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Neutral Citation No: [2024] EWFC 250 (B)

Case No: SQ21P00635

IN THE FAMILY COURT AT STOKE ON TRENT
SITTING AT NORTH STAFFORDSHIRE JUSTICE CENTRE

Date: 25 April 2024

Before:

DEPUTY DISTRICT JUDGE HARRISON

Re: The E Children

MISS HAWKINS (instructed by Beeston Shenton Solicitors) for the applicant father
MISS WITHINGTON (instructed Lichfield Reynolds Solicitors) for the respondent mother
MISS ARMITAGE (instructed by Timms Solicitors) for the children

Hearing dates: 18, 19, 20 March, 25 April 2024

JUDGMENT

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

The date and time for hand-down is deemed to be at 10am on 25 April 2024.

DDJ HARRISON:

Summary of Findings and Orders

1. This summary of findings and orders is prepared in accordance with PD12J to the Family Procedure Rules, para 29. It should be appended to the case management order from this hearing.
2. The proceedings are extended for a short period to enable the children's guardian to consider suitable intervention work to re-establish contact between F and his daughters. An IFCA should take place, followed by a final analysis, and an adjourned final hearing. The case will be re-allocated to me for case management and hearing.
3. By agreement, I make the following findings of fact:
 - a. During the relationship, F made a comment to his friends that the mother was "like a cheese grater" (referencing her use of teeth during fellatio).
 - b. Also during the relationship, F had an extra-marital affair in 2019. F would exchange "flirtatious" text messages with his affair, and some other women.
 - c. Between February and June 2021, F attended the family home to speak to M. He pushed the door. M put her foot behind the door, and F pushed the door open, knowing M was behind it. The children were not present.
 - d. In June and July 2021, F's mental health was unstable, and he threatened M that he would commit suicide if she did not resume the relationship.
 - e. In July 2021, F threatened M that that if F saw her out, and in another in relationship, he would 'go through' whoever she was with. F accepts that this was taken as a threat by the mother.
 - f. On 7 July 2021, F attended the family home and could not get inside as M had the locks changed. F became distressed, angry and shouted through the letterbox. F kicked the door out of frustration.
 - g. On 26 August 2021, F informed a family friend that M was a "sly cunt".
4. In addition, I make the following findings of fact:
 - a. The father's relationship with the mother was not generally controlling.

- b. However, F created an environment of pressure and expectation around sex, making M feel inadequate compared with other women.
- c. As part of F's cultivation of an environment of sexual pressure, he would suggest to M that she has sex with him in exchange for money.
- d. In the aftermath of the parent's separation, the father's behaviour was disinhibited, and he caused physical and emotional harm to the mother and the children by:
 - i) Repeatedly attending the family home.
 - ii) Monitoring their movements between early February and mid-March 2021.
 - iii) On 16 October 2021, F saw M and the children in a motorcar. He pulled alongside them and tried to attract their attention. He blew kisses to do this.
- e. F's parenting style is more severe than M's parenting style.
- f. From time to time, F shouted at A, which caused her to be upset. Given the parental arguments, the girls came to associate the toxic parental relationship with verbal and physical aggression.
- g. M has nurtured the children's negative feelings about F and has influenced them by exposing them to her own negative view.
- h. M and her family did so in a misguided attempt to protect the children from a perceived risk of harm.
- i. As a result, the children have developed views about F and their paternal family that are not grounded in their experiences, or in the reality of the risk that may exist.
- j. The facts of this case fit within the Cafcass definition of "parental alienation."

Introduction

1. At the very heart of this case are two children: A, who is rising 13 years, and; B, who is rising nine years.
2. A is a very bright and headstrong young lady. She has a wonderfully dry humour. She is studying for her GCSEs. She wants to be an engineer. She likes spending time with her maternal grandparents in Wales, and her pet chickens. B was described by her grandmother J as a “beautiful, kind and caring” little girl. She loves animals, particularly horses. Their welfare is my paramount consideration.
3. Their mother (M) is represented by Miss Withington of counsel. Their father is (F), represented by Miss Hawkins of counsel. The children appear by their children’s guardian (CG), and are represented by Miss Armitage of counsel.
4. Throughout this judgment, I will refer to each parent using the shorthand indicated above. I will do so for ease and continuity of reference, and I do not mean any disrespect to either.
5. On 16 August 2021, a frankly astounding 140 weeks ago, F applied for a child arrangements order. At that time, he had not seen the children since 2 July 2021, and therefore sought the court’s intervention.
6. A FHDRA was held on 13 January 2022. The magistrates ordered weekly contact between the children and their father, to be supervised by a family friend. In addition, indirect contact was ordered, although the frequency of contact was not specified. On 17 May 2022, F further applied to enforce the Order of 13 January 2022 following another cessation of contact in April 2022. The enforcement application was consolidated by magistrates with the main application on 27 May 2022, and the matter further listed. A welfare report was also ordered.
7. For reasons that I do not understand, it was not until 22 February 2023 that the matter came back before the court. At that hearing, the magistrates joined the children to the application as parties pursuant to FPR2010 r.16.4, and re-allocated the case to district judge level. Although the matter was re-allocated, there has been no continuity of judge.
8. On 2 March 2023, DDJ Morgan ordered that an Improving Child and Family Arrangements intervention (an “ICFA”) take place, with the matter to return to court in June. The children’s solicitor applied on Form C2 on 10 May 2023 to vary this Order, following the mother’s refusal to engage with the ICFA. A family psychological assessment was sought instead, which was directed by DJ Downey on 31 May 2023. On 18 September 2023, DJ Parkes listed a composite (fact find and welfare) final hearing and a PTR.

9. The PTR took place before DJ Dunn on 13 October 2023, and a further PTR took place on 20 December 2023. Prior to the later PTR, the children’s solicitor applied again on Form C2 highlighting:

“Dr Flatman (the psychologist directed by DJ Downey) is booked to give evidence. He is the expert in this matter in this and his evidence is crucial to the case. Dr Flatman has now indicated in the attached letter that he has effectively been discredited as an expert witness and will not be able to give evidence.”

10. At the hearing on 20 December 2023, DJ Dunn directed that there was to be a composite final hearing. That hearing was listed for four days on 8 January 2024, however, was adjourned because of illness. The hearing was used by the advocates to agree some agreed facts, and M’s schedule of allegations was refined as a result. The matter was further listed before me on 18, 19 and 20 March 2024 for final hearing.
11. The upshot of this unhappy procedural history is that this family has been before the Court for nearly three years. During that time, their positions have become entrenched, and their trust further eroded. The pressure of the proceedings has been particularly pronounced on the children, who have understandably had enough of continuing professional and expert contact. This case is a good example of the corrosive effect that prolonged delay can cause to families.
12. This hearing has taken place as an attended hearing. Both parents and the children’s guardian gave evidence. A further four witnesses were warned, but were ultimately not required to give evidence. On the third day, I adjourned the case and directed that each advocate prepare written submissions, and reserved judgment until 25 April 2024. This is my reserved judgment.
13. I sent a copy of my written judgment to the advocates for clarification requests and typographical correction on 19 April 2024. This perfected judgment reflects those requests and corrections. I thank the advocates for their considerable skill and assistance in assisting me to resolve the dispute before the court.
14. In this judgment, I will first consider the factual background to the case. Once I have done that, I will outline the evidence and my conclusions in respect of welfare.

The legal framework

15. I observe the legal principles from the outset. The burden of proof is on the party making allegations, in this case the mother. Allegations must be proved on the balance of probabilities. In other words, it must be more likely than not that the allegation occurred. The accused party does not have to prove anything (*Re B (Children)* [2008] UKHL 35).

16. Findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation. However, the Court can have regard to inherent probability. The Court may have regard to circumstantial evidence and give it such weight, individually or in combination, as it considers to be justified. The Court must consider all the evidence and consider each piece of the evidence in the context of all the other evidence. The Court surveys a wide canvas.
17. The evidence of the parents is of the utmost importance. It is essential that I can form a clear assessment as to the parents' credibility and reliability and explain in this judgment why their oral evidence was given weight or not in deciding allegations. In assessing the credibility of the parents, I have regard to the totality of the evidence and consider how it fits with the other pieces of the evidence, how consistent it is with the other pieces of evidence, motives of their behaviour, and of course how they gave their evidence and presented to me during the hearing.
18. I give myself a Lucas Direction. I remind myself that witnesses may lie for many reasons, such as shame, misplaced loyalty, panic, fear, and distress, and that just because a witness has lied about some matters does not mean that he or she has lied about everything.
19. Domestic abuse is a subject matter of this hearing, and the findings sought by the mother. It is defined in s.1 of the Domestic Abuse Act 2021 as a full spectrum of harm and behaviour, including coercive and controlling behaviour. This is also recognised in practice direction 12J to the Family Procedure Rules. Where the Court is dealing with allegations of coercive and controlling behaviour, several matters fall to be considered, as the father helpfully reminds me in his document, pursuant to the conjoined appeals of *Re H-N and Others (Children) (Domestic Abuse: Finding of Fact Hearings)* [2021] EWCA Civ 4958.
20. The Court in *H-N and Others* considered that the primary question in many cases where domestic abuse is alleged is likely to whether the evidence establishes an abusive pattern of coercive and/or controlling behaviour irrespective of whether there are more specific factual allegations to be determined. The principle of relevance in addressing this question is the impact that such a finding may have on the assessment of any risk in continuing contact.
21. It was also emphasised that the focus of the Family Court is to determine how the parties behaved and what they did with respect to each other and their children and not whether that behaviour comes within the definition of a criminal offence.

