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Case No: CM21P92572 & ZE21P01406
Neutral citation number: [2023] EWFC 262 (B)

IN THE EAST LOCATION 1 FAMILY COURT

Hearing dates: 25th, 26th and 31st October 2023
Judgment handed down: 30 November 2023

Before :

District Judge Coupland

Between :

K

Applicant

- and -

Y

Respondent

Representation:

**Ms Strange, of counsel, instructed by Vanderpump & Sykes LLP
for the Applicant**

**Ms Henty, of counsel, instructed by Stowe Family Law LLP
for the Respondent**

An approved copy of this judgment was sent to the parties on 20 November 2023. The judgment was formally handed down at a hearing on 30 November 2023.

1. This has been the final hearing in proceedings relating to Z (hereafter referred to as Z). The Applicant is K, and the Respondent is Y. Both parties have parental responsibility for Z; Y because she is Z's biological mother and K by way of a consent order agreed between the parties in 2014.

2. There are cross-applications before the Court. K made an application on 23 June 2021 for a Child Arrangements Order and Specific Issue Order for Z to live with her

and spend alternate weekends with Y, and for Z to change school. Y made an application on 23 August 2021 for a Child Arrangements Order, Prohibited Steps Order and a Specific Issue Order for Z to live with her and to spend alternate weekends with K; for K to be prohibited from removing Z from the jurisdiction without Y's consent; for Y to hold Z's passport and for Z to remain at the school that she was attending at that time.

3. These proceedings have been ongoing for more than two years now. The issues that need to be determined are:
 - i) which parent should Z live with, or whether she should continue to live with both parents;
 - ii) how much time Z should spend with each of her parents;
 - iii) if Z lives with K, whether a child arrangements order should be made in respect of Z's time with Y;
 - iv) where should Z go to school;
 - v) whether there should be a Prohibited Steps Order against K;
 - vi) what should happen with Z's passport.
4. Y alleges that K has alienated Z from Y and asks the Court to make findings in respect of this issue.
5. During the hearing, I have heard evidence from the author of the s.7 report and the addendum report (SW), from K and from Y.
6. K has been represented by Ms Strange and Y by Ms Henty. I am extremely grateful to counsel for their helpful position statements and for the clear and careful way they have each put their client's cases. I am also grateful to the parties for the way they

have conducted themselves. I am aware of the difficulties between them and am conscious that this hearing will not have been easy. They have been respectful and dignified throughout, for which they deserve credit.

Background

7. The parties began their relationship in 2000 and separated in 2013. Following the separation, K made an application for a declaration of parental responsibility and for a Child Arrangements Order. The parties reached an agreement, which is recorded in a consent order made of 2014. The order included a declaration that K has parental responsibility for Z, and provided for Z to live with both parents, spending each fifth and sixth weekend and every Monday and Thursday overnight with K, as well as half of all school holidays. It appears this arrangement broadly worked well, with the parties able to agree additional days and nights for Z to stay with K on a regular basis.
8. Until 2016, the parties both lived in Location 1 which is where they had lived throughout their relationship. In December 2016, Y moved to Location 2, which is where she had been brought up and where her extended family live.
9. The parties agreed that when Y moved to Location 2 in 2016, Z would continue to attend her primary school in Location 1. Z remained at that primary school until the summer of 2020 when she completed her primary education.
10. At some point, in either 2017 or 2018, the arrangements for Z's care changed somewhat, with Z living with K each week from Tuesday to Friday (three nights) and then spending some weekends with K and some weekends with Y. This new arrangement continued until sometime in 2020.
11. In October 2019, Z's application for a secondary school place was made in preparation for her to start in September 2020. K submitted the application. There had been some communication between the parties about the application but there is a

dispute as to what was actually agreed and conflicting information as to how the six schools contained in the application were ranked in terms of preference (position one being the first choice and position six being the last choice). Schools in both Location 1 and in Location 2 were included in the application.

12. In March 2020, Z was offered a place at School A in Location 1, which K accepted. On 30.03.20, Y appealed that offer and sought for Z to be offered a secondary school place in Location 2. That appeal was initially rejected but following e-mail correspondence, a place became available at School B in Location 2. This was offered to Z on 16 June 2020 and was accepted by Y. Z was therefore left in the unusual situation of having a place at two secondary schools.
13. In July-August 2020, Z went on holiday to Europe with K. K has been taking Z to Europe every summer for a holiday since she was about five years old.
14. On 3 September 2020, a disagreement took place between the parties as to which secondary school Z should go to. This disagreement took place only a day or two before Z was due to start her secondary education. K travelled to Location 2 to take Z back to Location 1 to start at School A, but Y disagreed and said that Z would be attending School B. Y's father was also present. I have commented further about this incident later in this judgment. K left Location 2 without Z and Z started at School B. Z completed Year 7 there. During Year 7, Z stayed with Y during the week and K every weekend.
15. In June 2021, as Z was approaching the end of Year 7, K made her application to the court. The papers were served upon Y on 20 July 2021, which was the first Y knew of the application.

16. On that day, there was a disagreement between Z and Y. I have commented upon this incident later in this judgment but there is no dispute that Y's wife, W, took Z to meet K at a service station, and that Z has lived with K ever since.
17. Between 2 August and 27 August 2021, K took Z on their annual trip to Europe but did not return Z to Y on their return.
18. On 23 August 2021, while K and Z were in Europe, Y issued her application to the court.
19. Z was due to return to School B on 6 September 2021 but did not. Instead, K began home-schooling Z. K also took Z to the GP who referred Z to CAMHS.
20. On 18 October 2021, K obtained a school place for Z at School C in Location 1 and Z started attending there. Z has remained at School C ever since and recently started Year 10.
21. On 5 November 2021, the FHDRA took place. A s.7 report was directed from the Local Authority. There was no agreement in respect of Z spending time with Y and no order was made for this.
22. In November 2021, Z agreed to spend some time with Y for the first time since 21 July 2021. A further session then took place in December 2021.
23. On 28 January 2022, the s.7 report was filed and made a number of recommendations:
 - i. Z to live with K in accordance with Z's wishes
 - ii. Z to spend time with Y fortnightly for 4-6 hours, with contact being reviewed after three months and increased if this is in line with Z's wishes

- iii. If Z wishes, overnight stays should be gradually considered, which includes part or half of school holidays.
 - iv. Z to continue attending School C
 - v. Y and Z to take part in Family Therapy
 - vi. Both parties take part in a Conflict Resolution Programme.
 - vii. Z to have counselling
24. Between December 2021 and the middle of May 2022, Z had no contact with Y. On 14 May 2022 and 18 June 2022 respectively however, Z stayed overnight with Y in Location 2. These were the first overnight stays since Z moved to live with K on 20 July 2021. No further contact took place between 18 June 2022 and the hearing in August 2022.
25. On 9 August 2022, a DRA hearing took place before me. K sought for proceedings to conclude with no order for Z to spend time with Y but a recital that Z agreed to stay with Y one night a month. K said this was in line with Z's wishes. Y did not agree to that order. I declined to make a final order, but did make an interim order for Z to spend time with Y once a month. I intentionally did not stipulate the duration of contact or whether it should be overnight or not. The parties agreed to write a joint letter to Z explaining my decision. I refused an application by Y for the instruction of an independent social worker to file a report on the issue of parental alienation but did direct an addendum s.7 report from the Local Authority.
26. On 3 September 2022 and 1 October 2022, Z had overnight stays for one night with Y.
27. On 30 October 2022, the addendum s.7 report was received and recommended the following:

