. As regards the subjective element, Ms Sutton submits AG is able to provide consent to living in the SLP. Ms R confirmed in her evidence that AG does have capacity to consent to the window restrictor and door alarm and agrees to being subject to such restrictions. The capacity assessments that were directed considered residence and care and support as separate domains of capacity and that evidence supported the declarations made on 19 October 2022. That order discharged a previous deprivation of liberty order, as it was accepted then AG had capacity to make decisions about her residence. The local authority accept since AG was placed in CG, no standard authorisation was made and that the order dated 9 June 2023 recorded '*because the mental capacity requirement was not met*'. Ms Sutton submits AG consented to living at SLP, having made a capacitous decision to move there on 22 January 2024, she understood the restrictions set out in the care plan and consents to them.
114. Ms Sutton submits the local authority analysis to support its submissions regarding deprivation of liberty conflates two separate matters, namely capacity and welfare. If AG expressed a wish to move from her current placement she would be assisted by the local authority to think about the options having regard to their statutory obligations under the Care Act 2014 and AG's eligible needs. This would be the case for anyone in AG's position and AG should not be treated any differently because she is involved in proceedings. The care plan makes it clear that there is a structure and framework to provide support and for steps to be taken at each stage to ensure AG's wellbeing at the relevant time. In addition, if the local authority believe AG lacks capacity in relation to a matter at the relevant time the provisions of ss 5 and 6 MCA provide statutory protection for any proportionate steps the local authority may take (which fall short of a deprivation of liberty of liberty) if such steps are a proportionate response to the likelihood of AG suffering harm, having regard to the seriousness of that harm. Additionally, if there was a significant change of circumstance, the local authority can take any steps that come within s4B MCA, and are able to deprive AG of her liberty whilst a decision is sought from the court for the purpose of doing any vital act. A vital act is "*any act which the person doing*

it reasonably believes to be necessary to prevent a serious deterioration in P's condition" (section 4B(5) MCA).

115. Ms Sutton submits the inherent jurisdiction could be invoked to provide a protective regime to protect AG's autonomy in accordance with *DL v A Local Authority and others* [2012] EWCA Civ 253 [53]). Ms Sutton bases this on the court being satisfied that even if AG does not lack capacity within the meaning of the MCA to make decisions regarding contact with Mr and Mrs G she can, at times, be subject to coercion and undue influence by them and at such times is unable to give real or genuine consent regarding the contact arrangements she wishes to have with them. Due to the dynamics of the relationship between AG and her parents the influence may be subtle. Ms Sutton submits this is illustrated by AG's change in position prior to this hearing when she had consistently said she would like contact on two occasions per week to then change to shared residence, which aligned with her parents' position. This coincides with an increase in telephone contact between AG and her parents. Ms Sutton recognises that any orders made under the inherent jurisdiction must be only those that are necessary and proportionate. The framework Ms Sutton submits that meets that balance is that until 31 December 2024 Mr and Mrs G must not make any contact with AG save for face to face contact twice per week for up to six hours, with AG then returning to SLP, and telephone contact with AG once a day for 15 minutes. There would be provision for this to be kept under review and varied by agreement or order of the court and a structure would be set out as to how to manage any requests for changes and a date by which any application should be made to extend the order beyond December 2024.
116. Turning to the FMPO Ms Sutton stresses that AG does not want the court to make a FMPO. The attendance note from her discussion with her solicitor states AG trusts her parents not to force her to get married and she has said she doesn't want to get married until she is 26 years old. As AG has been assessed to have capacity to make decision regarding marriage, whilst her wishes are not determinative, they are very important. Ms Sutton refers to the guidance in *Re K (ibid)* at [52] which stresses that if a court is to override the capacitous wishes of a person who chooses to marry, it must be satisfied that there is a real and immediate risk of that person suffering inhuman or degrading treatment which is sufficient to cross the Article 3 ECHR threshold. Whilst fact specific, in *Pretty v United Kingdom* (2002) 35 EHRR 1 at [52] the court held that includes '*actual bodily injury or intense physical or mental suffering*'.
117. Ms Sutton submits that one of the difficulties for the court in considering the local authority submission seeking a finding that AG was forced to marry Mr Q in September 2019 is the absence of any investigation by the local authority when they were first involved in September 2021. No risk assessment was undertaken at that time, or later as the information evolved. Ms S had no experience of FMPO, she lacked any effective supervision of her work, and no contact was made with AG's college or with any wider family or friends. As Ms Sutton submits '*there has been no real exploration by the local authority of the circumstances of the marriage*'.
118. Ms Sutton accepts that part of the evidential picture includes the parents' evidence. She submits their evidence was at times inconsistent, in particular regarding the events on 19 December 2022, but remains uncertain how that impacts on issues relating to the events of 2019 as the differences between the various accounts as to

