

IMPORTANT NOTICE

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IN THE FAMILY COURT SITTING AT MILTON KEYNES Case No. MK22P00080

Neutral citation: [2024] EWFC 260 (B)

Monday, 10 June 2024

Before:

MR RECORDER ROWBOTHAM

Between:

Mother **Applicant**

– and –

Father **1st Respondent**

– and –

KM and KR **2nd – 3rd Respondents**

(Children by their Children’s Guardian)

Representation:

Sophie Laurence (Counsel) instructed by Family Law Group for the **Applicant Mother**
The First Respondent Father in person with **Tariq Khan, Qualified Legal Representative**
Sarah McMeechan (Counsel) instructed by Hepburn Delaney for the **2nd – 3rd Respondents**

Hearing dates: Wednesday, 28th to Thursday, 29th February 2024

JUDGMENT

Introduction

1. These proceedings concern the welfare of two girls, KM aged 11 years and KR aged 9 years. The children’s mother is aged 50 years; she is represented by Ms Laurence of Counsel. The

father is aged 56 years; he is unrepresented and conducts litigation in person although his cross examination of the mother was undertaken by Mr Khan of Counsel acting as a Qualified Legal Representative (“QLR”). The children are represented by Ms McMeechan of Counsel through their children’s guardian.

2. The parents previously found themselves before the Family Court in 2019, when the father made an application. Those proceedings concluded on 19 November 2020 at a final hearing before Recorder Archer, which provided for the children to live with both parents, with the father on alternate weekends and for broadly half of all school holidays, and at all other times with the mother. In addition, there was provision for telephone or video calls ‘*at least*’ twice per week. I shall call this child arrangements order the “2020 order”. By Form C100 dated 3 March 2022, the mother applies to vary that order.
3. It is a sad fact of this case that the children’s relationship with the father appears to have deteriorated over the course of the proceedings. As long ago as the order of Deputy District Judge McDonagh on 3 October 2022, the father is recorded as having alleged that ‘*contact is not progressing due to parental alienation*’. It is that allegation that now forms the core focus of this fact-finding hearing.
4. I preface this judgment by summarising the issues to be determined. First, I am concerned only with the allegations of the father against the mother. At the pre-trial review before me on 12 February 2024, the father was assisted by Counsel for the children to boil down his allegations into a core schedule which now appears in the bundle; in essence, there are three headline allegations with some 21 sub-allegations numbered 1(a)-(j), 2(a)-(h) and 3(a)-(c), which the father describes as being examples of ‘parental alienation’. At the commencement of the hearing, it was agreed that 2(h) would not be determined.
5. Second, I make clear from the outset that I have endeavoured in this judgment to avoid use of the term ‘parental alienation’ along with any notion that phrase may carry with it of a diagnosable syndrome. There has been a great deal of public discourse as to the appropriateness of the label ‘parental alienation’; in addition, some critics question whether or not the courts should even entertain such allegations, not least in cases where domestic abuse is alleged by the other parent, what has been described by the President as a ‘*complex and sensitive issue*’. That latter point has not been taken by any party in this case.
6. I have of course had regard to the available authorities and, in particular, remind myself of the clear guidance given by the President in *Re C* (‘*Parental Alienation*’: *Instruction of Expert*) (“*Re C*”) [2023] EWHC 345 at [103]. In cases of alleged alienation, the question of whether or not a child has been alienated from one carer by another is and remains a question of fact: has there been a process of manipulation of the child perpetrated by one carer against the other through what might be called ‘*alienating behaviours*’. As the President concludes,

... the identification of ‘alienating behaviour’ should be the court’s focus, rather than any quest to determine whether the label ‘parental alienation’ can be applied.

Ultimately, I take the view that the father’s allegations as set out in his schedule are relevant and triable. To the extent that any label is necessary or appropriate, I consider that those allegations fall under the descriptor of alienating behaviours.

7. Finally, I am not today making any decisions concerning the children’s welfare. That being said, I note at this stage with regret the delay experienced in these proceedings to date, not least because – having heard their oral evidence over two days – I have no doubt that both parents love the girls very much. While this hearing was initially intended to be a composite final hearing, at the pre-trial review I was informed that there had been a significant delay in final reports being provided. The view of all parties, in those circumstances, was that the two-day fixture should be retained for the purposes of the fact-finding element only.