- i. Z to remain in the care of K
 - ii. Z to have at least one overnight stay a month on the weekend at Y' address
 - iii. Z to spend an additional Saturday each month with Y
 - iv. The parties to share care of Z during school breaks
 - v. Y to be included in any decisions regarding Z's education and health
 - vi. The parties to engage in mediation or conflict resolution.
 - vii. Z to engage in Family Therapy with Y
 - viii. Z to engage in counselling
 - ix. Neither party to make any comments about the Court process to Z
28. In December 2022, Z spent two nights with Y and thereafter continued to stay with her for one night a month. In April 2023, Z spent three nights with Y.
29. On 10 May 2023, the final hearing, which was listed for 17 and 18 May 2023, was vacated due to lack of judicial availability and was then, after some correspondence between the parties and the court, re-listed to this final hearing.
30. In the meantime, Z continued to stay for one night each month with Y. On 25 July 2023, Y' solicitors asked K's solicitors for details of when Z will be away with K over the summer and suggested that Z should spend some additional time with Y. On 5 August 2023, Z spent some time with Y for a few hours but did not stay overnight due to wanting to go to a sleepover for a friend's birthday celebration. From 7 August 2023 to 1 September 2023, Z went on holiday with K to Europe. Upon her return, Z stayed with Y overnight in September 2023 and most recently, in October 2023.

Law

31. Z's welfare is my paramount consideration and I have kept that at the forefront of my mind at all times.
32. I must have regard to the welfare checklist as set out in s.1(3) of the Children Act and I will come on to address the relevant points in the welfare checklist later in this judgment.
33. In accordance with s.1(5), I should not make an order unless I consider that doing so would be better for Z than making no order at all.
34. In accordance with s.1(2), any delay in determining the issues before the Court is likely to prejudice the welfare of Z.
35. There is a presumption in s.1(2A) that, unless the contrary is shown, the involvement of each parent in the life of Z will further Z's welfare.
36. I must take into account all of the evidence and consider each piece of evidence in the context of all the other evidence and look at the overall canvas. Evidence should not be assessed in separate compartments. I must assess and evaluate the evidence in its totality.
37. Parental responsibility is defined by s3(1) CA 1989 as –

'all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.'

38. However, as Munby P (as he then was) said in **Re H-B (Contact) [2015] EWCA Civ 389**:

"I wish to emphasise this; parental responsibility is more, much more than a mere lawyer's concept or a principle of law. It is a fundamentally important reflection of the realities of the human condition, of the very essence of the relationship of parent and child. Parental responsibility exists outsider and anterior to the law. Parental responsibility involves duties owed by the parent not just to the court. First and foremost, and even more importantly, parental responsibility involves duties owed by each parent to the child."

39. It is an integral aspect of parental responsibility that parents should work to put aside differences and ensure that their children have relationships with both parents. The issue is not 'parental rights', but 'parental responsibility'. In **Re H-B (Contact) [2015] EWCA Civ 389** at paragraph 74 Munby P (as he then was) endorsed what was said by McFarlane LJ (as he then was) in **Re W (Direct Contact) [2012] EWCA Civ 999** who said (paras 77-78):

"Where there are significant difficulties in the way of establishing safe and beneficial contact, the parents share the primary responsibility of addressing those difficulties so that, in time, and maybe with outside help, the child can benefit from being in a full relationship with each parent ... the only interests that either parent should have ... in mind [are] those of each of their two children.

Parents, both those who have primary care and those who seek to spend time with their child, have a responsibility to do their best to meet their child's needs in relation to the provision of contact, just as they do in every other regard. It is not, at face value, acceptable for a parent to shirk that responsibility and simply to say 'no' to reasonable strategies designed to improve the situation in this regard.

Nor, I should add, is it acceptable for a parent to shirk their responsibility by sheltering behind the assertion that the child will not do, or even that the child is adamantly opposed to doing, something – and this, I emphasise, is so whatever the age of the child."

McFarlane LJ also observed (para 75):

"the responsibility of being a parent can be tough, it may be 'a very big ask'. But that is what parenting is all about. There are many things which they ought to do that children may not want to do or even refuse to do: going to the dentist, going to visit some 'boring' elderly relative, going to school, doing homework or sitting an examination, the list is endless. The parent's job, exercising all their parental skills, techniques and stratagems – which may include use of both the carrot and the stick and, in the case of the older child, reason and argument –, is to get the child to do what it does not want to do. That the child's refusal cannot as such be a justification for parental failure is clear: after all, children whose education or health is prejudiced by parental shortcomings may be taken away from their parents and put into public care."

40. Z and her parents have a right to family life under Article 8 of the European Convention on Human Rights and any order I make must constitute a necessary and proportionate interference with those rights.
41. If any party makes an allegation against another party, then the burden of proof is on the person making the allegation to prove the allegation. The standard of proof is the balance of probabilities.

42. In **Gloucestershire CC v RH and others [2012] EWHC 1370 (Fam)** Mr Justice Baker (as he then was) gave guidance about the approach to credibility, including the importance of hearing oral evidence to enable the court to discover what has occurred and in assessing the reliability of the witness –

'the evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. They must have the fullest opportunity to take part in the hearing and the court is likely to place considerable weight on the evidence and the impression it forms of them...'

43. In **Lancashire CC v R [2013] EWHC 3064 (Fam)**, it was said that;

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

44. In the event that the court finds that a witness has lied, the correct approach to be taken to such lies was confirmed by the Court of Appeal in **H-C (Children) [2016] EWCA Civ 136 at [96-100]**, namely –

*'A family court, in common with a criminal court, can rely upon a finding that a witness has lied as evidence in support of a primary positive allegation. The well-known authority is the case of **R v Lucas (R) [1981] QB 720** in which the Court of Appeal Criminal Division, after stressing that people sometimes tell lies for reasons other than a belief that the lie is necessary to conceal guilt, held that four conditions must be satisfied before a defendant's lie could be seen as supporting the prosecution case as explained in the judgment of the court given by Lord Lane CJ:*

