This judgment was delivered in private. 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.

Neutral Citation Number: [2024] EWFC 4

Case No: ZC22P04066

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 16/01/2024

Before :

MR JUSTICE PEEL

- -

Between :

Y	**Applicant**
- and -	
Z	**Respondent**

- -
- -

Richard Harrison KC and Sophie Connors (instructed by **Family Law in Partnership**) for the **Applicant**
Nicholas Wilkinson (instructed by **Payne Hicks Beach**) for the **Respondent**

Hearing dates: 23, 24, 27 and 28 November 2023

- -

Approved Judgment

This judgment was handed down remotely at 10.30am on 16 January 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE PEEL

Mr Justice Peel :

1. These are Schedule 1 proceedings in respect of two children, aged 4 and 2. I shall refer to the parties, in conventional manner, as the Mother ("M") and Father ("F").

The parties

2. There is antipathy and mistrust between the parents, which was sad to behold. Each accuses the other of misconduct, and has taken the opportunity to commit their condemnations to paper in statements and, on occasion, in oral evidence, although F was on the whole more restrained in his personal criticism of M than she was of him. The limited solicitors' correspondence which I have seen has been tetchy. It is not for me to attribute blame in respect of the parties' relationship, or its breakdown. The attritional litigation has, I am quite sure, contributed to the parties' personal discord. That is reflected in their respective costs: M's are £906,000 (which includes VAT) and F's are £659,000 (VAT not being payable). My task, however, is to approach the case dispassionately, and alight as best I can upon fair financial provision for the children in accordance with the law.

3. M was at times emotional in the witness box. The breakdown of the relationship has, I think, affected her deeply. She presented as anxious and tearful. As a result, she was on occasion hyperbolic and prone to exaggeration. F was in general calm and composed and, I suspect, he has found it easier to move on. It may be of note that F has a more developed relationship with a new partner for a year, whereas M is in the early stages of a new relationship. I thought both did their best to tell the truth as they saw it; differences between them were more of perception than fact.

The background

4. M is a citizen of the United States, aged 40. She was born and brought up in the USA. Her father (now retired) worked in the public sector and her mother was a homemaker. M was a professional equestrian from the age of 18 onwards, until shortly before the birth of the parties' first child. She is recovering from PTSD, the origins of which lie in a traumatic previous relationship unconnected to F. Her underlying depression and anxiety have been, I am quite sure, exacerbated by the litigation. An order in Children Act proceedings indicated her agreement to undergo a psychiatric treatment plan for some 12 to 18 months. She is currently receiving therapy. An important feature of this case, in my view, is that the children need their mother to be, and remain, stable and happy. Her mental and emotional wellbeing are aligned with, and important to, their own wellbeing.

5. F is a member of a Middle Eastern royal family, aged 34. He has not lived in the place of his birth since he was about 17, and has only returned to visit 4 to 5 times. He has never undertaken royal duties and is not part of the core royal family; his title is honorific. He is a cousin of the present ruler. His father was a senior minister. He has a particular interest in horses, and co-owns with his brothers a holding company with business interests in this area. F as a result travels extensively around the world for business purposes. He suffers from anxiety disorder. He is recovering from personal issues, which cost him up to £2m pa, and describes himself as having been in a "bad place". Fortunately, he has received help and has been much improved in the past year.

6. F told me that historically he was based for 6 or 7 months a year in England. Recently, as a result of a dispute with HMRC, he has been able to spend no more than 3 months a year here. He hopes that will resolve itself, so that he can return to spending more time here.

7. M and F met in in late 2017 at an American equestrian event, and swiftly started a relationship. On 3 September 2018, they married in a Nikah ceremony in London which, it is common ground, does not constitute a valid marriage under English law.

8. During 2018, M moved to England to live with F at his home, a 4,262 square foot gated property in South East England, which F had owned since 2011; it is worth about £2.3m-£2.4m. I am satisfied that this was the family home, and therefore the children's home, during the parties' relationship (including for the Covid lockdown period), and has remained the home of M and the children since separation. M and F planned to develop, and increase the size of, the property at a cost of about £1m, and also considered buying the next-door property for £850,000; these plans did not in fact come to pass. They also contemplated buying a property in the USA, and researched houses at prices ranging mainly (ignoring the odd outlier) between about $10m and $15m; again, nothing in fact came of this.

9. Both children were born in England, in respectively 2019 and 2021. They have US passports. They are not official members of F's royal family but have royal blood. By agreement, they are being brought up as Muslims.