AG's involvement in the wedding preparations or her prior knowledge of Mr Q remain unclear. Ms Sutton notes that AG was said to have spent time with Mr Q during the trip in February 2021 and returned back to the UK.

119. Ms Sutton submits it is open to the court to conclude that the evidence leaves the court unsure whether it is more probable than not that AG was forced to marry Mr Q by Mr and Mrs G in September 2019. This has been mainly caused by the lack of a proper analysis by the local authority. However, submits Ms Sutton, the court could find that the marriage was not entirely free from family influence as it was an arranged marriage brokered by Mr and Mrs G.
120. When looking at the future risk Ms Sutton submits the evidence demonstrates that AG has had a boyfriend, Mr O, and has put herself at significant risk in order to see him, and has also placed herself at significant risk when unable to regulate her emotions, for example ingesting bleach on two occasions and jumping from a window on two occasions. AG alleged to the police she was slapped by Mr G when she said her parents found out about this relationship. Although Ms S's evidence was unimpressive regarding her analysis of the cultural, religious and societal norms for women of Pakistani heritage and Muslim faith, Ms Sutton submits that Mr G accepted it would not be allowed when asked about what would happen if AG had a relationship out of wedlock. Although he did qualify that with saying, they as parents, can only give an opinion, the message, submits Ms Sutton, was clear. Ms Sutton submits this means there is likely to be ongoing tension between what the parental beliefs are and what AG may want, pending any further work with AG and her family. Ms Sutton submits there was a gap in the evidence due to the lack of engagement by the local authority with the family and AG over recent events, such as the trip to Pakistan.
121. Ms Sutton submits the way forward is that if the court concludes there is a need to protect AG from any attempt to be forced into marriage in the future there should be a holding position to enable AG to settle in SLP and a proper assessment undertaken as to the actual future risk. In those circumstances, she submits, pending this further analysis the current order should be extended on an interim basis for 6 months. This strikes the balance between the necessity of protection and the need to respect private and family life. Ms Sutton submits there should be detailed directions for the local authority to undertake an effective risk assessment, to include the risks of AG travelling to Pakistan, her general capacity to travel with a framework as to how any preparation for travel should be undertaken and educative work with the family with a final hearing in 6 months' time. The directions should also include provision for a round table meeting. Whilst Ms Sutton recognises this does not accord with AG's wishes it strikes the balance between the further evidence that needs to be filed and AG's wish for these proceedings to come to an end.
122. Mr and Mrs G provided detailed written submissions having had the opportunity to consider the written submissions of the other parties. They emphasise that they are loving, caring and supportive parents and wanted at all times what is best for AG. They rely on the steps they took during this hearing in withdrawing their opposition to AG remaining at SLP. They recognise AG has not been forthcoming with her plans and feelings to them but feel they have been working in the dark and seek to understand why AG has behaved like this, whether it is due to her respect that prevented her from being open, or something else. They feel the social worker had

stopped engaging with them and they feel that this encouraged AG to restart her relationship with her boyfriend, Mr O, when she was still married to Mr Q, stating *'We don't think any culture would accept that'*. They feel their *'pride, dignity and values were compromised as a result of uninformed interventions and ill-informed actions and decisions'*. They feel strongly that the correct procedures have not been followed and they have not been kept updated by the local authority. They recognise that AG may need a chance to settle into her new placement stating *'We are very committed and look forward to working with the new team that [AG] is allocated to and will fully participate in all the plans, programmes and activities as are necessary'*.