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

45. Put simply, the effect of *Lucas* is to serve as a reminder to the court that people lie for all sorts of reasons; the fact that a person lies about one specific thing does not necessarily mean that they have lied about another matter.
46. Parental alienation is typically defined as the unjustified resistance or hostility from a child towards one parent as a result of psychological manipulation by the other parent. This definition, used by CAFCASS, was accepted by the Court of Appeal in the case of **Re S (Parental Alienation: Cult: Transfer of Primary Care) [2020] EWCA Civ 568**.
47. The starting point for the Court when considering this issue is that the decision about whether or not a parent has alienated a child is a question of fact for the Court to resolve. This was made clear in the recent case of **Re C (Parental Alienation: Instruction of Expert) [2023] EWHC 345 (Fam)**, at paragraph 103, in which an analogy was made between parental alienation and domestic abuse, emphasising that with the former, just as with the latter, that the Court is concerned with (a) whether or not a particular behaviour has taken place within the family, and (b) the impact that that behaviour may have had on the relationship of a child with their parents, rather than an attempt to determine whether a specific label can be applied. Sir Andrew Macfarlane P says:
- “Most Family judges have, for some time, regarded the label of ‘parental alienation’, and the suggestion that there may be a diagnosable syndrome of that name, as being unhelpful. What is important, as with domestic abuse, is the particular behaviour that is found to have taken place within the individual family before the court, and the impact that that behaviour may have had on the relationship of a child with either or both of his/her parents. In this regard, the identification of ‘alienating behaviour’ should be the court’s focus, rather than any quest to determine whether the label ‘parental alienation’ can be applied.”*
48. In determining this question of fact, it is not appropriate for the Court to delegate its role to an expert: it is the Court’s function to make factual determinations necessary to inform welfare decisions for the child (**AM v RF [2023] EWFC 150**.)

49. Just as with the identification of abusive behaviours between parents or between a parent and a child, the identification of alienating behaviours will be relevant where it is necessary and demanded by the individual circumstances of the case for the Court to make such factual determinations leading to final welfare decisions for the child (paragraph 21 of AM v RF.)
50. Ultimately, a finding of fact that there has been alienating behaviour on the part of a parent is simply one piece of data (albeit it is likely to be a very significant one) to be ‘inputted’ to the Court’s overall analysis when considering the case: in **Re L (A Child) [2019] EWHC 867 (Fam)**, as per Sir Andrew Macfarlane P said:

‘It is well established that the court cannot put a gloss on to the paramountcy principle in CA 1989, s1. [...] The test is, and must always be, based on a comprehensive analysis of the child’s welfare and a determination of where the welfare balance points in terms of outcome.’

Evidence

SW (author of the section 7 reports)

51. I have considered the two reports from SW that are before the Court. These two reports, taken together, do, in my judgment, provide a comprehensive analysis of all matters relating to Z’s welfare. The conclusions are summarised above.
52. SW readily acknowledges that at Z’s age, her wishes and feelings are very important, and it is with that in mind that SW has recommended that Z continues to spend the majority of her time with K and remains at her current school. Having said that, SW also recognises the importance of Z’s relationship with Y and recommends that an order be made to ensure that Z continues to see Y regularly.
53. SW was questioned at length about Z’s relationship with Y. SW was troubled by some aspects of what Z had said to her. SW explained that Z has a wholly negative view of Y and finds it difficult to say anything positive about her. SW acknowledged

that the events of July 2021 and other incidents that Z says occurred when she lived with Y have had a significant impact on Z. These incidents include Z alleging that Y used derogatory and abusive language towards her; Y being angry a lot of the time and the atmosphere in the home being “heavy”. SW acknowledged that the text messages between Z and her friend, and between Z and W in July 2021 reflected that Z was scared by what had happened and felt she had been ‘kicked out’ of her home by Y. SW accepted that the cumulative impact of these incidents could explain Z’s view of Y. SW, nevertheless, felt that Z’s view of Y is disproportionately negative and was concerned that despite Z painting a very negative picture of what life was like when she lived with Y, she struggled to provide details and timeframes, and continually referred back to the events of July 2021. SW was concerned that Z seemed to be aware of K’s application to the Court in July 2021 and it was, of course, the service of those Court papers upon Y that appears to have led to the incident on 20 July 2021.

54. It was put to SW that Z was aware that SW would be making recommendations to the court and so she may have answered SW’s questions with a view to ensuring that SW recommended that she remained in the care of K, which is what Z wants. SW, understandably, felt unable to say whether this had impacted on what Z had said to her.
55. SW accepted that before August 2022, there had been some contact between Z and Y; on two occasions in late 2021 and two overnight stays in Spring 2022, which was all before any contact had been ordered. Since contact was ordered in August 2022, Z has cooperated with that order and has stayed overnight with Y despite this not specifically being ordered. It was suggested that if Z was being alienated from Y, she would never have agreed to this level of contact. SW, however, pointed out that Z only saw Y twice between July 2021 and May 2022, which SW felt was still an extremely low level of contact.

56. SW accepted that contact has been consistent since August 2022, but it has taken an order of the Court to achieve that, which Z is aware of and was not very happy about. SW feels that, even now, contact is still taking place at a minimal level. SW was also concerned that at the hearing in August 2022, K's position seemed to be informed entirely by Z's wishes. SW agreed that this reliance on Z's wishes as being determinative was a concern and she was concerned that K's repeated view that she could not "force" Z to do things and in always allowing Z to take the lead, created a 'good cop/bad cop' scenario and was not a positive way of promoting Z's relationship with Y. SW agreed that an example of this could be the e-mail that Y sent to Z in March 2022 about going to the ballet. K accepts that she showed Z the e-mail, but Z said she did not want to go and did not do so. SW agreed that K's response that she could not "force" Z was possibly an easy answer, and that part of parenting is encouraging and sometimes ensuring that children do things that they might not want to do. SW agreed that going to the ballet was likely to have been something positive for Z and Y to do together at a time when they had not seen each other since the end of December 2021.
57. On the issue of the schooling, SW felt that Z must have been confused about being shown around schools in Location 1 and Location 2. SW was concerned that K may have allowed Z to believe that the choice of secondary school was entirely her own decision rather than a decision to be taken by her parents. SW was concerned that there may be a pattern of K allowing Z to feel that she is control of all decisions that impact her welfare, which in turn supports a narrative that Y does not listen to Z. SW was concerned about the incident on the day before Z was due to start secondary school in September 2020 when K travelled to Location 2 to collect her. SW felt this would have been confusing for Z and would have made her feel 'caught in the middle', which then undermined Y who had, of course, by then made it clear to Z that she was going to school in Location 2. SW accepted the letter written by Z to Y in

July 2020 does reflect K's view of the situation, although it is written by Z. This letter makes it clear that Z does not want to go to school in Location 2 and goes on to make comments about how much K does for Y, how Z is "tired" of Y and how she feels her home is in Location 1 with K – this letter was, of course, written a few months before Z was due to start secondary school.