10. I have heard a great deal of evidence about standard of living. In some ways it was hybrid. Their home was a conventional property of relatively modest value given F's wealth. M attempted to portray a magnificent property in Central London valued in the hundreds of millions, as another home of theirs. This was a considerable stretch, which I am not prepared to accept. F holds, via a family trust, an interest in the house; his siblings hold the balance. It is the home of F's mother, the family matriarch. Of course, she welcomes F, and during the relationship welcomed M and the children, but I accept F's evidence that he, and they, could not go there without her permission. M stayed there for two months while each of the children were born, and on other occasions she and the children visited, but this was not in any true sense a home of M, F and the children.

11. M also referred to F having access to a (recently sold) magnificent family property in France. I thought this was an example of exaggeration as F himself has only ever visited it three times, and M just once.

12. To the extent, therefore, that M attempted to paint a picture of luxurious, vastly valuable residential properties as being homes for the children, I do not accept the premise. Rather, in my judgment their home was the comfortable, but relatively inexpensive and understated, property in South East England.

13. On the other hand, standard of living is not referable just to a home. It is perfectly obvious that the lifestyle enjoyed by M and F during their 4-year relationship was hugely privileged. There is some dispute between the parties as to precisely how opulent it was, but I do not consider it necessary to resolve the specific details. On any view, it involved private jets, first class commercial flights, staffing, luxurious holidays,

high end cars and the like. They travelled abroad at least once a month until the onset of Covid, to glamorous destinations, many of which were related to F's horse-related activities. As examples, a week's skiing cost £100,000, as did a week in St Bart's. The children each had 2 nannies. In England, the family had a chef, a butler, a housekeeper, a gardener and driver. Large sums were spent on their shared interest in horses. M competed at equestrian events and had the best trainers. F bought three horses for her at a total cost of $475,000. M had expensive clothing. The expenditure was consistent with F's status, and the lifestyle available through his family and business connections. They mixed with ultra-rich individuals around the world. All of this was paid for by F, or, where an equestrian element was involved, by the business. In addition, he gave M $10,000 pm to accrue some savings, a sum which is not insignificant, but certainly not vast.

14. I do not consider that it is necessary to determine precisely the level of expenditure during the relationship, nor would it be easy to work out. The best I can do is conclude, tentatively, that it was at least £2m pa, and probably rather more. The evidence suggests that the cost of running F's property in England (including all staffing) was about £800,000 pa, and my sense is that at least £1.2m pa was spent on personal expenses, including holidays. On top of that, some travel was paid by the company where it was business related. Nor is that the whole picture, for F spent huge sums additionally on the personal issues referred to above. Money was never really an object, and the outline of the standard of living which I have sketched speaks for itself.

15. However, I am clear that in reality this was a lifestyle enjoyed principally by M and F. It was not enjoyed by the children to anything like the same degree. When the parties separated in 2021, the children were respectively just under 2 years old, and just over 4 months old. They cannot have had any real appreciation of the lavish lifestyle around them, or, for that matter, any recollection of it. Moreover, much of it would not have included them anyway. For example, they did not travel with their parents on the holidays abroad save that the elder child did accompany them to the USA on one occasion and to Portugal on another. Of course, from March 2020 onwards, Covid prevented a great deal of overseas travel, but the plain fact is that the holiday expenditure, on which M places much reliance, only involved the children to a limited extent. I accept that the parents dressed the children in expensive clothes, they visited F's mother's home in London, and staff were on hand. But they have not grown up in, and become accustomed to, the sort of lifestyle which I have described.

16. Upon the parties' separation in September 2021, F moved out of his property in South East England to his mother's home in London. Earlier this year, he bought a property in the Caribbean for $1.75m which he describes as his permanent home. He may see it as such, but in reality he will also spend time at his home in England, and he usually rents a property in the USA every winter.

17. In April 2022, M applied for leave to relocate with the children to the USA. In September 2022, F indicated that he did not intend to have contact with the children. He says that was driven in large part by M placing obstacles in the way of his relationship with the children. M disputes this. I do not need to explore how and why this sad state of affairs came about, but I record that I hope these parents will attempt, once the proceedings are over and the dust has settled a little, to cooperate in finding a way for the children to rekindle a relationship with their father. It is in their welfare

interests to do so; partly for the pleasure and enjoyment that they should derive from a warm and loving relationship with him; partly because of the benefits of a paternal role model; partly because of the need for them to understand, and be familiar with, the paternal side of the family which is a core part of their culture and identity. Unless and until this happens, M will be the sole carer of the children, which is a relevant consideration in these financial proceedings. F will not be having them to stay with him, and paying for them during those periods.

18. On 18 October 2022, and by consent, Arbuthnot J gave permission for M to relocate to the USA with the children.

19. On 8 November 2022, M's Form A was issued. At a hearing on 11 January 2023, I ordered F to pay M on an interim basis £30,000 pm (£360,000 pa), and to continue to meet various outgoings at the property in South East England. That figure was intended by me to encompass all M's interim needs (including the cost of nannies and holidays). It is important to note that this was emphatically an interim order only, based on limited information and without hearing oral evidence. I do not consider that it set a benchmark in any way.