123. Mr and Mrs G largely agree with the position of the Official Solicitor on behalf of AG except they are *'unhappy'* for the FMPO and other orders to be extended if it means that AG can only travel with a carer, they consider their family privacy and AG's liberty and independence is compromised by such orders. They offer undertakings in place of any orders.

Discussion and decision

124. Whilst the court accepts Mr and Mrs G love and care for AG, as she undoubtedly loves and cares for them, they have a complex and enmeshed relationship with AG where they have not always been able to protect her. To their very great credit both Mr and Mrs G have attended the numerous hearings and co-operated with the directions made for the filing of documents. I do not underestimate how difficult dealing with these proceedings has been for them.
125. AG's diagnosis of a mild learning disability together with her anxiety, depression and impulsivity when she has been unable to manage her emotions has meant that at these times, she has put herself a serious risk of harm. In my judgment, her parents have not been able to protect her or prevent that harm occurring in such situations. This is likely to be due to a combination of factors including their lack of insight and understanding regarding her particular needs, particularly when she does not follow their views as to the decisions she should make. They understandably wish to protect AG, viewing any situation from their perspective as to what she should do, but in doing so their actions have serious consequences for AG due to the dynamics in their relationship which risks disabling AG from making any informed choice or decision.
126. The evidence about the circumstances of the marriage in 2019 is far from clear. The differing accounts between the parents and AG have not been properly explored or analysed by the local authority. It is difficult to understand why AG would lie about the circumstances of the marriage (for example that she had not met Mr Q previously) and Mr G slapping her when he discovered her relationship with her boyfriend, Mr O. The parents' account of the marriage lacks consistency in terms of how well Mr Q was known to AG, what he had been told about AG and what involvement AG had in the arrangements for the marriage.
127. The parents' general reliability needs to be viewed in the context when both parents have not been frank with the medical and other professionals to the detriment of AG. The incident on 19 December 2022 is an example, the parents' evidence about this was wholly unsatisfactory. They could give no credible reason why they had not

given a full account to the ambulance and hospital about what had happened to AG and their actions in not giving that account had a direct impact on AG in causing a delay in her getting the appropriate medical treatment. It is difficult to understand the motivation for doing this, when it so obviously caused harm to AG. It is part of the complexity in the relationships and the reality for AG of her parents' disapproval of her relationship with Mr O.