58. Turning to the events of 20.07.21, SW felt that efforts should have been made by both parties to resolve matters shortly after the incident occurred and felt that the fact that nothing was done between 20.07.21 and Z going on holiday at the start of August, was a missed opportunity. SW was concerned that upon Z's return from the holiday, she did not return to the care of Y and was instead withdrawn from school and became home-schooled for a period of time by K. SW felt that all of this was a rather extreme reaction to what had taken place in July.
59. SW remains concerned that Z may have become alienated from Y but is unsure whether this is because K has purposefully taken steps to alienate Z from Y or whether it is more nuanced, whereby Z has been exposed to negative comments made by K about Y. SW said that Z talks about Y as if she is a "stranger", despite having always lived with her until July 2021, and furthermore, SW felt that Z's decision to cut all communication with Y's wider family was a rather extreme reaction, even if she did not feel particularly close to those family members. SW was asked about why Z does not appear to be as angry towards W as she is towards Y given that it was reportedly W who gave her a suitcase in July 2021 and took her to the service station to meet K. SW said that as Y is Z's mother, she was not surprised that her anger and upset was directed towards Y rather than to W.
60. When considering what final orders the Court should make for Z, SW was clear that K loves Z, and that Z feels safe and loved in her care. SW explained that if the Court ordered that Z should live with Y and must change schools, Z may refuse to go, and

that such a move would be “drastic” and potentially detrimental to Z’s education given that she is settled and doing well at school where she has lots of friends and is highly regarded. SW was however concerned that without an order stipulating when Z should spend time with Y, Z may simply refuse to see her at all because it is only since an order has been place that contact has taken place consistently. SW maintained her view that any final order should be a shared ‘lives with’ order so that Z understands that she continues to have two homes and an equal relationship with both of her parents.

61. SW was asked, towards the end of her evidence, about the possibility of the Court making a Family Assistance Order. SW, it seemed to me, had not considered this before and nor had she been asked to do so. Her response was that, if the Court made an order, the Local Authority would comply with it, although the worker that would be allocated to the case would not be SW and it would be another professional that would have to work with the family. Furthermore, it was unclear how such an order would operate in practice. It became clear during submissions that K would not agree to an order, but it was still suggested that I could make an order naming only Z and Y in it.
62. Whether or not Z has been alienated from Y is a matter for me to determine and not SW. Having said that, SW provides an independent source of Z’s wishes and feelings and, as directed, has provided an analysis of Z’s welfare. SW’s evidence is therefore important and forms part of the overall canvas of evidence. It is not determinative, either in terms of the issue of alienation or what final orders best meet Z’s welfare needs, but it is important evidence and analysis that I must consider.
63. SW was cross-examined at length and overall, I found her evidence to be considered and child focused. It seems to me that she has considered all matters relating to Z’s welfare when reaching her recommendations. In my judgment, SW had quite properly

balanced Z's clearly expressed wishes and feelings with other relevant welfare issues and reached a careful conclusion in respect of what Z's living arrangements should be. I found SW to be a helpful witness.

K

64. K has filed two statements in these proceedings, both of which I have considered. In oral evidence, K was asked about how Z is doing at present and confirmed that she is doing very well at school and is predicted to achieve grades 8 and 9 in her various GCSE subjects. K said that Z is very sociable and opinionated, including about her dissatisfaction with the order that I made in August 2022.
65. K was asked about the circumstances around Z starting secondary school and confirmed that she had made the application for a school place in October 2019, although could not recall what the preference order of the schools were. She thought she had ranked them as priority number one being a Location 1 school, priority two being a Location 2 school, three being Location 1 and so on. Nevertheless, K confirmed that Z was ultimately offered a place at a Location 1 School, and on the basis that K believed that it was not possible to be offered places at two different schools, did not consider that Z could also have a place in Location 2. That is why she then went to collect Z from Location 2 in September 2020 on the day before she was due to start secondary school. K explained that there was a disagreement involving her, Y's father, and Y when K arrived in Location 2, with Z's grandfather and Y making it clear that Z was staying in Location 2 and going to school there. K said that Y had shouted and screamed at her. K said that Z never wanted to go to school in Location 2 and used to cry on a Sunday evening about having to go back to school the next day.
66. K accepted that Z had been involved in discussions about her secondary school choice in October 2019. K felt it was entirely appropriate to take Z's views into

account and Z was clear that she wanted to go to secondary school in Location 1. K explained that, in her view, Z was a “very grown up” child and so felt it was right that she should have a say. K did accept that the ultimate decision was for the parents to make but considered it important to ensure that Z was happy. K rejected the suggestion that she only involved Z in discussions because Z’s views were aligned to her own views. K was asked why, in the application, she had provided reasons for Z attending schools in Location 1 but not reasons for her attending schools in Location 2; K said this was in accordance with Z’s wishes.

67. As regards the letter written by Z on 05.07.20, K denied having any involvement in Z writing this letter. She said that she only learnt about its existence in July 2021. K accepted that in the summer of 2020, Z knew that she had been offered a place at a school in Location 1 and that as far as K was concerned, she could only be offered a place at one school so would be going there.
68. K was asked about when Y moved to Location 2 in 2016. K agreed that Z had had no say in this decision but felt it would have been “nice” for her to be listened to. K felt that Y could have considered the impact on Z, particularly as she was going to school in Location 1 at the time. K denied ever encouraging Z to believe that she had not been listened to in respect of the move to Location 2 or to accept a narrative that Y does not listen to her.
69. Turning to July 2021, K firmly denied discussing her Court application with Z. She was clear that Z’s views of Y since that time have been largely influenced by what happened and what Y said to her. K was clear that she has been consistent in encouraging Z to have contact with Y since that incident and that contact is only happening now because K is encouraging Z and because Z does not want K to get into trouble for not complying with the order that is in place.

70. K was asked about the e-mail from Y dated 31.07.21 where Y asks to speak to Z before she went off to Europe with K a few days later. K explained that Z did not want to speak to Y at that time and felt she had just been “kicked out” of her home, and so K decided to respect Z’s wishes. K pointed out that Y only attempted to speak to Z some ten days after the incident on 20.07.21 occurred. K said that she did respond to the e-mail but ultimately felt her role was to look after Z and do what was best for her. K said that she did ensure that Z spoke to Y over FaceTime once when they were in Europe and felt that Y should have been grateful that Z agreed to speak to her on FaceTime given how strongly Z felt at the time.
71. K rejected the assertion that upon their return from the holiday, she capitalised on what happened in July to ensure Z remained living with her and changed schools. K said that her intention initially was that Z would return to school in Location 2 but once they returned from Europe, it was clear that Z had no intention of doing so. K rejected the suggestion that she had influenced Z to reach this view and said that her decision to then home-school Z was to protect Z because she was so upset, which is also why K took her to the GP. K said that she spoke to a social worker about the situation, and they agreed that it was better for Z not to return to school in Location 2.
72. There was then no contact with Y until November 2021. K said that was in line with Z’s wishes but denied that she was ‘hiding behind’ those wishes or influencing Z to form that view. Z then had another contact with Y at the end of December but then nothing until May 2022. K did not accept that this was as a result of her influence and said, once again, it was because of Z’s own wishes.
73. K rejected the assertion that Z’s views suit K’s own agenda and rejected the suggestion that she had put a ‘negative spin’ on the e-mail about the ballet in March 2022. K said the e-mail was a nice e-mail, but that Z simply did not want to go. She said that she tried to convince Z to go but to no avail.