20. At the same hearing, and a subsequent hearing on 19th June 2023, I made legal fees funding orders in the total sum of £680,645, which F has duly complied with.

Open offers

21. The parties' most recent open proposals can be summarised thus:

    i) M seeks:
        a. A $5.5m housing fund in the USA, with M and the children to occupy the property under a lease arrangement.
        b. $400,000 as a furnishing fund.
        c. £61,872 moving costs from the UK to the USA.
        d. $22,575 for a security system installation.
        e. $150,000 for two cars (one for herself and one for the nanny), to be replaced every 4 years.
        f. £602,400 for horses as the children grow older, less the proceeds of sale of previous horses as new ones are bought.
        g. £310,200 as a "backdating maintenance" allowance
        h. $780,000 pa total child maintenance, reducing at tertiary education.
        i. F to pay education costs.
        j. The ongoing provision to be secured by a bank guarantee.

    ii) F offers:
        a. A $4m housing fund in the USA, with M and the children to occupy the property under a lease arrangement.
        b. £700,000 to cover the capital items sought by M, but reducing pound for pound by amounts paid by F to M for legal fees after the offer was made, such that the amount now would be £258,337.
        c. $150,000 for two cars (one for M and one for the nanny), to be replaced every 5 years.
        d. No provision for horses at this stage.
        e. No "backdating maintenance" allowance.

f. $480,000 pa total child maintenance, reducing at tertiary education.
g. F to pay education costs.
h. No security.

22. In fact, during M's oral evidence it became clear that she seeks more than $780,000 pa, something which I think caught everyone by surprise. She claims a further $133,860 pa for anticipated horse related costs as the children get older, so that in reality she seeks child maintenance of $913,860 pa.

M's finances

23. M has negligible financial resources other than jewellery given to her by F which she estimates in her Form E to be worth about £508,000 in total, although as those were purchase prices, they may not in fact fetch anything like those figures. She has debts of about (-£211,000).

24. F submits that M can and should exercise some form of earning capacity. M told me that she would like to work with horses, perhaps riding for trainers and/or buying and selling horses. Given that she intends to have full time nanny support, she will have the time to do so. I think it is important for her to engage in congenial work, rather than some sort of administrative job which would not be appealing to her. Her experience and passion is horses. She told me she might earn $60,000 pa in about a year or so after moving to the USA, which seemed reasonable to me.

F's millionaire's defence

25. On 13 June 2022, a letter sent by F's solicitors stated that F had "limited resources". That was wrong and an unfortunate step to take so early on. Fortunately, reason soon prevailed. On 5 July 2022, at a Children's Act hearing, F's counsel indicated that affordability would not be an issue. In correspondence, F produced a schedule dated 29 September 2022 asserting net assets of about £70m, and an average net income of about £4.3m pa.

26. At a hearing before me on 25 January 2023, it was recorded that:

> "…[F] accepts that he has the liquidity and resources to meet any reasonable orders that may be made by the court for the benefit of the children up to the level of [M's] claims set out in her Form E and any reasonable level of security for ongoing payments if required, without prejudice to any arguments about the reasonableness of any of the sums sought by [M]".

27. This is a standard version of the so-called "millionaire's defence" which has its origin in **Thyssen-Bornemisza v Thyssen-Bornemisza (No 2) [1985] FLR 1069** and is deployed to avoid, or reduce, the need for financial disclosure which is otherwise almost universally required in financial remedy proceedings.

28. Where the millionaire's defence is relied upon, it is customary, in my experience, for at least some disclosure to be provided. There is only one reported case which I am aware of where no disclosure <u>at all</u> was required; that was the truly exceptional case of **HRH Haya bint al Hussein v HH Mohammed bin Rasjid Al Maktoum [2022] 2 FLR 1185**. The facts and circumstances were unique, and that case should not dictate a general approach when a party relies upon the millionaire's defence.

29. Even when the millionaire's defence is advanced, provision of some disclosure is, in my judgment, usually necessary for the following reasons:

    i) It enables the claimant party, and the court, to have some understanding of the scale of wealth and how it is structured, consistent with the requirement on the court (whether under the Matrimonial Causes Act 1973, the Matrimonial and Family Proceedings Act 1984, or Schedule 1 of the Children Act 1989 as the case may be), to consider the income, earning capacity, property and other financial resources of the parties.

    ii) It enables thought to be given to the structure and enforceability of any award.

    iii) As Macur LJ said at para 21 of **Re A (A Child: Financial Provision) [2014] EWCA Civ 1577,** the extent of wealth "may still inform the reasonableness of the budgetary claims".