128. Another example of the parents' lack of credibility is the contract of expectations when AG returned to live at home in October 2022. I am satisfied that steps were taken by the parents to undermine what was intended by that document, which they signed. The evidence shows following her return home they were unable to support AG in what she wanted and did not permit AG to be seen by the social worker without seeking to influence or control AG's responses and her relationship with Mr O finished in a matter of days.
129. Whilst the court recognises that these proceedings have been very distressing for Mr and Mrs G their evidence demonstrates their ability to not be honest and reliable in their account of events if it does not accord with their views. It is difficult to know whether this is due to a lack of insight by them in fully understanding AG's needs or a lack of understanding by them of any view other than their own. That needs to be properly assessed which has not taken place due to the lack of meaningful engagement between the parents and the local authority.
130. A striking feature of the evidence is Mr and Mrs G's inability to see or understand how their actions impact on AG. I accept the evidence from the local authority of the repeated attempts by them to be able to communicate with AG on her own, only to be thwarted in that aim by the actions of the parents. From the start of their involvement in 2021 the influence and control both Mr and Mrs G have over AG has been clear to the local authority and I accept their evidence about that. Whilst Mr and Mrs G may feel they are taking steps to protect AG what they are actually doing is preventing her from being able to express her wishes and feelings, increasing her anxiety which, in turn, puts her at increased risk of harming herself due to her impulsive behaviour in such situations and which can also impact on her capacity to make decisions.
131. It is clear these disputes caused significant tensions in the family relationships, when that occurs AG becomes overwhelmed with anxiety and on occasion takes impulsive actions that put her at risk of serious harm. In their oral evidence the parents were unable to display any real understanding, insight or empathy of AG's viewpoint. In seeking to suggest, as they did in relation to certain matters, that they were expressing an opinion did not convey the full picture when their underlying disapproval was clear, for example in relation to AG having a relationship out of wedlock, and the impact of that on AG bearing in mind her particular needs. It is clear, in my judgment, that their influence still impacts on AG. I consider it more likely than not that the change in AG's position, advocating a shared care arrangement during this hearing, which mirrored the position of the parents put to the court the previous day, will have been as a result of discussions between Mr and Mrs G and AG. The number and length of the phone calls had increased, AG knew the hearing was going on and will have felt divided loyalties between what she had been saying to her solicitor and what I infer the parents were discussing with her about the shared care arrangement.

132. I agree with the submissions on behalf of the Official Solicitor regarding the failure of the local authority to undertake the necessary FMPO assessments, as the relevant guidance made clear should have been undertaken (*The Right to Choose: Multi-agency statutory guidance for dealing with forced marriage*, June 2014; *Multi-agency statutory guidance for dealing with forced marriage and multi-agency practice guidelines*, April 2023). The local authority now accept that. In addition, Ms S lacked expertise or adequate supervision in dealing with issues relating to forced marriage, there was a failure to consider any changes or developments as they occurred and assess/re-assess the significance, and a failure to look and consider other sources of evidence.
133. These lacunas have to be weighed together with the fact AG has never alleged she was the victim of a forced marriage, what she has expressed is ambivalence about what was probably an arranged marriage that she was *'double minded'* about. There is no evidence of any other person suggesting it was a forced marriage, and no evidence of physical or emotional abuse prior to the marriage. The evidence about the time and in what circumstances AG spent with Mr Q after the marriage, including during the trip in February 2021, is far from clear and wholly un-assessed by the local authority.
134. I agree with the analysis of Ms Sutton, that having considered all the evidence I am unable to conclude on the balance or probabilities that AG was forced to marry Mr Q by Mr and Mrs G in September 2019. This uncertainty is founded largely on the failure of the local authority to properly investigate and analyse the evidence, or keep it under review. However, I am satisfied that the marriage was not entirely free from family influence, in particular from Mr and Mrs G.
135. The issue of future risk is more complicated. Mr and Mrs G's disapproving views about relationships out of marriage and their lack of real understanding about AG's position is clear. As a result, there will be an ongoing tension about what the parents want to happen and think should happen and AG's wishes. The lack of coherent detail about the apparent wedding in Pakistan in February 2024 is deeply concerning. Three different names were given for the 'friend' who was getting married. A purported wedding invitation produced by the parents during this hearing gave a fourth name. The parents oral evidence provided no further clarity.
136. One of the difficulties is because there have been no discussions between the local authority and the parents about this issue it is difficult to reach a final conclusion as to whether there is a real and immediate risk of AG suffering inhuman or degrading treatment which is sufficient to cross the Article 3 ECHR threshold. I agree there is evidence of parental control and coercion on the part of Mr and Mrs G, how that specifically links to AG being forced into a marriage in the immediate future is unclear.
137. I agree with the Official Solicitor that there should be a time limited extension of the interim FMPO, with detailed directions for the necessary risk assessments to be undertaken to include an informed analysis of the risks and protective factors with Article 3, including informed effective and consistent engagement with the family by someone with real expertise in this area and an analysis of the risks of any trip to Pakistan. This work should include an assessment of AG's capacity to travel and a framework to underpin any travel, as suggested on behalf of the Official Solicitor.