The allegations

22. I am asked to consider two schedules of findings by the parents. The mother's amended schedule runs to three pages. Within that document, she alleges that during and after their relationship, the father has subjected her to a campaign of domestic abuse which manifested in a full spectrum of activities: from emotional, to physical, to sexual abuse.
23. The father made some concessions as to those allegations in a document dated 8 January 2024. The bulk and balance of the allegations, however, are denied. At times, he gives only a bare denial to the allegations the mother makes. These denials are part of the evidence in its totality and should not be given less weight just because they are denials. Indeed, if the father has not done the things alleged, it would be very difficult for him to do or so say more than deny it.
24. The father has also prepared a schedule of allegations, dated 10 October 2023, in which he accuses the mother of failing to promote the relationship between him and the children which "has resulted in a disproportionately negative perceptions (sic) held by the children."
25. I have, for the avoidance of doubt, considered all the evidence before me when coming to my decision. It is not possible, however, in the course of a judgment, to make specific reference to every single piece of evidence that I have considered. In addition to considering a bundle of documents that runs to 420 pages, the evidence and submissions I have heard and read.
26. As the trial judge, I am uniquely placed to consider the credibility of the witnesses of fact. I have also had the opportunity of observing both parents, both when they gave their evidence to me and in the context of them being in this hearing.
27. As the case began, I was presented with a witness template consisting of seven witnesses over three days. These were all extended family and friends. I invited some reflection as to whether a parade of extended family members would assist the process of reconciliation that, whatever my findings, must follow this hearing. The parents' advocates sensibly revised the live evidence to M and F only. Therefore, the advocates had ample time with which to explore the evidence in cross-examination with either parent.
28. As I say, coercive and controlling behaviour is domestic abuse, as defined in section one of the Domestic Abuse Act 2021. The government definition of that behaviour outlines the following. Coercive behaviour is an act or pattern of acts of assault, threats, humiliation, or intimidation, or other abuse that is used to harm, punish, or frighten a victim. Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources for personal gain, and depriving them of the means needed for independence, resistance, and escape, regulating their everyday behaviour.

29. These definitions have found favour with the Family Court. They appear in the practice direction to the Family Procedure Rules 12JJ and more recently have been reinforced by Hayden J in *F v M* [2021] EWFC 4. Hayden J noted in that judgment that coercive and controlling behaviour is a particularly invidious form of domestic abuse. The Court of Appeal has provided some examples of how coercive control may impact children. Children may be harmed in any one or combination of ways. It is tangible harm of the upmost seriousness.

30. However, I also remind myself that the Court of Appeal has made clear that not all behaviour is controlling. From *Re H-N*:

“It is equally important to be clear that not all directive, assertive, stubborn or selfish behaviour, will be ‘abuse’ in the context of proceedings concerning the welfare of a child; much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour.”

The evidence before the court

31. I will consider the evidence and my analysis together. I will deal with each key source of evidence first, before turning to the findings sought.

32. For reasons I will explain, I am not satisfied in this case that either parent has given me an accurate touchstone of evidence upon which I can safely rely. Where this happens, I must have recourse to several factors when weighing the evidence. These are: the context of the allegations; contemporaneous evidence that gives me an incontrovertible account of the period, and; the agreed facts.

33. There are several agreed facts, which are as follows, and form the context of events. I will set these out later in this judgment.

34. I will return to my conclusions about the context of these events later in this judgment.

35. The children’s guardian did not adopt a position as to the findings. I will therefore consider her evidence in a welfare context later in this judgment, and after setting out my findings. I regret that CG did not adopt a position on the findings, although I thank Ms Armitage for highlighting the pertinent points in the evidence in submissions. As Hayden J quite rightly pointed out in *Cumbria County Council v KW* [2016] EWHC 26:

“A position of neutrality motivated solely by desire to appear independent and objective in the eyes of the parents loses sight of the primary professional obligation to the child.”

The mother's evidence

36. M has filed two statements in the case: 12 May 2022 and 28 March 2023. She was also given permission to rely on her statement in unconnected injunction proceedings dated 27 October 2021. These statements outline the detail of M's allegations.
37. In live evidence, M told me that A has not seen her father since July 2021, and B since April 2022. She told me that she had no relationship with F, and had not spoken to him since the children were having supervised contact with him in early 2022.
38. In incisive cross-examination by Miss Hawkins, M was asked about the allegation that F 'checked up' on her and calling her regularly. She accepted that she had not produced any documentary evidence or call logs. It was put that asking about the time that she was going to be home was normal correspondence between a couple – M agreed, however said that F would go further and call her friends if she did not answer.
39. M explained that the "checking up" was often when F was away in the army for significant periods of time. She accepted that he would ring regularly and 'check up' because he was lonely and anxious. She was asked if she told him to stop this or reduce the frequency; M said that she had. She told me that she thought that this was normal, and disagreed that this was the actions of a normal father who wanted to know what his wife and children were up to.
40. She said that F was particularly reliant on a family friend, AM, for information about M's whereabouts after the parents separated.
41. M told me that AM would often tell her things about F. M explained that AM had access to F's Facebook password and would often log in to his account and read his messages. She then conveyed what she had seen to M, for example messages between F and other women. M denied having F's Facebook password and explained that she would never check up on F herself. Instead, AM would invite M to her house to view messages that she had found.
42. M was asked about the insults she said F directed towards her. She accepted that she sometimes had a dark sense of humour, and would write "Wanker" and "Dickhead" using condiments on the side of F's plate. She drew a distinction between this behaviour, however, and the names that F would call her such as a "cheese grater", referring to M's use of teeth during fellatio, or comments about her breasts.
43. When asked about F's attempts to isolate M from her family, M accepted that she spent unabated time with her family throughout and after the relationship. She accepted that this time involved long summer and half term breaks at her own parents'

caravan in Wales. She told me she would communicate with her own mother by text on a constant basis, and that F had not tried to stop this. She told me that sometimes F would say that M was unavailable if M's mother called the family home.

44. It was put to M that the paternal family were a source of tension within the parents' own relationship. Miss Hawkins put to M that it was M that had given a *ultimata* to F about his family. M told me that the paternal family had said horrible things at the time to her. She told me that they had never liked her. She admitted sending F a message saying that she might have forgiven his infidelity if he was not in touch with his family. She agreed that she did not allow the paternal family to attend their wedding, but said that the "bouncer" to prevent them coming into the wedding venue was just a wedding guest, and not a bouncer. She denied texting F that she wanted to "shoot" his family.
45. M was asked about her allegation that F would restrict her telephone usage. F paid for a landline which had free evening and weekend calls. The calls would only be charged if the call exceeded an hour in length. If, at 59 minutes, the caller ended the call and re-dialled, this would not be charged. It was put to M that the dispute between the parents was not about usage generally, but more about M's habit of going over the hour call window during which calls were included in the phone package. M told me that she did not remember F explaining this to M, but later told me that they argued about this issue. She did not consider that this was a reasonable thing to argue about, and insisted that this was a form of control.
46. When asked about financial control, M conceded that she had her own bank accounts, access to a joint account which F would deposit money into, and a credit card which F paid for. She told me that she did not have much of her 'own' money because she worked one day per week, and so was reliant on F's income. When asked what restrictions she was alleging, M told me that sometimes the credit card would be near to or at its limit, and so M was unable to spend money. M told me that she was not shown F's payslips and that this was something he should have shared. M was asked about a secured loan which the parents took out to pay for their wedding. She told me in her statement and initially in evidence that she felt forced. However, she then told me that the couple had no other options, and that she wanted to get married. She told me that a further example of financial control was when F moved out of the former family home, after separation, and in time stopped paying towards the mortgage.
47. She was asked how she knew that F was tracking her. She told me that she would often hear F talk to her through the CCTV, where the person in control of the mobile app could be heard on the camera device if they chose. She did not agree that F would simply say "fun" things through the app. M told me that F's access to the CCTV was useful on one occasion where a neighbour acted in an abusive way, and was throwing stones at the house. F was able to download the footage and give it to the police. However, M also told me that F would reference what time she left the house, and got

home. She told me that she did not disconnect the CCTV (which would have involved unplugging a three pin plug in the house) as “[F] might use it for his own purposes”. She told me that she disconnected the CCTV a few weeks after separation, but did not do so initially when the police advised her to. She explained that F was speaking on the CCTV etc at a time when the parents were pretending to the children that they had not separated. She explained that this was to keep some routine for A and B, although F took this too far and would regularly let himself into the home.