30. In this case, I ordered F to file a Form E, but removing the usual obligation to provide documentary evidence in support (such as bank statements, company accounts etc.). I specifically directed him to provide a narrative explanation of non-standard assets such as trusts and businesses, but without the need for supporting documentation. I suggest that this approach might be useful when the millionaire's defence is raised. It minimises documentary disclosure, but requires the payer to set out his/her wealth, and other relevant circumstances (including needs and standard of living), in a Form E confirmed by a Statement of Truth, from which he/she would have difficulty in any subsequent attempt to row back.

31. Subsequently, I permitted M to raise a handful of questions arising out of F's Form E, although I expressed some scepticism at the time as to whether the questions would advance the case. In the event, F was, rightly in my judgment, asked comparatively little in oral evidence about the extent of his resources.

32. Disappointingly, until he was in the witness box, F did not adhere to the clear terms of the millionaire's defence in one very important respect, namely security. In correspondence, his solicitors stated that the only potential security available to him is his interest in the properties in South East England and the Caribbean which between them have combined net equity of about £2m; that sum would be nowhere near sufficient. I deprecate this presentation which flew in the face of the recital recorded on 25 January 2023.

33. Fortunately, during his oral testimony, but only after questions by me, he confirmed that, although he does not think he should be required to provide security, he can do so, for such maintenance and school fees provision as may be ordered. He did not demur when I suggested (on a very ad hoc calculation) that as much as $15m might be required to secure the sums for the duration of the children's minority. He told me that if he had to, he would probably borrow the money from his very wealthy family and place it in a separate account.

F's finances

34. In his Form E, F deposed to assets of about £111m net, significantly more than the figure of £70m net advanced in the September 2022 schedule produced in correspondence (the difference was explained by him at the time as double counting of liabilities). He applied a 62.5% discount to his minority shareholdings in various family businesses, in particular the family holding company. Without such a discount (for example, if his interests were to be valued on a quasi-partnership basis), his total asset base would be more like £250m net. As for income, he estimated his total net income (including gifts from family) for the next 12 months as £5,155,200, but he has also historically received family loans amounting to £32m since 2016. He is enormously wealthy by any standards, and can afford the sums sought many times over.

The Law

35. I have been referred to a number of authorities. From these I draw the following principles:

    i) The main orders which Schedule 1 entitles me to make are:

        a. Settlement of property, which invariably will be on a trust, licence or lease arrangement such that the payer retains ownership thereof, and the payee is entitled to occupy with the children during their minority, or until conclusion of tertiary education; **Re A [2015] 2 FLR 625** and **UD v DN [2021] EWCA Civ 1947**.

        b. Lump sum or sums for the likes of furniture, car, and clearing debts.

        c. Child maintenance (secured or unsecured).

    ii) Each such order, by the wording of the statute must be "for the benefit of the child", or made direct to the child (which will be very rare).

    iii) The court shall have regard to the matters set out at para 4 of Schedule 1 in the exercise of its discretion.

    iv) Although para 4 does not expressly refer to the welfare of the child, in the generality of cases welfare will be a constant influence on the discretionary outcome; **Re P [2003] EWCA Civ 837** at para 44.

    v) Nor does para 4 refer expressly to standard of living, although in my judgment that is likely to be a highly material factor in many cases, particularly those which fall into the so-called "big money" category.

    vi) In **Al Maktoum (supra)** at para 91, Moor J suggested that "…the children should be able to have a lifestyle that is not entirely out of kilter with that enjoyed by them in Dubia and that enjoyed by [the father] and his family". In **Collardeau-Fuchs v Fuchs [2022] EWFC 135** at para 119, Mostyn J observed that standard of living before breakdown of the relationship "…should not however be allowed to dominate the picture as there will be many children, particularly children dealt with under Sch 1, who will not have experienced a standard of living within a functioning relationship either because the liaison between the parents was very brief, or because the child

was born after the relationship had come to an end". In my judgment the relevance of the standard of living during the relationship, and the standard of living of each party after the end of the relationship, will vary from case to case, and, as was said at para 21 of **Re A (supra)**, will have to be seen in context.

vii) The court will ordinarily determine the claims in sequence as to (a) property, (b) lump sum or sums, and (c) child maintenance; **Re P (supra)** at para 45.

viii) The court deals with property first because, as stated at para 22 of **Re A (supra),** "The nature of the child's home environment provides the obvious base line from which to consider commensurate levels of maintenance and is as good as any other".