The proposed framework is set out at the end of this judgment. It is aimed to assist professionals working with AG, but may also be of relevance when care planning in similar cases involving travel abroad.

138. I have weighed carefully in the balance that neither Mr and Mrs G nor AG support the continuation of the FMPO but equally had to weigh in the balance outstanding information that the court requires before it can make an informed final determination and the need for continued protection in the interim.
139. Turning to the application under the MCA.
140. As regards the capacity declarations they should remain as set out in the order dated 19 October 2022, with the added clarity regarding AG's capacity to enter a tenancy agreement.
141. The parties agree that the court should make orders endorsing the care plan and risk assessment dated 22 January 2024. I agree. Both those important documents provide a comprehensive package of support to ensure that AG is able to make decisions about her day to day life in an informed and capacitous way. There is a structure for regular reviews and they will be overseen by Ms R and her team, who are the specialists in supporting someone with AG's particular needs. The whole purpose of ensuring (by way of various court directions) that the care plan and risk management plan were robust, was to ensure that carers are equipped to support AG "in the moment", help her manage her anxiety and distress and/or assist her to think through situations rather than behave impulsively. This is exactly what happened on 22 January 2024 when AG was supported to wait (and not immediately attend the family home) to collect belongings. The expert advice and the plans now before the court appear to be working. The care plan appropriately highlights how AG "*will be supported by her shared lives carers in dealing with any conflict that arises. They will support to manage her emotions and prevent [AG] making decisions due to impulsive behaviour*".
142. I reject the submissions by the local authority regarding any refinement of the capacity declarations. That was not raised as an issue by them prior to this hearing, on the contrary they agreed orders that confirmed the existing capacity declarations were not in issue. They did not seek directions for updated capacity assessments in any particular area and Ms R in her oral evidence, which I accept, confirmed that the final capacity declarations made by the court in October 2022 should continue.
143. I also reject the submissions regarding deprivation of liberty by the local authority. I agree with Ms Sutton the evidence demonstrates that the restrictions in the current placement fall well short of continuous supervision. This confirmed the position endorsed by the local authority in the order dated 8 December 2023 about the proposed placement at SLP. AG has periods of 1:1 care totalling 30 hours per week, other than those periods the carers are aware where she is but there is no continuous monitoring and this was agreed by Ms R in her oral evidence. In my judgment, the objective element of the test is not met even making all due allowance for the need to err on the side of caution.
144. Equally, I am satisfied that the subjective element is not established either. I agree with Ms Sutton, AG is able to provide valid consent to live at SLP, does validly

consent to live there and can consent to be subject to the restrictions, such as on the window and the front door being alarmed at night. The local authority had not previously sought to grant a standard authorisation, confirming in the order dated 9 June 2023 that was because the mental capacity element was not met. Reliance by the local authority on *B v A Local Authority* [2019] EWCA Civ 913 is misplaced as the situation in that case was different where decisions regarding capacity made the local authority's care practically impossible. That is not the situation here. The local authority have demonstrated they can care for AG, illustrated in supporting AG on the day of the recent move to the SLP. These cases are very fact specific and, as a consequence, provide limited assistance to courts in other cases.