48. M was asked about her allegations of sexual control. She was asked if all sexual contact between the parents was consensual; she accepted that it had been. However she explained that she felt sexually controlled as F would often get up and leave the room after intercourse. She explained that this left M feeling vulnerable. She further explained the context of this allegation, which is F’s infidelity. Although F says that his infidelity was only with one woman, M considers that it was plenty more. M says that she felt used that F would go out, have sex with other woman, and come home with the expectation that M would then have sex with him.
49. M explained to me that she therefore felt forced to engage in sexual acts. She explained that she felt pressure from F’s affairs, which she found out about by reading F’s messages on his Apple Watch, left alone in the bathroom. She said this fed her own insecurities. She told me that F wanted her to be more tactile and outwardly affectionate towards her by holding hands in public, hugging, etc, but that this was not something they did, or she wanted to do. She told me that she felt pressure from F because he was not being “satisfied” at home, and that this forced her to engage in sexual acts. By way of example, she explained that she felt pressured into giving oral sex to F as he kept asking for it. She told me that she had only spoken about this once, and this was the extent of their conversations about how she felt.
50. Miss Hawkins asked M about her comment that F told her that he could “get it from elsewhere.” M said that it was an implied “element of the conversation that he could get it from wherever he wanted.” M was asked if this pressure came from her own insecurities, but she disagreed.
51. M also alleges that F would only give her money if she slept with him. When asked how this was communicated, she explained that F would say sometimes “Yes but it’s going to cost you.” She said this would not always be in a jokey manner, but that she did not have sex with him every time it was said. When asked why she has only recently made these allegations of sexual control, M told me that she did not think it was required when preparing her first statement, or to Cafcass. She explained that she prepared her statement with her solicitor, and nobody had asked her. She was asked why she only raised the allegation after the magistrates ordered the resumption of direct contact, but said that it was true and that she didn’t feel like she could tell anybody.

52. M was asked about her allegations of abuse post-separation. M explained that the accepted incident between February-June 2021 was significant, and that F had pushed with force that pushed her back and caused her to hurt herself. M also told me about an incident soon after separation, where F tracked M's car down to a local boat club. She told me that F sent a screenshot of the car park location to her. She also told me that F had traced her to an away sports match, and to the Army Barracks, where she attended in need of pastoral support.
53. On 16 October 2021, M alleges that a serious incident of harassment occurred. M told me that she was on a dual carriageway, when F appeared behind her. She explained that F pulled up alongside her and blew kisses to her and the children, before pursuing M's car down a country lane. The material differences in M's account in each statement was put to her. M conceded that in spite of saying that F had done a "vicious U-turn", she had not seen this or how he had found them on the A50. She said "I didn't see him turn around, he just came in front of me." When asked why she had not previously said that F had pursued her down a country lane, she explained "But he followed me, and he was behind me. I know what happened." M was asked why she did not tell the police that F had pursued her, and she explained "I was in a panic on the phone, it was scary. I didn't want to cause alarm to the children."
54. M was asked about her allegations that F mistreated the children. She accepted that both M and F had different parenting styles, with F being a second generation soldier and therefore stricter. M explained that F would refer to A as a "spoilt brat", and disapproved at how "off hand" he had been with A on one occasion when he was out with the children. M explained that on one occasion, F threatened to take A's phone off her. She would not allow this as "it's not his phone to take away."
55. M was asked what benefits F can offer the children. She hesitated for about a minute, and explained "he could do things with them." She was asked what he offered as a Dad but was stumped by this. I re-phrased the question, but M simply said "I don't know what to say."
56. Finally, M was asked why the children know about their separation and F's infidelity. M denied explaining it to them. When asked why B told her friend that F has "been with other girls", she could not explain. Likewise, when asked why B would think the paternal family was vile, she said she may have "overheard", and that perhaps it was a reference to the paternal grandmother's horse buckling and nearly kicking her. She told me that as the girls share a bedroom, they might share information between themselves, and in any event they "live in a small house".
57. When asked questions by Ms Armitage, M was pointedly asked what advantages there were to the children of spending time with F. She could not answer the question, having been given multiple chances to do so.

58. M is a difficult witness to analyse. She was emotive, and clearly found the experience of giving evidence a difficult one. I gave her regular breaks to gather her thoughts and ensure that she could give her best evidence.
59. In my view, there was a core truth to M's evidence. She was sincere in describing the pressure that she felt at the breakdown of her marriage, her dismay at F's behaviour post-separation towards her, and how humiliated she felt by her ex-husband's behaviour. In the aftermath of their separation, F concedes that he was behaving in an uncontrolled way towards her. In my view, M was recounting genuine feelings of hurt and fear. F has unquestionably behaved abusively towards M over time. The agreed facts set out that clear context.
60. However, M's account troubled me greatly in parts. In her live evidence, she gave important explanatory evidence or context which was absent from her statements. I formed the view, on occasion, that this added balance and at times transformed the allegation of abuse into something much less. At times, her live evidence simply undermined what she had said in her statements, and at times her account was materially different. Frankly, many of her allegations simply fell apart under cross-examination from Miss Hawkins.
61. I have formed the view that M has embellished some of her evidence. I accept unreservedly that M fears F, and in fairness to her F has given her reason to be fearful with his behaviour after the relationship ended. I accept that M sincerely perceives F as a genuine risk to be protected from. To that end, I formed the view that M wanted to be believed, and therefore exaggerated her experiences to me. At times, she has done so at the cost of her credibility. At times, M was unable to recognise that her own behaviour could be perceived to be abusive, such as gathering with friends to read F's private Facebook messages. It is difficult to place heavy reliance on her account of the past in such circumstances.
62. I found M's own view of F to be poor, and I was shocked that she could not muster one single advantage which F offers to his children. Her mistrust of F and his family are deep seated. She was entirely untroubled by how frequently both children have been exposed to adult issues and to the maternal family's mistrust of F, and in turn how the children have expressed this. She has allowed the intoxication of her genuine hurt to cloud how she has parented the children.

The father's evidence

63. F has prepared three statements in the case: 24 June 2022, 30 May 2023, and 17 April 2023. These set out his response to M's allegations, and his own allegations that M has influenced the children against him.

64. F told me that he agreed with CG recommendations from September 2023, and wanted another IFCA to be directed. F said if this was not possible, he wanted stepped arrangements to be ordered. He told me this should start with indirect contact by letter, phone and then video call, before progressing to supervised, and then unsupervised direct contact. He hoped for overnight contact in due course.
65. In cross-examination by Ms Withington, F was first asked about the allegation that he bombarded the mother with phone calls. He told me that he was in Afghanistan at the time, with the only outside access being a satellite phone. He told me there were 30-100 men waiting to use one telephone. He told me it was “very precious” to make a call. He conceded that he spoke to other family members during this time to track M down, but only because he wanted to speak to her and the children. He said “you try your best to get hold of them in that 20 minutes.”
66. It was put to F that he tracked M’s whereabouts. He was asked about a day when F saw M’s car at a boat Club on the outskirts of T Village. He said he saw the car. He told me he sent her a screenshot of her location on Google Maps. When asked why, he said “I don’t know why, this was a highly emotional response... the mother has a notable coloured car, it does catch your eye. She denied it straight away, roughly where car was.”
67. He was asked about other times he had tracked M and the children. He said he would look on the Apple ‘Find My’ app for children’s locations (which were shared with him on the iPhone), from which he accepted he may infer M and the children’s location. He said he would be able to see where M and the children were. He said, “if the children were at home then they were at home”. Later on in his evidence, it was put to F that he was tracking M and the children by CCTV installed in the home. F told me that both he and “[M] had access to [the app]... I showed her how to use it. The mother was never the tech savvy person, she probably knew how to view it and that was it. She got notifications – same access to the app as me... She could have turned it off and pulled the plug. It was just powered by a plug; everything else was WiFi.” He said it was turned off eventually, but an incident took place between M and a neighbour post-separation where M wanted F to find footage from the CCTV, so he kept the app switched on.
68. F accepted that whilst the CCTV was switched on, he spoke to M through the mobile controlled camera app. He said when they were together, he would ask her what “goodies” she had bought in the shopping when he saw her return home. He said that he would talk to M “if she was bending over – I would say nice bottom or something.” He told me that he would talk to the girls as they were leaving for school. They would say “Stop it Daddy, get off the camera.”
69. He was asked about his mental state at the time. He said “During the break-up I did have a wobble with mental health, seeking to re-start relationship with the mother, I

felt that a carrot was being dangled throughout that, hence why deteriorated.” He said later that he was “struggling” to come to terms with the break up. He said “I was keeping up the pretence, this led to blurred lines. It meant my mental health was blurred. I was getting ahead of myself.”