ix) Child maintenance can be interpreted sufficiently broadly to include elements referable to the claimant in his/her capacity as the child's carer; **Re P (supra)** at paras 48-49. For many years this proposition, or concept, was known as the carer's allowance. More recently, at para 129 of **Fuchs (supra)** Mostyn J has suggested referring to it as a Household Expenditure Child Support Award [HECSA]. Whatever terminology is applied, the principle is clear, although its application is highly discretionary. It is not always easy to draw a bright line between budgetary items to which the claimant has no entitlement as being exclusively personal to him/her, and personal items which may reasonably be claimed as being necessary to discharge the carer's duties, including items which help sustain the carer's physical/emotional welfare; **Re P (supra)** at para 81. The court "… 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"; **J v C (supra)** at 159H.

x) The court should "not generally attach weight to the risk that the father may reduce or withdraw his support when the child comes of age (or ceases education or training) thereby obliging the child to adapt to a lower lifestyle at that time"; **Re P (supra)** at para 77(iii).

xi) In general (and particularly in the bigger money cases), the court is entitled to paint with a broad brush and will not ordinarily need to descend into a line-by-line budgetary analysis; **Re P (supra)** at para 77(i) and **Fuchs (supra)** at para 129(f).

xii) Ultimately, "the overall result… should be fair, just and reasonable taking into account all of the circumstances"; **Re P (supra)** at para 76(viii).

36. The 32nd edition of At A Glance contains at Tab 9B a table incorporating a "Child Support Starting Point", for cases where the payer's earned income falls between £156,000 pa and £650,000 pa gross. I observe that:

i) Where a Child Maintenance Support assessment has been made, the court has no jurisdiction to make a child maintenance order unless "top-up" territory is reached where the payer's gross earned income exceeds £156,000 pa.

ii) Even if the court has jurisdiction (for example, where the payer lives abroad), a notional CMS assessment will be a conventional yardstick for such an order; **GW v RW [2003] 2 FLR 108** at para 74.

iii) Where the payer's gross earned income is between £156,000 pa and £650,000 pa, the table at 9B is, as described by Mostyn J at para 43 of **James v Seymour [2023] EWHC 844**, a "loose starting point which a decision-maker can summarily choose to accept or reject without fear of appellate review". I consider the figures in the table to be useful and helpful, but not determinative.

iv) The table is, as the Notes thereto say, of no application where:
   a. The child maintenance claim includes a HECSA or carer's allowance (most typically, in Schedule 1 cases);
   b. There are 4 or more relevant children;
   c. Where the payer's income is largely unearned;
   d. Where the payer lives largely off capital;
   e. The payer's gross earned income exceeds £650,000 pa.

Rightly, nobody suggested that in this case the table at 9B of At A Glance is of any utility.

37. Counsel for F submits that the factually extraordinary cases of **Al Maktoum (supra)** (where the child maintenance award was £5.6m pa per child) and **Fuchs (supra)** (where it was £389,700 pa per child, a figure which would have been much higher but for the application of the mother's assets and income to the HECSA) are truly unique outliers, and distinguishable on their facts, not least because the parties in each case had been married and the standard of living was incomparably higher than here. I agree with that submission. In **Re Z (2023] 2 FLR 955**, the award of £240,000 pa for one child was in large measure because of the child's lifelong disability. Setting those three cases aside, in reported cases the highest award was £204,000 pa (one child in **Re A (supra)**, a case which is factually similar to this one, and in a cluster of recent "big money" cases the awards were in the region of £125,000 pa to £160,000 pa (**DN v UD (supra)**, **A v V [2022] EWHC 3501 Fam**, **CA v DR [2021] EWFC 21**).

38. However, although there is a pattern, I do not consider that these cases demonstrate there is a standard tariff, nor that there is an upper limit. Each case will be determined on its own facts and specific context.

Children's needs

39. I turn to the needs claimed in respect of the children.

40. By way of general observations, it seems to me that, having surveyed the evidence in the round, M's case, particularly in respect of income needs, is exaggerated. The figures, which are in any event overstated, in large measure stray into impermissible territory of meeting M's personal needs independent of (or only distantly related to) the needs of the children, even taking into account her responsibility as the parent with care. Her claim seems to me to be based in part on her own wish for a high-end lifestyle to reflect what she experienced for 4 years with F. The children, as I have commented, can scarcely have any appreciation, or memory, of the standard of living before their parents separated. Nor, it seems to me, were they fully exposed to it; an obvious example being that they barely travelled with M and F. Their main home was in South

East England, which, although fully staffed, does not fall into the category of fabulous properties which one sees in many of these cases. I remind myself that, although due allowance must be made for M as the primary (indeed, in this case, sole) carer of the children, Schedule 1 claims are for the benefit of the children. I accept that F's wealth and his own lifestyle going forward are matters to take into account, but in my judgment the claims made in respect of the children are disproportionate. Of course, they are children of a member of a Middle Eastern royal family and need to be brought up comfortably and securely, but that does not of itself translate into a need for luxury. It is M's understandable choice to return to America, where she is from, and her family remain. The children's experiences of life, and growing up, will be shaped by what I sincerely hope will be happy times in America, living in a secure home, attending school there, and enjoying all that M's home state in America has to offer. The proposed home environment in America is, per **Re A (supra)**, an obvious base line to consider maintenance. It is a normal, albeit very comfortable, environment, and not, in monetary terms, a fabulous one. I consider that I must have one eye on the reality on the ground of the context of the children's future lives.