74. K was asked about her view of Y. K initially said that she did not like Y “because of what she did with the schools” but later said that she did not have any feelings towards her. K said that she feels sorry for Y, but the reality is that Z does not want to live with her, and K does not believe that she can do anything about that. K reiterated that Z only sees Y because K persuades her to do so. She said that she does not know if Z has a nice time because they do not discuss it and does not ask Z about her time with Y.
75. It was suggested that K had, on several occasions, taken a long time to reply to suggestions by Y, made through solicitor correspondence, for additional contact to be arranged, and that when there was a response, K simply said she was following Z’s wishes. K agreed that she had followed Z’s wishes and was firm in her view that Z’s views are based on her own lived experiences. K does not believe these views are disproportionate to what Z has experienced.
76. When asked about the hearing in August 2022, K confirmed that her position had been informed by Z’s wishes and that Z was not happy with the outcome of that hearing because an order had been made for interim contact. K said that Z still does not like going to spend time with Y and does not look forward to it, but she has been tolerating it. When pressed further about this in cross examination, K said that Z does not care a great deal about Y now, has her own strong views, which she will not change, and that this all stems from Z’s own experiences. K said that she cannot force Z to go to see Y and specifically “cannot drag her into a car in handcuffs and force her to go”. K said that she thought Z would simply refuse to go if ordered to live with Y.
77. It was pointed out to K that since August 2022, the level of contact has not progressed very much, which K broadly accepted, although did point out that contact was taking place on an overnight basis, which had not been ordered. In January 2023, Y

requested an increase in the arrangements following the receipt of the addendum section 7 report, but K did not agree. Once again, K confirmed this was because of Z's wishes. It was suggested that ever since July 2021, K has never actually offered contact to Y despite requests being made in writing, despite the parties being in Court proceedings and despite two section 7 reports being filed. It was suggested that this is because K simply does not want Z to have a relationship with Y. Once again, K did not agree.

78. K gave evidence about why Z did not stay overnight with Y in August 2023. She explained that Z had other arrangements for a sleepover with friends and said that she had tried to rearrange the day of contact, so that it could include the overnight stay, but that Y had not responded. When asked about why Z had not spent some additional time with Y in the summer holidays of 2023, K said that Z had made various plans with her friends, and they were on their holiday in Europe for several weeks.
79. K was asked why she has not done more to promote contact with the extended Y family when it is clear that they would like to see Z more frequently and that it was odd that Z had not even responded to text messages from them. K, again, said that this was Z's own decision, that she was never particularly close to the extended family, that she does not miss them very much and that the events of September 2020, which involved her grandfather, had also had an impact. K said that Z can have contact with her extended family whenever she wants to. K felt that Z may seek more contact with them as she gets older but maintained her position that she cannot force Z into anything.
80. It was suggested to K that throughout the proceedings, she has hidden behind Z's wishes, has used them as an excuse for not promoting contact and has instead used the 'it's Z choice' narrative to undermine Y relationship with Z. It was suggested that

K has used their holidays to Europe to enmesh Z's views with her own views, and that she has allowed Z to become embroiled with adult conflict and to play her parents off against one another. K did not accept any of this.

81. When asked about a possible order for Z to spend more time with Y than she does now, K felt it would be harder to get Z to cooperate as she gets older because she may see things differently and K was concerned that if Z does refuse, "we may end up back in Court" again. K indicated that Z is only seeing Y now because K is convincing her to do so and felt that any further order is likely to be counter-productive because Z needs to feel comfortable in seeing Y, which is the most important thing. K said that she did not want to make Z do anything that would cause her distress. K said that she felt it was important for Z to have a relationship with Y, but she feels Z's wishes must be respected.

82. I have no doubt at all that K loves Z very much and has an extremely close relationship with her. K is right when she says that Z's wishes have to be respected but I did have concerns about K's steadfast determination to follow Z's wishes at all times, even when those wishes might contradict, to some extent, with what might be in the wider interests of Z's welfare. It seems to me that Z's wishes and feelings have become K's default response to everything, and there was limited evidence of K really appreciating the emotional benefit to Z of her relationship with Y and her wider family. It seemed to me that K's approach is simply to establish what Z thinks and then to follow that, without really questioning whether that is what is best for Z. As the case law sets out, part of parenting is sometimes having to take decisions that children might not necessarily like or agree with because those decisions are, ultimately, in the best interests of the child's welfare.

Y

83. Y has also filed two statements in these proceedings, which I have considered. During her evidence, Y was asked about her contact with Z since August 2022. She confirmed that this had mostly been taking place once a month, including an overnight stay, with the exception of August 2023. She confirmed there had been an extra day of contact around Christmas 2022 and that Z had stayed with her for three days during Easter 2023. Regarding the lack of an overnight stay in August 2023, Y explained that it had been difficult because Z wanted to go to her friend's birthday celebration, but Y had explained that it was sometimes necessary to prioritise other things. Nevertheless, Z still went to her friend's birthday celebration.
84. Y spoke about her time with Z and explained that Z is not distressed during the time they spend together, but Y does feel that Z is conflicted and so tries to adopt a gentle approach. Y explained the activities that her and Z do together such as going for dinner, the arcades and shopping.
85. Y confirmed that she still seeks an order for Z to live with her, a change of school and an order to prevent K removing Z from the jurisdiction. Y said she was concerned that K may not return Z to the UK after going abroad because she has always talked about buying a house in Europe and did once take Z on a flight that Y did not have the details of. Y is, however, not aware that K has bought a house in Europe or made any plans to relocate there. It was suggested on behalf of K that the application for a Prohibited Steps Order is, in fact, just an attempt at control and trying to make life difficult for K, which Y did not accept.
86. It was suggested to Y that the breakdown in her relationship with Z is due to her actions and Z's lived experiences, which Y refuted and said that she held K responsible for the breakdown in the relationship. Y rejected the comments made by Z to SW about Y being subject to mood swings, there being a "heavy" atmosphere in her home and her using abusive and derogatory language towards Z. She said that

was “categorically not true”. Y accepted that she may have raised her voice from time to time but did not consider this to be unusual for a parent. Y accepted that one such occasion was during the incident on 20.07.21.

87. It was suggested to Y that she did sometimes lose her temper. There are, for example, messages in the bundle between W and K in June 2019 where W refers to Y “ripping my head off”. It was suggested to Y that there were clearly problems in the relationship at that time. Y said that these messages needed to be considered in context.
88. Y rejected the suggestion that she had struggled to co-parent with K, and that she saw Z as her child and not the child of K. It was pointed out that at page 217 of the bundle, Y effectively says this to K in a WhatsApp message from October 2017 when she says: *“I’ll make a damn sight more f*ing decisions if you don’t back off and stop making everything so f*ing difficult all the time!!!”*. Y said that she sent this message after receiving numerous abusive messages from K demanding to know what she was doing. Y accepted that her choice of language was poor but felt that her point was justified, and rejected the suggestion that this was an example of Y behaving in a controlling way.
89. As regards the suggestion that K has not promoted Y’s relationship with Z, Y was asked why, on 3-5 July 2021, K agreed to Z spending the weekend with Y when she should have been with K. Y said this was the only weekend that had happened in a year and was because Y had friends to visit.
90. At page 419, there is a message from K to Y dated 27.08.20, which was around a week before Z was due to start secondary school. In the message, K appears to be trying to resolve the school issue and is adopting a conciliatory tone. In response, Y ‘blocked’ K. When asked about this, Y said that this message from K was an isolated example of her trying to cooperate with Y. Y explained that she immediately

unblocked K and said she was frustrated because she had sent a similar message to K in June 2020 about Z gaining a place at school in Location 2 and received no response. Y accepted that 'blocking' K was not particularly sensible but denied it was a form of control.