70. F was asked about how often he would message M post-separation. He said he would do it 4-5 times per day. He would carry on without reply. When asked how he thought this came across, he denied it was intimidating. He said it was “more... annoying.” I asked whether he thought it would be pressuring, suffocating: he did not agree, although he accepted it may be “overbearing.” He said things became difficult for him in July 2021 when M cut-off communication. He explained that he attended at the family home to find the locks were changed. He said “I was angry; I did shout.” He told me he regretted that the girls saw this behaviour. He told me that this was not aggressive, however “because of what I was shouting, it was just frustration.” I asked him why this happened. He told me “it’s a property I was still paying for, there was a lot of frustration. It was just raw emotion. But not aggression – It was more like ‘why is this happening? Why has it come to this?’” F was asked if he thought that this was abusive; he said “No... it’s my house, where my children live, all I wanted to do was see them and Mum was being very restrictive. Shouting at her was abusive. It was completely out of character.”
71. F told me that by doing this, he was “playing right into M’s hands.” He told me that she was a psychiatric nurse, and that his life as a soldier plus the loss of his children had an effect on him. He said “When it comes down to MH aspect she’s very good behind massaging and making it worse than what I am.”
72. When asked about the allegations that he was financially controlling, he denied this. On the landline point, he said “there was no limit for how long they [meaning M and her family] were on phone for as long as the phone went down after an hour. This slipped so I paid extra for an anytime package that didn’t have the hour restriction. M also had her own mobile phone and WiFi calling was enabled.” When asked why this irked him, he explained “I was watching the pennies – it was an extra £5 to £8 per month. It was frustrating and it could have been avoided.”
73. Ms Withington asked F about the allegation that he agreed to give M money in exchange for sex. He said it was done in a “joking way”, and it came from a friendly couple (AM and her Husband). He said, “other people may see this as very wrong humour, but at the time it was acceptable.” He was asked if he ever made it clear that he was joking. He said “No – I never forcefully did anything, why would that change?” He said he didn’t think he needed to be clear that this was a joke. He said M did not have sex with him every time he said it, and that he would never accept this was the case. He told me that M always had money accessible to her.

74. F was asked about the “cheese grater” remark. He told me in his live evidence that he did not recall the remark when putting together his written evidence, despite accepting it in January 2024 in his schedule. He then told me that he does remember it, but did not accept that this would have embarrassed M.
75. F was asked about how he treated the children. He told me that he wanted specific information about what he is supposed to have said. When asked whether arguments in the home would have impacted the children, he said “possibly” but told me that the arguments were never loud. When asked whether he knew that A heard these arguments, he said yes, “broadly”. He told me that he did not argue with the children, and was horrified that M suggested that he called them “little slaves”.
76. He accepted that B was describing her experience to Cafcass when she told the welfare officer that F “banged” and was “trying to break in”: “this was just me getting frustrated and trying to rekindle the relationship.” When asked if he accepted that B would have heard this and been concerned about it, he did. He further accepted that the children would have heard M crying during arguments: “The walls are not the thickest in the property so voices do travel.” He accepted that the children would have been aware of this “more towards the end of the relationship”. When Ms Armitage for the children asked questions, F told me, of A: “Maybe she has heard more so obviously I am not there, whether people spoken so not realised a young child with sensitive ears.”
77. F told me about his contact with B. F told me about the rift between the paternal and maternal families, and suggested that M had given him an ultimatum about being in contact with his family. When the contact was taking place solely between F and B, F decided to introduce his mother to the sessions. B knew her as “J”. He told me that B did not ask questions about J, or why she had only just met her. F told me that the trips involved going to see grandmother’s horses. B enjoyed the contact. F told me (and showed me photographs) from a contact session between B and F and grandmother, where B had invited J along to go bowling.
78. Ms Armitage probed F’s understanding of the issues. F was asked if he needed to do any work after his admissions of domestic abuse. He told me “Now, No. I’ve seen that. It was unacceptable. That is not the person I am. It was just a small time where I was in a rut.”
79. F was a simpler witness to analyse. He was straightforward and direct. He obviously adores his children, and his sadness at the present situation shone through each aspect of his evidence. In many aspects of his evidence, F was candid in describing his conduct. He has made several admissions in January 2024 and during his evidence.
80. However, F repeatedly sought to justify his behaviour, particularly around the time of the breakup, as an episode of poor mental health. F’s perception seemed to be that this

was a temporary issue, and this persisted through his evidence. I found F to be wholly unwilling to accept responsibility that over a long period of time, he had lost control of his emotions. He repeatedly minimised the impact of his behaviour on M, and showed little understanding into how this would have come across for the children. He described his behaviour not in terms of anger or shouting (although he admitted doing this), but merely as episodes of frustration. As such, I have significant concerns about F's ability to recognise, and provide me with an accurate touchstone of evidence about, his own abusive behaviour during the breakdown of the relationship. His insight was simply lacking.

Third party evidence

81. Five other important people gave evidence in statement form. These were AM (mother's friend), S (family friend of M's), MG (maternal grandmother), J (paternal grandmother), and P (family friend of F's).
82. After some reflection, no party sought to call them to give live evidence. This seemed to me to be sensible, if for no other reason than it avoids these important people and family members being further drawn into an already intense dispute. During the case, the advocates informed me that they would make submissions as to weight of this evidence. These witnesses were not mentioned at all by Miss Withington, and mentioned only briefly by Ms Hawkins, in their submissions. I will provide only a brief overview of each.
83. AM is a family friend. Although she gave a statement, to quote Ms Armitage's email to DJ Dunn on 8 January 2024: "AM is no longer willing to give evidence at the hearing and wishes to avoid being drawn into the dispute between the parents..." Ironically, although she wished to abandon her evidence, AM provided the most balanced of the third party statements, and her evidence in my view is reflected in the agreed facts of the case. It was clear that AM was a source of counsel for both parents. I can well understand the difficult position she thought she had put herself in.
84. S is a family friend. She described herself as the "facilitator" of contact arrangements. Her evidence is limited to describing A's rejection of her father at contact, and observations of contact sessions she facilitated. Her evidence is largely second hand, and comprised mainly of what M told her was happening, or what she had seen of M. Much of her evidence refers to the poor state of the relationship between M and F post-separation, which is already reflected in the agreed facts.
85. MG is the maternal grandmother. She gives an account of the relationship between M and F, although largely second hand. She presents an image of F as miserly and absent, which I do not consider to be fair, having heard the evidence. It was a complete contrast to the more balanced view of F that M gave in her evidence. The grandmother is at the heart of the conflict in this case, and the rift that exists between

the maternal and paternal families. It is difficult to attach significant weight to evidence given against that context, although the grandmother did give useful evidence in her statement about conversations she had had with B.

86. J is paternal grandmother. There is a rift between the maternal and paternal families in this case, and F was estranged from his family for a period. J was able to tell me about her positive experiences with B. J, because of estrangement, is not able to help me with any information about the parental relationship. I attach little weight to her evidence.

87. P is F's friend. He tells me that he was aghast about the allegations of domestic abuse, but cannot give any direct evidence of them: "I didn't have the opportunity to observe the father and the mother's relationship extensively and behind closed doors." His evidence is limited to testimony about F's character. I attach little weight to his evidence.

88. Where I place reliance on the evidence of these witnesses, I will make it clear.

My findings

Agreed Facts

89. Before I consider the allegations, it is necessary to set out my conclusions as to the agreed facts in this case. The agreed facts are as follows, and give an insight into the context:

- a. During the relationship, F made a comment to his friends that the mother was "like a cheese grater" (referencing her use of teeth during fellatio).
- b. Also during the relationship, F had an extra-marital affair in 2019. F would exchange "flirtatious" text messages with his affair, and some other women.
- c. Between February and June 2021, F attended the family home to speak to M. He pushed the door. M put her foot behind the door, and F pushed the door open, knowing M was behind it. The children were not present.
- d. In June and July 2021, F's mental health was unstable, and he threatened M that he would commit suicide if she did not resume the relationship.
- e. In July 2021, F threatened M that that if F saw her out, and in another in relationship, he would 'go through' whoever she was with. F accepts that this was taken as a threat by the mother.
- f. On 7 July 2021, F attended the family home and could not get inside as M had the locks changed. F became distressed, angry and shouted through the letterbox. F kicked the door out of frustration.
- g. On 26 August 2021, F informed a family friend that M was a "sly cunt".