41. I also take the view that M's case from the outset was overstated, particularly in respect of income needs, even if she has of late moderated her claims. In her Form E of December 2022, she sought $1,932,720 pa by way of child maintenance, a sum which was reduced to $1,198,184 pa in an updated budget dated 2 August 2023. By an open offer made in March 2023 she sought $924,000 pa. In June 2023 her open offer reduced to $780,000 pa, for which she contended at trial, although, with additional horse maintenance costs requested by M in her oral evidence, that figure rises to $913,860 pa. Her housing claims have also reduced, from $7m in March 2023 to $5.5m at trial. The claimed costs of house refurbishment have reduced from $695,000 in March 2023 to $400,000 at trial.

42. It is not entirely straightforward to attach significant weight to figures which have varied so widely. In my judgment it is incumbent on parties to put forward realistic budgets (and for that matter realistic open proposals) from the outset. To do otherwise runs the risk that the court will be unable to place any meaningful reliance upon the figures put forward.

43. Of general relevance is that M told me her priority is appropriate housing, ahead of the level of maintenance. In considering housing in particular, I have in mind what seem to me to be genuine anxieties displayed by M. It is important for the children that, so far as reasonably permissible, those anxieties should be allayed. The children need their mother to feel secure and content.

Housing

44. M herself was not able to travel to the USA and view properties because of UK visa issues which have since been resolved. Her father instead looked at houses proposed by M and F respectively, and gave written evidence on this topic. F likewise did not see any of the properties himself. Written evidence was given to me by a lawyer on his behalf, who consulted a local real property agent. Sensibly in my view, neither M's father, nor the lawyer, were required for cross examination. Although I understand how this came about, it was far from ideal as M, in particular, could not give direct evidence on the properties. She was, however, well informed about them, and knows the area well.

45. M relies upon a selection of recently provided property particulars between $5.7m and $6m, having produced particulars in July 2022 between $5.1m and $6.45m. F has put forward recent property particulars for M between $2.9m and $4m, having provided an earlier selection of properties between $1.15m and $2.3m. Inevitably, nothing in between was shown to me, i.e between $4m and $5m.

46. M would particularly like to buy in a guard-gated community around a local country club. F says that M's properties are too big (5-6 bedrooms with 5,000 to 10,000 square footage). He says that M has alighted upon the most expensive location in the area. His proposed particulars, he says, are reasonable in terms of size and location, whereas M says they are for the most part not guard-gated (only two are), many have only 4 bedrooms, and in some instances lack privacy and/or garden space. She also says that her chosen area has a lower crime rate than the areas put forward by F.

47. It is reasonable for M to return to America. It is where she was brought up. Her family and many friends are there. It seems to me that her parents are a particularly important part of her support network. For her, in my judgment, a fresh start will be beneficial, and, as I have already commented, it is important for the children that their mother feels happy, secure and stable. It is reasonable for her to want to live in a 5-bedroom house in a comfortable area which has privacy and security. In my judgment, a guard-gated location is desirable, both because of M's own anxieties, rooted in the trauma of a previous abusive relationship, and because of the children's affiliation to the high profile Middle Eastern royal family. M needs to feel safe, for the children's sake as much as her own. She accepted in evidence that it is possible to buy properties in guard-gated communities for less than her proposed figures. I also bear in mind that a number of the properties advanced in property particulars in fact sold for as much as 10% less than the asking price. As a cash purchaser, M may be well placed to negotiate a good deal.

48. I assess a reasonable figure for housing as up to $5m. F shall in addition pay the costs of purchase, including any property taxes and survey.

49. Insofar as comparisons are helpful, the children's home in South East England is worth £2.3m-£2.4m. If it had been developed with £1m of costs, and if the property next door had been bought at £800,000, arithmetically those sums added to the house value come to just over £4m, a sum which is similar to the $5m housing figure which I have alighted upon.

50. In terms of structure, I suggest as follows, in the knowledge that I did not hear detailed submissions, and precise details will need to be worked out:

    i) F should buy the property in his personal name (not the name of a company).

    ii) M should have an irrevocable lease for the children's minority (including to the end of tertiary education).

    iii) F should undertake not to bring possession proceedings without permission of the English court.

iv) F should pay for structural and external repairs, and M should pay for internal repairs.

v) F should be responsible for buildings insurance, M for contents insurance.

vi) M shall be responsible for all running costs, including homeowner association fees and property taxes.

vii) M may move twice to another property of no greater value than the prior one. F shall pay the costs of the first move, M the costs of the second move.