91. Y was asked about an incident on 11.07.21 when Z refused to give her phone to Y, ran to her room and locked the door, which led to an argument where Y reportedly said she would remove the door from its hinges. Z then messaged her friend saying that she was scared. Y rejected the suggestion that Z was scared of her and felt that if she was genuinely scared then she would have called 999 or K.
92. As regards the incident on 20.07.21, Y denied calling Z a disgrace, denied 'kicking her out' and denies that she gave her a suitcase. Y said that Z's perception of what happened is all based on the narrative she has been given by K and that is then reflected in the messages that Z and W exchanged in the immediate aftermath of the incident. Y then went on say that she could not be sure that Z had even sent those messages to W. It was suggested to Y that she has minimised this incident and failed to take ownership of it. In her statements, she says that Z went to spend time with K afterwards and that she went to "cool off". Y did not accept that she was minimising what happened and accepted that she had played a part in Z leaving but holds K responsible for what has happened since.
93. Y was asked why she did not then contact Z for ten days. Y felt that the issue between her and K had been brewing for years and so during those ten days, Y took some legal advice. Y said that she has apologised to Z on two occasions since July 2021 because Z felt like she had been 'kicked out' and was angry and confused, but Y was clear that she had never thrown Z out. Y explained that she did attempt to see Z before she went to Europe and even travelled to Location 1 to do so but feels K prevented her from doing this. While K and Z were then in Europe, a letter was sent

by Y's solicitors to K's solicitors suggesting that Z had been unlawfully removed from the jurisdiction. There was, of course, a shared 'lives with' order in place and it was suggested that this letter was simply a way of Y lashing out, which Y rejected.

94. It was pointed out that since August 2022, Z has been agreeing to overnight stays with Y, which points away from there being any alienation. Y felt that all contact takes place on K's terms.
95. Y was asked about SW's conclusions in respect of an order for Z to live with Y and go to a new school. Y said that she felt it would be more harmful for Z to stay at her current school. She felt she would be able to support Z with a move to a new school, although no such school has been identified yet.
96. I have no doubt at all about Y's genuine love for Z and her desperation to rebuild their relationship. I consider that Y is genuine in her belief that Z would be better off living with her and changing school, and I consider the current situation to be an incredibly sad one for Y and Z. I do however find that Y struggles to reflect on how her own words and actions may have impacted upon Z. As I will come on to, the events of July 2021 were, in my judgment, a very important factor in what has unfolded since. I have concluded that while Y acknowledges, to a rather limited extent, her role in this, she places almost all the blame for the aftermath and what has happened since on K. In my judgment, Y's evidence was somewhat lacking in insight and acceptance regarding what happened on 20 July 2021, with all her focus, instead, being on what has happened since.

Analysis and conclusions

97. I again remind myself that Z's welfare is my paramount consideration.
98. Before I go on to specifically consider the welfare checklist, I wish to deal with several matters that are relevant to my analysis in respect of Z's welfare.

Secondary school applications (October 2019) and Z starting secondary school (September 2020)

99. It seems to me that this is when the co-parenting relationship began to break down and both parties have to take some responsibility for that. The handling of the secondary school application process was a mess. Firstly, there is a confusing picture over the ranking of the schools on the application form; there should never have been any confusion about this and both parents should have been clear on the order of preference. Even now, it is not clear what application form was actually submitted by K.
100. Secondly, the situation whereby K accepted a place at School A in Location 1, while Y simultaneously launched an appeal in Location 2, is completely unsatisfactory. The communication between the parties appears to have been almost non-existent in March 2020 when this was happening. The issue was crying out for some dialogue between the parties but instead, it seems to me that they each pushed ahead with their own agenda, which culminated in the bizarre situation where Z had two school places in September 2020. This would have been confusing for Z and would likely have left her feeling ‘torn’ between her parents.
101. Finally, we have the events of September 2020 when K travelled to Location 2 to collect Z on the day before she was due to start secondary school in Location 1, only to be told by Y’s father and Y that Z is not going with her because Z was starting secondary school in Location 2. Z was exposed to the disagreement that unfolded and it seems to me that she then became aware and, to some extent, caught up in the conflict between her parents. All of this was completely unsatisfactory for Z.

Events of July 2021

102. The incident that led to Z moving to K's full-time care had a significant impact on Z. It is impossible to know precisely what was said on that day but what is clear is that Z and Y had a significant disagreement, Y raised her voice and Z left with W to be dropped off to K at a service station car park. It seems to me that this was an important event in Z's life and caused Z to feel upset and distress. The WhatsApp messages to W, which took place very shortly following the incident, indicate how upset Z was and how she felt that Y had thrown her out of her home. The messages were sent very shortly after the incident and there is no evidence that anyone other than Z sent those messages. Y, it seems to me, acknowledges that she could have handled the situation a lot better but, in my judgment, struggles to recognise the true likely impact of it on Z. In her evidence, I found that Y minimised the incident as just a 'falling out'. While disagreements between children and parents do of course occur, it was not, in my judgment, right for Z to leave the home in the way that she did, seemingly under the impression that she had been 'thrown out'. While I accept that more could and should have been done to rectify what happened afterwards (see below), this should not detract from the significance of this incident for Z. I am concerned that Y then left ten days following this incident before attempting to contact K to see Z. While I accept that Z may have wanted some space, it seems to me that ten days was too long to leave it and that probably contributed to Z's feelings towards Y at that time.

Allegation of parental alienation

103. I have intentionally stayed away from the term 'parental alienation' in this part of judgment. Alienation is not something that can be diagnosed and, as the case law sets out, it is the behaviour and actions of a parent that need to be considered in the context of a particular case, rather than simply focusing on a label. The issue is whether K has engaged in conduct that has undermined and damaged Z's relationship with Y. The allegation, in my judgment, must be considered in the context of what

happened in September 2020 and then July 2021. By the time Z moved to the care of K, she was undoubtedly aware of the conflict between her parents. In my judgment, it is too simplistic to say that K is entirely to blame for the current situation and the damage that has been done to Z's relationship with Y. As set out above, Y has to take some responsibility for her conduct too.

104. Having said that, it is my view that K could and should have done more to encourage and support Z to rebuild her relationship with Y. I accept that, at the end of July 2021, emotions were running high and, to some extent, I can understand why K respected Z's feelings at that time, especially given that Y made no attempt at contact for ten days.
105. Y did then attempt to arrange some contact before K and Z went off on holiday and even attended K's property but her and Z were not home. K and Z then went on their holiday to Europe and K says that during this trip, Z had some FaceTime contact with Y. In my judgment, it would have been better for Z if some, even very brief, contact had taken place *before* the trip and K should have done everything possible to facilitate that.
106. Upon Z's return from holiday, the dust should have settled somewhat, given that six weeks had then passed, and this should have been the time for Z to reengage with Y. Instead, Z was withdrawn from school and home-schooled. K says this was done on the advice of the Local Authority and that may have been the case, but I struggle to see why more was not done to arrange for Z to at least see Y. Z was only 12 years old at the time and while I have no doubt that she was probably very vocal in her views, she needed someone to listen to her but also reassure her that things would be okay and that she should see Y. Instead, it seems to me that K simply accepted Z's views. Z then started her new school in October 2021 and had still not seen Y.