90. In submissions, Ms Withington argued that “the admissions made by F evidence coercive and controlling behaviour by F towards her both during the relationship and post separation, and such behaviour was witnessed by the children which has impacted upon the children.”
91. I agree. The agreed facts in this case wholly and unequivocally fall within the definition of domestic abuse within Domestic Abuse Act 2021. From early 2021 to August, F admits behaving in a way that is disinhibited towards M. Over a few months, there were two incidents of F being physically violent towards M, and a further two episodes of threats made with the ambition of manipulating a reconciliation. The cheese grater comment is one example of a humiliating comment, made to the parents’ mutual friends, about a deeply personal experience. The admission of an affair is the first time which F has acknowledged something which haunted M for much of their relationship.
92. F’s admission that in Summer 2021 his mental health was unstable is a useful piece of context. By that, having heard his evidence, I understand this as an admission that his behaviour became increasingly disinhibited, and he was unable to regulate his emotions. He was making threats geared at manipulating M and the children.
93. I will now turn to the allegations.

ALLEGATION ONE: Coercive and controlling behaviour from F towards M during the relationship

94. This allegation relates to a full spectrum of control during the parental relationship, including demanding to know where M was, calling her friends to check up on her, isolating her from her family, financial control, sexual control and abuse, and monitoring M on CCTV.

Checking up on M

95. Starting with the allegation of control and checking up. F is a career soldier and worked away for much of his career, often on tours of foreign countries. During this time, his free time was precious. His contact with the outside world in the Afghanistan desert, for example, is limited to a satellite “welfare” phone. This time would not be every day – sometimes it would be days without any contact. In her evidence, M agreed that this was the context to her allegation. M accepted in her evidence that F was lonely, and conceded that he missed his wife and children. M described in her written evidence the calls as constant, but in evidence told me that it was fits and starts.
96. The context of this part of the allegation in my view negates the ‘abusive’ element of the allegation. It is obvious to me that F was persistent in his wish to speak to M and

his children, but I have some considerable sympathy for the position F was presently in, and this important context (absent from M's evidence) in my view explains his behaviour. I am not satisfied that such behaviour can be said to be abusive.

97. What is obvious is that the dynamic between the parents was an unhealthy one. M told me in evidence of her regular trips to a family friend's house to review F's Facebook messages, which the friend has access to. M grew increasingly suspicious of F's relationships with other women (one of which is now admitted) and would often read F's messages. F likewise would use the same friend as an outlet during the relationship, and she became a confidant. They both involved their friend, in an unhealthy way, and this made the dynamic more toxic.

Isolating M from her family

98. Likewise, the suggestion that F sought to control M's family interactions did not stand up to cross-examination. When asked questions by Ms Hawkins, M told me that the maternal family were heavily involved in her and the children's lives. M and her parents would take each day by telephone or SMS. They would have long telephone conversations in the evening, regularly more than an hour. They would spend the long summer holidays together at the family caravan in Wales. Crucially, M told me that F never sought to stop this. M told me that F's means of control would be to tell the maternal grandmother that M was unavailable if she called on the phone and asked for her, but M was elsewhere. In fact, M told me that F paid not only for M's phone bill to allow this communication, but for the maternal grandfather's bill too. Against this context, I am simply not satisfied that F sought to control M's interactions with her own family. It is inherently unlikely against that agreed background that he would do so, or indeed that he could do so from so far away, as he often was. M's own evidence fatally undermined her allegation.
99. The 'phone bill' forms a large part of this allegation, and the suggestion that F sought to wield financial and other control against M. The agreed background is that the parents had a landline at their home address. This landline was subject to a phone package which allowed free evening and weekend calls. The limit on the calls being free was an hour; thus, for example, Denise could call Dave for 59 minutes and 59 seconds for free, but if the call went on for two seconds more, the whole call would be chargeable. If Denise put the phone down on 59 minutes and 59 seconds, and immediately re-dialled Dave's number, this would count as a new call and would be free for the next 59 minutes 59 seconds.
100. M admits that her calls regularly went over an hour with her own family, and were therefore charged. She avers that F, in raising this as the bill payer, was controlling. M told me in her written and then oral evidence that she was repeatedly "told off" for using the phone. She told me that she didn't remember being told that the issue was the hour rule, although in the next breath told me "*If father was there,*

he'd say to me "You've gone over" – I thought this meant I was talking too long. M told me that she did not press this further with F, and that she could not see how a billpayer may be concerned or frustrated that the package was not being used to its effect.

101. F's evidence on this point was straightforward. F told me that he simply gave up asking and paid, eventually, for the anytime and any length call package. He explained that it was frustrating for him as he was paying all the bills on his army salary, and so was watching the pennies. Although it was between £5-8 per month, F told me it was "frustrating when it could have been avoided." This seems to me to be understandable frustration, and the sort of contentious but ultimately anodyne issue that plagues every relationship. Not all stubborn or directive behaviour is abusive.

Financial control

102. On M's wider allegation of financial control, I have already set out her evidence on this point. Again, there is divergence from M's written and oral evidence. In oral evidence, M told me that she had her own money from working one day per week in her own account, a joint account where F was paid into and she had access to, and a credit card which F paid for. In her statement, M told me that there were times that she was left with 'no money' when F was away. I am frankly unsure as to what more F could have done to ease the financial pressure on the family. F was working full time, in dangerous circumstances, to provide for M and the children. The fact that the credit card was regularly at its limit is evidence of the financial pressure which the family felt, and which F shouldered. I simply cannot decipher what about this situation M alleges is controlling.

103. M's specific examples of financial control bear separate consideration. She told me that she felt 'forced' to take out a loan by F to pay for the wedding. In M's second statement, she outlines the financial pressure. She was critical of F for spending money on golf and tattoos when the family needed it. She told me that there were times when the family ran out of money. In her live evidence, M told me that F's income was the family's lifeline. M told me that the lump sum which F received was burned through by the family – for example they would buy takeaways at the weekend. For reasons I do not need to determine, the money ran out and the parents agreed to take out a loan. Although she said in her written evidence that she felt 'forced' to take out the loan for the wedding, as I have set out in evidence, she explained that she very much wanted to get married, and that the couple had no other options. Although I understand that M – and indeed F – may have felt forced by the circumstances, having no money to do something they both wanted to do. But I unhesitatingly reject the suggestion that M was forced to take out this loan – her own evidence was that she wanted to do it, notwithstanding her reservations about debt. It is a pressure felt by families up and down the country daily. I am unwilling to

conflate, as M has, the state of being under financial pressure, and being financially controlled.

104. The second example was that M was not shown F's payslips. She alleges in her written evidence that this is an example of control. In oral evidence she told me "I just presumed that this was something you share in a marriage." That may be so, but I cannot say without any other context or suggestion of financial control that F's reluctance to share his payslip was controlling, when F was funding the family and their relatively comfortable lifestyle.

Sexual control

105. M alleges that F was sexually controlling towards her by demanding sex in return for payment, and that she felt pressure from F to perform oral sex and sex acts generally. In cross-examination, M was asked about the parents' sexual contact. She agreed that it was consensual. She was asked to explain what she meant, and she told me that she felt vulnerable in the relationship because she would have sex with F, and he would then leave the room. She told me she felt pressure from her (correct) suspicions that F was engaging in extra marital sex elsewhere. She told me that although she was not 'forced' in the conventional sense, this pressure made her feel forced. She said that F was persistent: "when someone is constantly pressuring you or asking for oral sex, I felt like I had no other option." When asked if she had raised this worry with F, she told me that she had asked him not to do this once. M accepted that she had raised this allegation late in the day, and it was not covered in her first statement, nor in her conversations with the police, nor to Cafcass. It was put to M that this was an allegation made in retaliation to contact being arranged between F and the children.

106. The context of the allegation holds the key. F admits that he was making unkind comments about M's style of fellatio to his friends at the sports club. From this I infer two things: first that he was unhappy with his sex life at home. Why else would he complain about this to his friends? And second, that F on this point considered that humiliating M, in response, was appropriate. I also bear in mind that F sought sexual contact outside of the marriage because of his unhappiness. Such an attitude gives the court an invaluable snapshot into the sexual relationship. F told me in evidence that he never put pressure on M in respect of their sexual relationship, but this is unlikely when I consider his own admissions of comments made to his friends.