Other capital needs

51. I take the view that the following sums should be paid by F:

i) £61,782 to ship pets and belongings to the USA.

ii) £250,000 for furnishing is reasonable. M will be starting from scratch and the accommodation is likely to exceed 5,000 square feet.

iii) £18,000 ($22,575 for installation of a security system).

iv) £170,419 for her debts. I ignore her unpaid costs of £27,933. The substantial interim legal fees provision I ordered F to make was on the basis that it would fully cover M's legal costs to trial. I struggle to see why they have been exceeded. M will have to find a way to meet this sum of £27,933. I also ignore the debt to her immigration solicitors of £3,447, and to her father of £9,761. These related to immigration costs which I recorded in a previous judgment were to be met by M out of her interim maintenance.

v) It is reasonable for M to have a horse to ride which will enable her to enjoy her passion whilst at the same time encouraging the children in that direction. It may also assist in developing her earning capacity. It will, I think, be good for her wellbeing. M says that a horse, J, was bought for her by F, and therefore belongs to her. F disputes that presentation. I do not need to resolve this. M told me she does not want to keep it, and would instead like to have £55,000, being the current value of J, to buy a horse of her own. That seems a fair figure to me, and F reasonably said in evidence that he would agree to this.

vi) M claims a total of £480,000 for horses for the children, payable in stages (broadly) when the elder child reaches 5, 9, 13 and 17. She says that equestrianism is part of the parties' lives, and it was always intended that the children would ride. It seems likely to me that M's passion for equestrian pursuits will pass down to the children. However, I consider it is premature to determine what sums should be payable in the long term; it is too soon to be sure that the children will in fact ride, and, if so, how much and to what standard. To require F now to pay such large sums referable to points long in the future, with no certainty as to what will in fact be needed, seems to me to be speculative. The child maintenance order can be varied in due course if necessary, to include purchase of a horse. It is possible, as M's counsel

suggest in their written opening, that once the children have moved to the USA and are resident there, there will be no power to make a fresh Schedule 1 capital claim for horses, but in my judgment this can be dealt with under a broad review of the maintenance provision; if necessary, and sanctioned by the court, M could take out a loan to buy horses and the repayments would in my view legitimately be classed as part of the maintenance provisions. However, I am concerned that simply to leave all of this to a later date risks further litigation, potentially very soon; in one year, the elder child will be 5 when M considers she might be ready to ride. I therefore propose to make some provision for the purchase of a first horse for each child, so that the parties have at least some breathing space from possible litigation. I will order that F pays $25,000 per horse, i.e $50,000 in total (£40,000). If they do not in fact ride, I suspect they will have other hobbies to which the sum can be applied. Any question of horses thereafter will have to be dealt with at a later date.

52. That is a total of £595,201, which I round up to £600,000. How M in fact uses these sums will be up to her; she does not have to account to F. For the avoidance of doubt, I am not taking into account her jewellery which she should be entitled to keep without applying it towards capital or income needs.

53. I reject the claim for what is described as backdated maintenance in the sum of £310,200. It relates to the period before M issued her Form A, and therefore is not permissibly due in the purest sense as backdated maintenance. Nor is it payment of a debt which is dealt with above. In any event, M had capital assets of her own upon separation, and received from F $184,100 in September and October 2021 (albeit some of those monies were used towards F's debts), as well as a horse insurance payment of $134,000. She was not destitute, and in due course I made interim provision orders.

54. I will order F to pay M up to $100,000 for a car she chooses for herself, and $50,000 for a car she chooses for the nanny. These shall be paid upon M producing evidence of the cars she intends to purchase. F shall pay the same sums every 5 years thereafter, less the trade in value of the previous cars, on the basis that the car provision for M will continue until both children have finished tertiary education, and the car provision for a nanny shall continue until both children have reached 16.

Income needs

55. M's revised budget stands at just under $1.2m pa. I have already commented on how her original budget exceeded $1.9m pa. I find it difficult to attribute a great deal of weight to what seems to me to be a wish list in circumstances when M has so dramatically changed the figures. It is hard to resist the conclusion that M has projected some of her aspirations within the children's stated needs.