145. In the event AG expressed a wish to move from SLP there is a clear statutory framework to deal with that situation through a combination of the statutory responsibilities of the local authority under the Care Act 2014 and the statutory protection provided by ss 5 and 6 MCA, and, in an emergency situation, section 4B MCA.
146. The final matter is whether the court should accede to the invitation on behalf of the Official Solicitor to invoke the inherent jurisdiction with the aim of supporting AG being free from external pressure to facilitate her unencumbered decision-making. In short, what is proposed is a time limited order limiting contact between AG and her parents to one telephone call a day for up to 15 minutes and two periods of face to face contact each week for up to 6 hours on each occasion. This would be underpinned by a framework to manage any requests to change those arrangements with a view to proportionately managing and enabling AG to retain her capacity to make decisions about contact with her parents. Ms Sutton submits such orders are necessary and proportionate to maintain AG's capacity for a limited period of time to assist her to settle into SLP, effectively utilise the support available under the care plan and help her maintain and retain her capacity. This, she submits, is in accordance with *DL (ibid)* and follows the approach taken by Cobb J in *Re RK*.
147. Ms Scott acknowledges the need for there to be a framework to protect AG's autonomous decision making. The pattern and extent of contact Mr and Mrs G have sought is not consistent with the court's determination as to AG's best interests regarding her care and support needs. Frequent lengthy visits to the family home, coupled with lengthy phone calls interfere with the support for AG in helping her develop her independent living skills as detailed in her care plan. Ms Scott outlines the concern of the local authority in the structure proposed by Ms Sutton, which includes the fact that AG often instigates the phone calls to her family and there needs to be provision for AG to change her mind with safeguards to ensure any decision is capacitous,
148. In the unusual circumstances of this case I am satisfied that the inherent jurisdiction should be invoked in the way outlined by Ms Sutton. I am satisfied that a combination of the order regulating contact between AG and her parents, supported by the framework to manage any changes in a way that supports any consequent decision will best enable AG to retain her capacity about making decisions about contact, and, indirectly, residence. The order will only be in place for a limited period until December 2024. I am satisfied, bearing in mind the history of this matter that without that structure being in place it is very likely AG will be unable to

manage the consequences of any pressure on her to spend increasing time with her parents which, in turn, will impact on her ability to make capacitous decisions.

149. The proposed travel guidance prepared by Ms Scott and Ms Sutton is set out below. It will not only be relevant in this case but may also provide assistance in other cases that raise similar issues.
150. The parties should liaise about the precise terms of any order.

PROPOSED TRAVEL GUIDANCE

To consider when professionals are working with AG regarding a trip abroad

1. Where is it proposed that AG travels? Research the destination, travel options to get there, the facilities available there (including access to medical care), accessibility and transport options
2. What are the dates of travel?
3. Where is it proposed that AG will stay?
4. Who will be travelling with AG?
5. What care and support will be required during the stay?
6. Who will provide that care and support?
7. Consider writing and/or carrying a “travelling letter” which provides a brief description of AG’s needs and any diagnos(es) and the details of her doctor. If appropriate, include details of any difficulties that could occur and what assistance might be needed.
8. Consider whether international roaming is available (so that AG can use her mobile phone on a foreign network) and ensure she has an adaptor so her mobile phone can be charged.
9. What are the flight details? When contacting travel providers and airlines, clearly state any needs and any assistance that AG may require.
10. What are the Visa requirements?
11. What vaccinations are needed before travel?
12. What medication is needed? Ensure there is enough medication for the trip and possible delays.
13. Check that any prescribed medication can be taken abroad (some medication contains ingredients that are illegal in some countries).
14. How will the trip be funded?
15. How much money is needed to cover all costs?
16. Who will provide assistance to AG with finances when abroad (as necessary)?
17. What travel insurance is needed? Check that it covers the places that AG will visit, the duration of the visit and any planned activities.
18. Is AG’s passport valid?
19. Check whether the emergency contact details on the back of the passport have been completed.
20. Is there an extra form of photo ID that can be checked?
21. Consider any advice that has been provided by the Foreign, Commonwealth & Development Office (FCDO) regarding travel to the area chosen (and any safety and

security issues raised).

22. Provide contact details for the nearest British embassy, high commission or consulate, or the FCDO in the UK.
23. Consider what to do if AG goes missing abroad, including detail of how to report it to the police and how the FCDO can assist.
24. Whether independent travel training can be given to AG before the proposed trip to maximum her independence and autonomy.
25. Ascertain the wishes of AG and all those who should be consulted regarding the trip.