107. F conceded in his evidence that the parents had conversations, as Ms Hawkins conceded in submissions, "about being more affectionate, as this was something the father wanted but the mother did not." F submits that M was feeling insecure at this stage, and undoubtedly, she was. In my view, she was feeling insecure as a direct result of F's own behaviour. M told me in her evidence of the lengths she went to confirm her suspicions – meeting up with a mutual friend who has access to F's

Facebook messages, and ultimately looking at F's Apple watch to find messages from another women. A significant number of M's emotional energy went into worrying about the safety of her relationship. Worries about other women, as M described, were destructive to M's confidence and esteem. His repeated denials unquestionably made M question what she was seeing before her eyes. I have no hesitation in recognising this as a form of abuse.

108. On this point, I prefer M's evidence. That F mocked M to his friends is emblematic, in my judgment, of his frustration and unhappiness. I have no hesitation in believing that he will have voiced this to M, and he did so against an agreed background of significant suspicion about F's sexual behaviour outside of the marriage. I can well believe that M felt humiliated and inadequate. She found out from peers that F was mocking her sexual technique. The effect on M, as she says, was decimating to her confidence within the relationship. These facts combine to form what was, in my view, an atmosphere of pressure from F towards M about their sex life. I must view M's allegations through this prism.
109. In my judgement, **F created an environment of pressure and expectation around sex, making M feel inadequate compared with other women.**
110. As regards M's allegation of direct sexual control by asking for sex when M asked for money, I must view M's allegation through the prism above. F concedes that he will on occasion have made jokes to M of this nature. M told me in evidence that they had several ongoing jokes within the relationship (such as writing unkind names to F in ketchup on dinner plates) and this was one such time. M agreed in her evidence that this was one example of F's "dark humour", although it was plain that M did not find this very funny. She said that this had happened once, when she wanted to go shopping with her friends. She asked F to borrow some money as the family were hard up at the time. She said, "he said yes but you'll have to have sex with me first."
111. M seemed unwilling to accept in cross-examination that this was a joke. She seemed to accept that she realised that F was not serious about this demand, and indeed was clear in evidence that she rarely complied, and denied that she is bringing this up now as a means of stopping contact.
112. When asked about this in evidence, F ultimately brought the fact back to him having only one affair. He was asked repeatedly by Ms Withington about the emotional impact on M of making such comments. I agree with Ms Withington: against the backdrop I have found, "he is unwilling or unable to accept the emotional impact his behaviours would have had on M." F's lack of understanding with the harmful dynamic which vitiated the parents' sex life in my view was stark. I simply cannot rely on F to accurately describe to me his behaviour and its impact when he plainly does not understand it himself. I reject that such comments were a joke. They

took place against a broken sexual dynamic, and an environment from F that was increasingly pressured. I have no hesitation in finding that **as part of F's cultivation of an environment of sexual pressure, he would suggest to M that she has sex with him in exchange for money.**

ALLEGATION TWO: Coercive and controlling behaviour and harassment from F towards M following separation

113. The agreed facts set out several instances where F has lost control after the break-up. It is obvious that F's own mental state declined during this time, and he was candid that he struggled. I found F's repeated justification for his behaviour as "raw emotion" without further acceptance to be telling, but I did not understand why he denied that this behaviour could be described as abusive or in any way concerning. F's ability to recognise these episodes of abusive behaviour, and accurately describe them to me, in my view was impaired because of his lack of insight.
114. The context speaks for itself. F's own ability to regulate his emotions from January until the autumn of 2021 – the trigger point and aftermath of the relationship breakdown – was non-existent. I have no hesitation in finding, as F told me in evidence, that his head "had gone". I have no hesitation in accepting that F's own wishes for the relationship to rekindle, the pressure of keeping up the pretence of unified parenting for the children, and his own sadness at the separation, fed into these problems. F described this time in his life as a "wobble". He told me that he was contacting the mother 4-5 times a day to reconcile. In my view, this borders the obsessive, over a long period. Where the parents met, such as in July 2021 following a birthday breakfast sometime after the separation, even then it ended in shouting and aggression.
115. The agreed facts, F's concessions and my impression combine to form a picture of F as desperate, and disinhibited, trying everything to get to M. I have no hesitation in finding that **after the breakdown of the parents' relationship, and over the months that followed, F was disinhibited in his behaviour towards M and the children.**
116. The specifics of the allegation are pleaded:
- a. Repeated attending at the property: This was to a large degree accepted. When I take the context, F's admissions that he attended to patch things up, and in the time that punctuated monitored the home and family movements by CCTV and apps, it is in my view inherently **likely that the father repeatedly attended the family home.**
 - b. Monitored M's movements and spoke to her through the camera: F concedes doing this in the short period between separation in February 2021 and the CCTV being turned off a few weeks after. F admitted that he looked out for the family

during this time, and sent M her own location as a screenshot, in an episode of poor mental health and desperation. When asked by Ms Armitage about this, F told me “She [wouldn’t have felt nice]. She [would have felt] like she was constantly being watched.” In my view, **I find that this amounts to monitoring of the mother and the children from early February until mid-March 2021.**

117. The episode on 16 October 2021 can be dealt with ease. M has given me three different versions of events. This is covered in her first and second statements, and again in live evidence. None of the versions she gave me concord with the other. In her evidence, she told me vividly that she first noticed F on the dual carriageway behind her, and she did not see him turn round.

118. Her statements say something quite different. She told me in oral evidence and in her statements that F pursued her on a country lane, but she did not tell the police immediately about this and when asked to describe what happened by police, made no mention of F pursuing her. F accepts that he saw the children, and pulled alongside M to blow kisses. I make this finding limited only to F’s account. M’s own account is so internally inconsistent that I cannot safely rely on it. There is no satisfactory explanation as to why these inconsistencies exist, and I formed the view that M had exaggerated a quite anodyne encounter, embellished with detail of dramatic U-terms and pursuits. Given M’s propensity in this case to embellish or to omit content which adds balance, I cannot prefer her evidence on this point. For all of F’s lack of insight, he has been usually candid about the events he was asked about. I find that **on 16 October 2021, F saw M and the children in a motorcar. He pulled alongside them and tried to attract their attention. He blew kisses to do this.**

ALLEGATION THREE: The father was verbally abusive to A, which in turn resulted in the breakdown of the relationship between F and A, and further F and B.

ALLEGATION FOUR (F’S ALLEGATION: The mother has alienated the children from him.

119. I will consider these allegations together as there is much overlap.

120. M alleges that F treated A differently, and was verbally abusive to her. M contends that this has caused both A and B to develop a negative view of their father and, in turn, refuse contact.

121. F contends that, whilst the children witnessed first-hand the animosity of the relationship breakdown, that M has “alienated” the children. The term alienation is an imprecise and reductive term which covers a multitude of sins; far better to identify and analyse the behaviour that has led to an unreasonable rejection of F. In submissions, Ms Hawkins clarifies the suggestion, and puts that the mother has not promoted a relationship between F, the children and the wider paternal family resulting in disproportionately negative perceptions being held by the children.

122. I consider the questions of parenting styles and rejection together as they are inherently linked. The questions for me, having heard the evidence, are: first whether the father's parenting style was harsh? Second whether that has caused the children to reject F, or whether M has engineered or allowed this situation to manifest. As Ms Armitage noted in her submissions, the continuum of answers to the last question goes from intentional influence to the children's rejection of F because of his behaviour, to a combination of all of the above.
123. Starting with parenting styles and F's treatment of A: In large parts, F agrees that his parenting style was stricter. He explained to me that this was reflective of his own experience, having been parented by a father in the armed forces, and being in the armed forces himself. When asked to reflect on his parenting style by Ms Armitage, F told me that "it was harsh – but at times it flipped, and I was deemed to be too harsh. That's parenting."
124. F accepted in evidence and to CG that F had in the past upset the children. He said "Broadly, at times I did argue with the children" although he told me it was not directed towards the children, but rather frustration at the situation. In those moments, during arguments, F accepted that there was shouting, and quite often shouting from him. In his statement, he recalled an incident where he called B a "spoilt brat" although he didn't shout this at her.
125. It seems to be quite uncontroversial to find that **F had a stricter parenting style than M.**
126. Was F abusive to A? F again accepts that at the breakdown of the relationship, A was exposed to shouting in the home. F accepts telling an upset A that he would "give her something to cry about" but, he said, not in the context it was put by M. He agreed with M's contention in her second statement that the children witnessed F's temper – although F described this as occasions of "frustration." F conceded to CG in the first welfare report: "*[F] accepts that his verbal responses to the children at times may have caused them upset reflected on this behaviour.*"
127. Against that background, I find on balance the suggestion that F shouted at A to be a compelling one. I find that **from time to time, F shouted and A, which caused her to be upset.**
128. I formed the impression from hearing both parents that arguments at the end of the relationship increased in frequency and temperature. Both parents told me that the girls would have heard these raised voices, and would have been concerned by what they were hearing. As F accepts in his second statement and in his schedule, the girls watched F's "raw emotion" escalate to episodes of physical aggression such as kicking at the front door. They will have felt the pressure from F's disinhibited

behaviour. It is axiomatic, and I find, that **the girls would have come to associate the toxic parental relationship with verbal and physical aggression.**

129. Is this the cause of the girls' rejection of F, or is something more malign at play, as F suggests. In this case, and in my judgment, a smorgasbord of factors have fed into the girls' rejection of their father. Unquestionably, as I have set out, I am of the view that the girls would have associated F with a regimental parenting style, and physical aggression. I agree with M that this has caused them to be scared by him. It follows that this would to some degree affect their view of him. Of that I am clear.