56. This seems to me to be one of those cases where a broad assessment of the children's budget is the proper approach to take. Cross examination of M demonstrated to my satisfaction that numerous items are simply too high. Certain elements leap out. $180,000 pa for one nanny seems excessive, particularly on a long-term basis; I cannot accept, as M suggested in evidence, that she will need that full level of support until the children are 12 years old. $34,000 pa for children's clothing at this age is excessive. $37,896 pa for birthday/Christmas presents and parties is also high. Household

outgoings at $131,000 pa struck me as overstated. Holidays and entertainment at $326,000 pa is excessive to a significant degree, including, for example, three return long-haul first-class flights each year for M, the children and the nanny. M's own clothing at $64,000 pa is an example of crossing the line between a reasonable figure for M qua carer and an unreasonable figure for herself. I am not convinced that a full-time housekeeper at $62,400 pa is warranted. Many other figures can also be reduced, such as $12,000 pa for the children and M to attend equestrian events, including in boxes, $9,492 pa for taxis, and $13,000 pa for Thanksgiving and Christmas. The budget includes about $24,000 pa for M's therapy, although I sincerely hope this will be relatively short term and will not endure for the children's minority. Included in the budget is $133,860 pa for keeping horses, although none have yet been bought; this figure seems to me to be excessive even if the children are about to ride (which they are not).

57. Included in the schedule of income needs are certain items which require determination as to who should pay them:

    i) Although M would prefer to meet Arabic private tuition for the children at $11,736 pa herself, I think it is preferable for F to pay this direct. He has a clear interest in promoting Arabic for the children, and this may be a way of him retaining, albeit in a small way, some involvement in the children's upbringing. I will order him to pay up to $12,000 pa (subject to indexation).

    ii) School meals, school trips and uniforms which do not appear on the school bill totalling $4,020 pa. I accept M's case that it is better for her to have the monies in her own hand rather than rely on F to pay these items. The less scope for dispute, the better. Of course, F will pay the basic school fees and, I am told, books, which appear on the school bills. But M should be responsible for these other items which I will factor into my overall decision.

58. In the end, I have come to the conclusion that the correct figure should be $500,000 pa in total ($250,000 pa per child). That includes school meals, school trips and uniforms which M will meet directly. It is sufficient for M to meet standard horse related costs for the children. If they do not, the monies can be applied in other ways for their benefit. In other words, there should be no variation upwards just because the children do indeed pursue equestrian interests, unless there is a clear case to establish that higher costs should be met by F (perhaps because they compete at a serious level). In general, I do not take account of M's earning capacity, save that in my view it can and should at the very least be applied towards her own horse maintenance costs. The child maintenance shall be payable until each child reaches 18 or finishes full time tertiary education, and shall be apportioned as to 50% to M, and 50% to the child when they respectively reach the age of 18. This shall be paid by standing order. It will increase in accordance with an appropriate US index, which I suspect is CPI.

59. F shall pay a one off maximum 20% agency fee to hire a nanny.

Life insurance

60. F must take out a policy of life insurance to secure the child maintenance, school fees and car provision in the event of his death before the term ends. It should reduce in equal annual sums over the term. I suggest the insured sum should be $15m.

Security

61. M seeks security for the ongoing provision in the event that F defaults on payment. She points out that F is not in the UK permanently, he reduced her financial support on separation, and he initially claimed that his resources were limited. M will be in the USA, and if there is no security she will be anxious about non-payment, particularly as she has no assets of her own to fall back on.

62. On the other hand, F has complied fully with my substantial interim orders (one late payment seems to have been the result of a bank issue). Were he to breach an order of this court, enforcement proceedings would follow. F's ability to travel to this country for his business activities might be jeopardised. Potential negative publicity would be unwelcome personally and professionally. I accept that it is not in his interests for his standing here to be affected. The children are being brought up as Muslims, and will learn Arabic; any failure by F to comply may imperil that agreed bi-cultural upbringing. F assured me that he will comply with any order I make, and on balance I am prepared to take him at his word.

63. I shall adjourn the application for security generally, with liberty to restore. Should F default, it is highly likely that a security provision will then be imposed. That provision would probably be for F to deposit an appropriate sum of money in a UK escrow account.

64. I will, however, order him to pay £250,000 into an account held (I suggest) by his solicitors, such sum not to be released without order of the court. In the event of default, M may access the sum for the purpose of taking enforcement proceedings.

Summary

65. In summary, I will order:

    i) $5m housing fund.

    ii) £600,000 lump sum for various capital needs.

    iii) Car provision at $100,000 every 5 years for M, and $50,000 every 5 years for the nanny.

    iv) $250,000 pa per child, plus a one-off agency fee for the first nanny to be employed.

    v) School fees, and books on the school bill.

    vi) F to pay the cost of Arabic tuition up to $12,000 pa.

    vii) US CPI indexation of maintenance costs.

    viii) F to provide life insurance cover.

    ix) F to deposit £250,000 for M to access for legal fees in the event of default.

    x) M's capital claims for horses, and M's application for security, to be adjourned generally, with liberty to restore upon application to the court.

xi) The current interim orders shall continue until purchase of the property in the USA.