107. When contact did then finally take place in November 2021 and then again in December 2021, it should have provided a foundation to build upon but instead, there was then no contact again until May 2022. K says, again, that Z did not want to see Y and she could not “force” her to do so. With respect to K, she should have done more. It is overly simplistic to say that she could not “force” Z to see Y. No-one is suggesting that Z should have been physically forced by K, but in my view, further and consistent efforts at positive encouragement and reassurance should have been made. The invitation from Y to take Z to the ballet in March 2022 would have been an excellent opportunity but once Z said she did not want to go, it seems that K again just accepted this. I did not gain the impression from K’s evidence that she had tried very hard to encourage Z to see Y prior to August 2022. Instead, she simply allowed Z to make the decision herself.

108. My overall conclusion is that K has not directly been trying to harm Z’s relationship with Y. I do not think she has been directly telling Z not to see Y or telling her that Y is somehow bad; the situation is more nuanced than that. What I do consider, however, is that K has been too passive in encouraging and supporting Z’s relationship with Y, especially since July 2021. It became too easy to simply accept Z’s wishes, rather than challenge those views or providing reassurance and encouragement to Z, which is what should have happened.

109. When the order was made in August 2022, K told me that Z was not happy and that she has had to ensure Z spent time with Y in accordance with that order and that without K’s encouragement, Z would not have gone. This shows me that K can encourage Z to see Y and it is a shame that this did not happen sooner.

110. I now turn to consider the welfare checklist:

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

111. From everything I have read and heard, Z is a highly intelligent and articulate young person who is very capable of expressing her own wishes and feelings, and who has indeed done so to SW. Given Z's age and level of understanding, it is important for me to give serious consideration to her wishes and feelings. Indeed, it is those wishes and feelings that led SW to recommend that Z should remain primarily in the care of K and should remain at School C. In my judgment, it is important that Z feels that she has been listened to and knows that appropriate weight has been given to her views. I know that Z wishes to remain with K; I know that she wishes to remain at her current school; and I know that she would prefer not to be subject to an order specifying how much time she should spend with Y. For the avoidance of doubt, I do attach a significant amount of weight to those views.
112. Having said that, and as set out below, there are other welfare considerations too and the fact that Z has expressed her clear wishes and feelings does not mean that those other welfare considerations should be disregarded. I am concerned that if no order is made setting out the time that Z must spend with Y, Z will simply not see Y any more. Prior to the August 2022 hearing, Z had only seen Y four times in twelve and a half months. Since the order for interim contact was made in August 2022, Z has seen Y every month, including at least one overnight stay, with additional overnight stays at Christmas time and Easter time. It was only in August 2023 that contact did not include an overnight stay because Z had made other arrangements. I am therefore concerned that without an order for her to see Y, Z will simply decide not to do so, and the situation will revert to something similar to what it was prior to August 2022. Given Z's age, I am very concerned that if contact does not continue to take place now, it will be very difficult to ever get it re-established.

(b) physical, emotional and educational needs:

113. Z is, of course, becoming increasingly independent, and wants to spend her spare time socialising with her friends. That is entirely understandable. Z does however still require carers who can support her and who can ensure her needs are met. I am sure that Z can meet a lot of her own basic care needs but she still requires her parents to provide her with a safe and secure environment where she feels happy and loved. Z requires carers who can support her with her education so that she can reach her potential, and so that she can make the right choices when it comes to her further education. By the time Z moves on to sixth form, she will be 16 and so will clearly have a significant say about what happens then. She will however still need her parents to support her with this important decision.
114. Likewise, Z has emotional needs too. In my judgment, that includes having a close relationship with both parents, even if Z herself is somewhat resistant to this. Having a close relationship with both parents does, in my judgment, enable Z to feel safe and secure. It promotes her sense of identity and her background. It enables her to feel an integral part of both sides of her family. As Z gets older and enters adulthood, these relationships will be important for her and are likely to support her in achieving her full potential that, based on what I have heard and read, is enormous. In my judgment, it is therefore crucial that everything is done to try to ensure that Z does have those relationships with both of her parents.

(c) the likely effect on the child of any change in circumstances:

115. Z lives with K and attends School C. K is concerned that if an attempt was made to move Z back to the care of Y or to change schools, Z would be devastated and may simply refuse to cooperate. Y accepts that a move to her care and a new school would be challenging but feels able to support Z. SW was clear that, in her view, Z should remain where she is with K and at School C and that any move would likely be emotionally harmful for Z. I accept the view of SW on this. Z could not have been

any clearer regarding her wishes and feelings, and I am deeply concerned that if an attempt was made to move Z back to the care of Y and to a new school, Z will suffer emotional harm. It is impossible to know precisely how she would react but it is very likely that she would be upset, angry and would feel that her views have been completely ignored. I am further concerned that she would blame Y for this and that this would, in fact, cause more damage to their relationship. In truth, it is very difficult to see how a move to the care of Y and a new school could realistically be achieved without causing huge upset and distress to Z, and I accept the analysis of SW regarding this issue.

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

116. As I have set out above, Z is very clearly a bright, intelligent and sociable person. She has ambitions to go on to further education and I am told is considering a career in the law. From everything I have heard and read, it seems that Z has huge potential and there is no reason why she should not go on to achieve this.

117. Up until July 2021, Z enjoyed a positive relationship with both of her parents and her wider family, which supported her understanding of her background and her heritage. In my view, it is important that Z is given every opportunity to develop all of those relationships as she grows up.

(e) any harm which the child has suffered or is at risk of suffering:

118. As I have already found, Z did suffer emotionally as a result of the incident with Y on 20 July 2021.

119. I have also found that K should have done more to promote Z's contact with Y after the incident on 20 July 2021 and that K has too readily accepted Z's views without doing enough to support Z's relationship with Y.

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

120. I have no concerns about the capability of either parent to meet Z's day to day needs, and they have each done so consistently throughout Z's life. As I have set out above, I am concerned that K is too willing to simply accept Z's wishes regarding her time with Y and could have done more to encourage and promote that relationship. It seems to me that until an order was made in August 2022, K had struggled to promote Z's emotional need for a consistent relationship with Y and had too readily accepted Z's views on this. In my judgment, the August 2022 order provided a structure for both Z and K to ensure that Z spent time with Y on a consistent basis and I am concerned that without such an order, Z would still not be seeing Y on a regular basis.