130. That does not, however, account for the perception that both girls have now. How does B come to know, by way of example, that her father "cheated on mummy", or come to view her paternal family as "vile"? How has she come to be so scared that she tells her maternal grandmother that "she was scared dad might kill her"? How does she know that her dad has stopped paying the mortgage, or that her dad has a girlfriend, so he doesn't "mither" them? How have two children who loved their father, and accepted him regardless of his strict style, come to reject him?

131. I have reached the view that **M has nurtured the children's negative feelings about F, and has influenced them by exposing them to her and her family's own negative view of F.** I preface this by noting and validating M and the maternal family's experiences of abusive behaviour from F. This has in my view unquestionably happened, and unquestionably influenced their view of F. This is to be expected; they see F as somebody who the children should be protected *from*, as opposed to somebody who can offer something to the children as their father. So although I have reached the view that M and her family have contributed to the children's rejection of F, I find that the **mother and her family have done so in a misguided attempt to protect the children from a perceived risk of harm.**

132. I have formed this view for the following reasons:

- a. M's view of F is wholly negative. I understand this. I have made findings that F has been abusive to her over a period of time. However, this does not sit with her contention that she always promoted the relationship and would continue to. She was unable to recognise any virtue of him as a father, or what he offered the girls, in her evidence. When asked by Ms Armitage to name a positive, she could not think of one. She told me that it was "being a dad... doing things with them." When I asked her the simple question "what does he offer as a dad?" she paused before saying "I don't know what to say."
- b. I found M's evidence that B had been exposed to information by "overhearing" arguments unconvincing. Although the children "live in a small house", B was clear that a 'grown up' had told her that her paternal family were "vile". B told the guardian that the contact was good "...but he cheated on my Mum with

somebody.” I find that it is inherently unlikely that such information and adult conversations were passed to B, who was much younger, simply by osmosis.

- c. Likewise, I cannot draw a direct link between A’s experiences of conflict and strict parenting with her want, as expressed to the guardian, to “keep Dad as far away as possible as far as the sun can go. He can go to NASA space station.” A’s view was that F was “hostile” but her experience which underpinned this view was that he “tried to throw my phone down the garden and Mum stopped him... I want to forget about him and move on with my life... He’s made all of these mistakes but they’re big mistakes and terrifying and I don’t want to have any contact with him.” A’s views come across to me as punitive and vengeful. I likewise consider it to be inherently unlikely that these views would have developed without a significant malign influence.
- d. Indeed, M admitted in evidence that she had shared some “truths” with the girls. She told me that if she was asked a direct question, she would tell the girls the truth. I find this a far more likely explanation for A’s repeated use of the word ‘hostile’ when describing F, as opposed to A just being bright.
- e. Likewise, the children know about the proceedings. M has told them some things about the case. They are, according to CG, “exhausted”, which suggests that they have not been protected from the brunt of the issues.
- f. B’s *volt face* about contact with F as outlined in the section 7 report indicates significant external pressure. B went from wanting a “fresh start” with F to:

“When speaking with B on 13th February, via telephone, B said that she does not want to have any contact with her father. B said that there was not any reason for this 'just something I've decided... he kept shouting at us and blaming us'. I confirmed to B 'did you say blaming?' B responded saying 'no I forgot it isn't that, I just feel I don't want to see him, because I'm scared of him and frightened'. B did not provide any incidents of anything that had made her feel this way.

Following the conversation the mother asked to speak with me. The mother advised that B had told her she felt 'forced" by myself to make the decision to see her father, and that this was the decision that I wanted her to make.”

Quite apart from the fact that M has plainly discussed CG’s conversation with B, and done so in a way to reach the view that B’s views were inauthentic, this is a remarkable sequence of events.

- g. The suggestion that the paternal family are “vile” is concordant, in my view, of the M’s view of them. She was frank in her evidence that she never got on with them,

and she agreed that she had a family friend acting as a “bouncer” at her wedding to keep them out. M conceded in addition that she presented F with an ultimatum about A’s surname being changed from the paternal to the maternal name. Likewise, soon after the split, M told F in a text message that she might have forgiven him for his affair if he wasn’t involved with his family.

- h. The maternal grandmother’s own evidence notes:

In conversation recently with my husband B asked Grandad "what are you frightened of?" Keeping it light my husband replied "nothing frightens me." He then asked "what frightens you?" B said "Daddy. Daddy kidnapping me or killing me." My husband told B that "nothing will ever happen to you. You are safe here with us?"

This seems to me to be a remarkable response by the grandfather. The proper response would have been to reassure B that her father would not kidnap or kill her, and that she was safe from that. Instead, such outlandish fears have gone unchallenged, and have added legitimacy I am sure in B’s mind to these fears. The maternal family’s view of F is unquestionably tainted by their experience of F’s behaviour at the point of separation, but also the fact that F stopped paying the mortgage and bills soon after separation. Much of the maternal grandmother’s evidence relates to her instinct or suspicions being confirmed, which I am afraid leads me to conclude that her own view of F is a negative one, and on her own evidence she does nothing to correct the children’s unreasonable fears about F.

- i. The children’s guardian’s evidence was clear that B felt conflicted and had torn loyalties. This is emblematic of a home environment that is at least disapproving of F. It is in my view the only explanation for B’s positive experience of contact with F and paternal grandmother being followed by B, in the presence of the headteacher, telling M that she was scared of F. Indeed, when asked by CG about her time with F and the grandmother, B’s only memory was a horse bucking on the farm. She has no apparent living memory of F in a negative way. Indeed, she told CG that she wanted to see F.
133. I am of the view that, because of M and the maternal family’s misguided actions, the children have suffered significant emotional harm. **The children have developed views about F and their paternal family that are not grounded in their experiences, or in the reality of the risk that may exist.**
134. Is this alienation? Alienation itself is a contentious concept. There is no single definition of alienation in extensive literature, case law, or statute. Cafcass helpfully define alienation as:

“We use the term to describe behaviours where one parent or carer expresses an ongoing pattern of negative attitudes and communication about the other parent or carer that have the potential or intention to undermine or even destroy the child’s relationship with their other parent or carer.”

135. The factual picture is not white as M says, nor black as F says. Like every aspect of the human experience, it is made up of a thousand shades of grey. Some of the children’s initial worries are indeed based in their negative experiences of parental conflict and parenting. Much of their present presentation is however, in my judgement, as a direct result of the negative influence which M and her family have caused or allowed to permeate. I have no hesitation in finding that my findings do indeed translate to the children being exposed to a pattern of negative attitudes with the intention of undermining or destroying their relationship with F. I have no hesitation in finding that the **facts of this case fit within the Cafcass definition of alienation.**

Welfare

136. Having established the narrative background to the case, I now turn to welfare.

Law

137. The children’s welfare is my paramount consideration. When I conceive of welfare, I must consider the checklist of factors set out in Section 1(3) Children Act 1989.
138. I have regard, of course, to section 1(2A) of the Children Act, the presumption of parental involvement, although that is disapplied in cases where harm has been found.
139. I remind myself that the children and parents have a right to family and private life under Article 8 of the European Convention on Human Rights, however, where there is a conflict of rights between the parents and the children, the children’s rights prevail.
140. Section 11(1) CA1989 enjoins me to draw up a timetable for the case, and dispose of the case without delay. I should assume per Section 1(2) CA1989 that delay is prejudicial to children’s welfare.
141. I further remind myself, pursuant to paragraph 35 onwards of Practice Direction 12J, that any order I make after making findings of domestic abuse, not only must concord with the child’s welfare, but must minimise the risk of unmanageable harm not only to the child, but also to the child’s primary carer.

Positions

142. I have made findings of fact and I now consider the impact of this on welfare.
143. The applicant father invites me to adjourn the welfare stage of the case pending a final analysis from the guardian. This will allow CG to reflect on my findings of fact, and make considered recommendations for intervention and contact.
144. The first respondent mother invites me to make a final order. She invites me, based on my findings of domestic abuse, to make an order for indirect contact only, recognising the children's wishes and feelings.
145. The children's guardian invites me to adjourn the welfare stage of the case to allow for further analysis and intervention. Ms Armitage notes that a "period of reflection" is necessary.

Evidence

146. On the third day of trial, I heard evidence from the children's guardian on welfare. Although both parents did give evidence on welfare, their evidence on the outcome was understandably very limited.
147. CG provided two analyses to the court: a welfare report dated 15 February 2023, and a final analysis dated 12 September 2023. Both reports are somewhat out of date, and CG final analysis endorses an adjournment, and an ICFA following a finding of fact hearing. I will focus on the live evidence which the CG helpfully gave.
148. CG told me that she last met the children by video call in January 2024 to give them an "update" on the proceedings. She told me that they have "had enough." She told me that their views have not changed – neither A nor B wanted to see their father. She was asked about the children's attitude towards her; she said "exhausted – they've had enough. They would rather forget about the proceedings."
149. CG told me that the children understand what is happening in the case, although A knows more than B. When asked about her impressions of the parents, CG started with M. She told me that "I do have to question M's ability to be able to support any contact – if there was to be contact – and to understand the potential benefits and downsides of it. It causes me concern as to how contact could be promoted, encouraged, and for the girls to be given emotional permission to engage in contact."
150. In terms of how this would be done, CG noted that a discussion would need to take place between M and the children about the court's findings, and with M

providing the children with reassurance. Permission should come not only from M but the maternal grandparents, who are hugely important to the children.

151. When asked what F needed in terms of intervention, CG considered that F would benefit from some healthy relationships work. He would also benefit from parenting support to develop a more appropriate style of parenting for the children. The children are of an age where they may present as assertive or defiant, and F at present is not equipped to deal with this.
152. CG saw the prognosis for A to be intertwined with M's acceptance of my findings, and any welfare decision I make: "Initially, A would be of the "no" view, but with support from M I think she would to some degree "run" with contact if this is what M was saying." CG noted the change in B's views from wanting to see F when she first met her, to being against seeing F when they last met. She thought B would be more open to contact between F and B. CG considered that the girls needed some understanding of my findings and their 'life story', why they have not seen their father, and how they need to move forward.
153. CG told me that even if I made all of the findings sought by M, she would support a progression of contact between F and the children. Direct contact should be re-established as soon as possible. The findings sought by F would influence the work that would need to happen with the children. CG saw no way that this could be done under a stepped or final order – it is a process that would need some additional input. CG suggested that a stepped arrangement could start with an apology from F to the children, with some steady progression to direct contact from there.
154. I asked CG to consider whether a family assistance order or contact monitoring order would be appropriate. She confirmed that Cafcass would accept a contact monitoring order, but that a final order without certainty made such an order difficult. CG recognised that this would mean an adjournment, and that such an outcome was a negative one, but that it was more harmful leaving the case in a state of flux.
155. CG considered that there should be some family therapy in this case. This however was difficult where the parents could not afford to pay for this. She thought that the paternal family should not form part of contact for now, and that the focus should be solely on F and the children. She considered that when we are at the point of direct, unsupervised, overnight contact, F should then gingerly introduce his family.
156. In respect of whether an ICFA should be tried, CG told me that "ICFA is capable of completing a vast majority of the work discussed and would also provide another professional working with the family that wasn't myself. A and B associate me with the proceedings." One concern about ICFA was that M did not engage in

ICFA previously, but CG was not deterred. She reassured M by explaining that that if the parents cannot sit with each other for a meeting in ICFA, there are other things that can be done.

157. Ms Hawkins put to CG that the longer the children go without seeing F, the more entrenched they are. CG agreed. I asked if there was an argument for “ripping off the band aid” – CG told me that initially there would have been merit for this, but not anymore.

158. I found CG’s evidence to be balanced and insightful. It was obvious that CG had agonised with the delay concern and understood the destabilising effect on the children of an adjournment. I found her evidence to be of equal potency when describing the destructive effect on the children of the cessation of their relationship with F. She was able to articulate and analyse the evidence with skill. I unhesitatingly accept her evidence.

Analysis

159. I can well see how the children are “exhausted.”

160. The options for the Court in terms of welfare are:

- a. To make an Order only for indirect contact.
- b. To make an Order for direct contact, stepped from where we are.
- c. To adjourn the case to allow CG to complete further enquiries.

161. In respect of the first option, the children have already experienced emotional harm because of the cessation of the relationship between them and the father. They have experienced emotional harm because of M’s and the maternal family’s actions in allowing them to develop beliefs that F is a danger to them. Those unchallenged beliefs will be acutely distressing to hold and are harmful in that they are presenting as a barrier to the children wanting to see their father. M asks me to endorse the *status quo* by making an Order for indirect contact, and in the process endorsing the children’s wishes. In my view, such an approach would further entrench the children’s negative feelings about their father, it would vindicate M’s false view of F that he is a danger to the children, and in the process the children would be irrevocably harmed.

162. I reject M’s suggestion that the children’s wishes are authentic. Their wishes are sadly rooted in their genuine experience of conflict but have since snowballed. There is now a significant disconnect between the children’s perception of F and his family, and the reality of the situation.

163. There is a need to help the children to understand the more balanced picture of their life story. This work needs the support of both parents, and their families. Only

then can the children begin, in their own minds, to bridge the disconnect between the narrative they have been given by their mother and maternal family, and reality. Only then can a meaningful intervention take place to repair the broken relationship between F and his children. The picture, as I have found, is nuanced – there has been destructive behaviour on both sides. Both examples of bad behaviour in my view represent an egregious failure by the parents to put their children before themselves.

164. The need for this work precludes, in my judgement, the possibility of a final order. I am cognisant of the corrosive effect of delay on the family thus far and in the future. I am likewise cognisant of the fact that the children have had enough. On one side of the balance comes the harm and emotional pressure from further delay. This is a family that is emotionally depleted. On the other hand, at present the children have a false belief system about F that has damaged their relationship with F. If allowed to continue, I have every confidence that this damage will become irreparable, given how entrenched M and her family are in their negative views of F. The effect on the children of such a scenario are life-long and will be destructive to their emotional wellbeing now and in the future. I simply cannot see that it is in the child's best interests to risk such an outcome for the sake of bringing the proceedings to a close.

165. CG identified that what is required in this case is systemic family therapy. That is sadly not possible. I asked Ms Hawkins to make enquiries as to F's finances, and sadly he cannot foot the bill. M is impecunious and in receipt of public funding. CG legal aid certificate would cover only assessment, but not fund any intervention because of the assessment, if that was needed. It was suggested that I should give some thought to a further psychological assessment. I do not see that this is a necessity. CG in this case has a clear view of what is required in this case, and my findings do not change that. My findings are simply the narrative basis for the work as identified.

166. M told me in her evidence that she would promote the relationship between the children and F if the children's wishes changed. It will be obvious by now that I do not at present believe that she could do this, although I believe that she wants to. M needs assistance in moving forward in a way that is sensitive to the findings of domestic abuse, and her own experiences. Likewise, F told me in evidence that if the children continued to shun him, he would "most likely give up." This would be a devastating consequence for the children.

167. An ICFA could do much of, but not all of the work, required for the children. As an intervention it would assist the children in understanding their life story, and assist the parents in beginning to find ways to co-parent in the children's best interests. It is not by any means a perfect solution, but frankly it is the only show in town. I am not prepared to let the perfect be the enemy of the good, when I consider the harmful alternatives that I have available.

168. When I consider the children's welfare as my paramount consideration, and the factors set out in the checklist, I am of the view that an extension to the case is therefore necessary. Without such an intervention, the prognosis for the children is a poor one. To that end, I agree with the children's guardian.

Conclusions

169. I therefore adjourn the proceedings, directing:

- a. A further ICFA intervention.
- b. A report from ICFA, and a final analysis from the children's guardian.
- c. Final evidence from the parents.
- d. A DRA as soon as possible thereafter, before me.

170. I will deal with consequential directions and timescales for the above as I need to. Given the powerful role of both extended families in this case, I will hear submissions on whether this judgment should be disclosed to them.

171. That is my judgment.

**Deputy District Judge Harrison
25 April 2024**