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

121. I have considered the orders that I could make for Z. Y seeks an order that Z be returned to her care and changes school so that she attends a school in Location 2, although no place is available as things stand. I do not, however, consider that such an order would be in the best interests of Z's welfare. As set out above, such an order would be entirely contrary to Z's wishes and feelings and would be likely to have a significant adverse emotional impact on her. I am concerned that such an order would, in fact, do more harm to the relationship between Z and Y. I entirely accept that Z needs to have a consistent relationship with Y and their relationship needs to be rebuilt but I do not consider such a proposal to be realistic for Z when considering the impact that it would have on her.

122. K seeks an order that Z lives with her. She does not seek an order that Z spends time with Y and instead says there should be a recital setting out that Z will spend time with Y in accordance with her wishes. Such an order would be in line with Z's wishes but would, in fact, mean that there would be nothing in place to ensure Z spends time

with Y. Although Z's wishes are very important, I have also concluded that it is in the best interests of her welfare to have a relationship with both of her parents and to therefore continue to spend time with Y. Since August 2022, Z has been seeing Y consistently and it seems to me that the primary reason for that is because there is an interim order in place. If that order was to be removed, I am concerned that there will be a return to the pre-August 2022 situation where Z was seeing Y sporadically on her own terms. I do not consider that a return to such an arrangement would be best for Z. It means that, in all likelihood, she will no longer have a relationship with Y and in my view, that will be emotionally harmful to Z. I am therefore of the view that any order I make must specify at least a minimum amount of time that Z is with Y for.

123. Z has, since 2014, been the subject of a shared 'live with' order. She is familiar with such an order and up until July 2021, she very much had two homes and was used to spending lots of time with both of her parents. The precise time with each parent had changed over the years but all of the evidence suggests that arrangement was broadly working well and meeting Z's needs. In short, the parents were effectively co-parenting. That has all changed since July 2021. K invites me to make an order that Z lives with her, which is what Z wants and reflects, to some extent, what is happening 'on the ground'. While I again appreciate that Z's wishes on this issue are important, it is, in my judgment, important that Z continues to know that both of her parents are equally important in her life; not just now, but in the future too. It is important for Z to know that she still has two homes, like she always has, even though she spends more time at one than the other. To make a 'live with' order to K would, in my judgment, send a message to Z, who clearly has a very good level of understanding, that Y is somehow a secondary parent, which is not the case at all. While I accept that relationship has become strained, that does not diminish the importance of it for Z's emotional wellbeing and in my judgment, it is important that everyone, especially Z,

continues to receive that message. I will therefore order that Z shall continue to live with both of her parents on the following basis:

- i. With Y for at least one overnight stay on a Saturday each month. This should take place on the first Saturday of each month unless an alternative day is agreed between the parties within the calendar month.
 - ii. With Y for at least one other day on another weekend each month, which can include an overnight stay. This should take place on the third Saturday or Sunday of each month unless an alternative day is agreed between the parties within the calendar month.
 - iii. With Y for half of the school Easter and Christmas holidays and for at least two full weeks of the school summer holidays. The precise dates to be agreed at least 28 days in advance of the commencement of the school holidays. I appreciate that Z will inevitably want to spend time with her friends during the school holidays, who will mostly live in and around the Location 1 area, and she will still want to go on her annual holiday to Europe with K. I believe the above provisions allow for this and there is, of course, nothing to stop Z still seeing her school friends when she is staying with Y.
 - iv. For at least one additional overnight stay during each of the school half-term holidays.
 - v. With K at all other times
124. For the avoidance of doubt, I do not consider it to be in the best interests of Z's welfare to change school. She very clearly wishes to remain at School C and so any attempt to move her is likely to cause Z significant upset and distress. Furthermore, I consider that such a move is likely to be highly disruptive to her education given that she has already commenced her GCSEs and is more than midway through the first

term of them. I am concerned that both academically and socially, Z is likely to suffer if any attempt is made to make her change school again. In those circumstances, Z needs to remain at her current school. Z's further education will largely be a matter for Z to decide, although I hope that both parents will be able to support her with this.

125. I do not consider there is any evidence whatsoever that K is planning to remove Z permanently from the jurisdiction and there is no basis to restrict K's ability to take Z on holiday. Z and K have been travelling to Europe for an annual summer holiday for the past seven years. K has never attempted to keep Z there and there is no evidence at all of K making any plans at all to relocate there. Y' application for a prohibited steps order is therefore dismissed.

126. As regards Z's passport, there is a shared 'lives with' order and so my view is that the parent who last took Z abroad should hold her passport until the other parent requests it for a trip abroad. If either parent is taking Z abroad, as they are both entitled to do, they should inform the other parent at least 28 days in advance and if the parent taking Z abroad does not already hold the passport, the other parent should hand it over at least 14 days before the trip. When notice is given of any trip abroad, this must include details of flights, accommodation, and travel dates.

127. These proceedings will now end and so the parties must find a way to communicate with one another without relying on solicitors. Part of co-parenting means having to communicate with the other parent, irrespective of any personal views that the parents may have of one another. There is no safeguarding or risk issues in this case as to why the parents cannot communicate with one another. I certainly do not consider that Z should be responsible for facilitating any communication between the parents – that is not her responsibility, and it is not right to place that pressure on her. Neither should she be responsible for making the practical arrangements for which parent she is staying with at any particular time. It seems to me that the breakdown in

communication between the parents, that probably started in October 2019 and worsened from September 2020, is one of the reasons that this case ended up before the Court. In my view, the parents must agree on an acceptable form of communication and accept that they will need to communicate with each other on some level. I expect that one of the parenting Apps that are now commonplace would be a sensible starting point.

128. The final issue is the invitation by Y for the Court to make a Family Assistance Order. This was raised in evidence with SW who had not been asked or commented about it before. On balance, I do not consider that such an order would add anything for Z and so do not consider it to be in the best interests of her welfare, or necessary and proportionate to make such an order. While I could direct the Local Authority to befriend and support Z, it is entirely unclear what that would mean in reality and what the Local Authority would actually do; they have never been asked to give a view until SW gave her evidence. It is also unclear whether Z would welcome such input or would engage with it. It seems to me that involving yet another professional for Z and yet more intrusion into her life would not be in her best interests. I have made a clear order relating to Z's living arrangements and it seems to me that, for Z, the parties need to focus on those arrangements and putting them into practice. I do not consider that another professional will add anything further. Z needs a conclusion to these proceedings and to be able to get on with her life without the further involvement of the Court or professionals.
129. For the avoidance of doubt, the outstanding application for the instruction of an Independent Social Worker is dismissed.
130. I hope that this judgment allows the parties to finally move on with their lives away from the court process. I do consider that family therapy might help to repair relationships but that is something for the parties and Z to think about. I wish to make

it clear that in the coming months and years, Z will become more independent, and she will, to some extent, start to make her own decisions. The order I have made is designed to provide a structure and a foundation to ensure that Z has a close, positive and consistent relationship with both parents. Both parents will, however, have to accept that there will be times when flexibility will be required and some adjustments will need to be made, but the spirit of the order should always be considered and had regard to.

131. The possibility of me writing a letter to Z has been raised. I will hear from the parties further on that issue if required.

District Judge Coupland

30 November 2023