Factual Background

8. Both parents are of Nigerian heritage. The father moved to the United Kingdom in/around 2005 and the parents met here in/around 2007. They were married in Nigeria in 2008, with the mother moving to the UK to join the father in/around 2010. Both have extended family in Nigeria. There are two children of the marriage, KM and KR. The father is employed as a secondary school teacher; the mother has worked in various roles in a supermarket, as a learning assistant and in a care home.
9. Over the course of their marriage, the family appears to have lived in various parts of southern England. By the time of separation in October 2019, they were living in ‘B’. Since September 2020, the children have been attending Primary School; KM is due to start secondary school this coming September. There is reference in the papers to the children having experienced a number of changes to their schooling over the years.
10. A body of evidence is contained within the bundle concerning the historic involvement of children’s services. I note at this juncture that both parties have, at various stages, made allegations of domestic abuse against the other; while the court has determined on previous occasions that it is neither necessary nor proportionate to determine those cross-allegations at a fact-finding hearing, there seems little doubt from the documented history that this was a relationship marked at times by hostility and acrimony.
11. The local authority first became involved with the family in 2016 following a referral made to them by the police. I have seen reference to the mother having made a complaint to the police that the father had struck her several times to the head in the presence of the children. The children were ultimately made subject to child protection plans between October 2016 and July 2017, at which point the parents confirmed their intention to remain a family and the

case was closed to children's services. The concerns at that time are recorded as centring on the parents' hostile relationship and possible issues of neglect.

12. Matters between the parents appear to have come to a head on 31 October 2019, when the father reported to the police that he had been the victim of an assault at the hands of the mother. Contained in bundle is the statement of the father filed in support of his application for *ex parte* orders under the Family Law Act ("the FLA") 1996, in which he details an allegation that the mother thrust a phone into his face causing bruising. In addition, he alleged that the mother had threatened to poison his food, had physically assaulted the children and that she had threatened to allege he had sexually abused the children.
13. The consequence of the father's allegation was that the mother was duly arrested and held in police custody. On 1 November 2019, a Domestic Violence Protection Order was made against the mother for the duration of the month, which prohibited *inter alia* her return to the family home. On 28 November 2019, the father obtained a non-molestation order without notice; he subsequently failed to attend the return hearing on 9 December 2019, which was heard by Her Honour Judge Brown. Ultimately, the non-molestation order was discharged on 20 December 2019, when the court accepted cross-undertakings from both parties.
14. In the meantime, a referral was again made to the local authority and, in November 2019, the children were made subject to child protection plans for the second time. Following the mother's arrest, the children had remained with the father at the family home. On 10 December 2019, however, they were collected by the mother from school without the father's knowledge. Thereafter, they remained in her care with limited (if any) time permitted with the father.
15. When the father's FLA 1996 application first appeared before the court, the judge was sufficiently concerned for the children's welfare that the local authority was directed to prepare a section 37 report. When the matter returned before Her Honour Judge Brown on 9 December 2019, proceedings under the Children Act 1989 were instigated of the court's own volition and the matter listed for a first hearing dispute resolution appointment ("FHDRA") on 23 January 2020. The father appears subsequently to have lodged a Form C100; by the time safeguarding checks were undertaken by Cafcass in March 2020, it seems that no contact was taking place with the father, who remained unaware of where the mother and the children were residing.
16. Those private law proceedings concluded at a final hearing heard by Recorder Archer on 19 November 2020, at which the aforementioned "2020 order" was made. By that hearing, the children's time with the father had progressed to weekly overnight stays, from 10:00 on Saturday to 11:00 on Sunday. There is before me a note of the judgment given by the Recorder (although not a transcript) from which I glean the court made remarks to the effect that the situation had '*developed with antipathy and suspicion over years*' and that contact

had only '*progressed by orders*'. I also note, however, that the parents were able to agree the principle of shared care (that is, a lives with/lives with order) but that they required the court's assistance to determine the term-time arrangements. Where the father sought to maintain the weekly visits, the mother sought alternate weekends, from school collection on Friday to school drop off on Monday. Ultimately, the court preferred the mother's proposal and a final order was made to that effect.

17. Within weeks of the 2020 order having been made, there is police log of a complaint made by the father on 7 December 2020, in which he alleged that the mother had sent '*abusive and threatening emails*'. He reported having received a message stating that '*[y]our punishment is waiting for you just remember this*' and informed the police he was in fear of his life. The police closed the case with no further action, concluding that the father '*has not been truthful as to how these emails came about*'. In effect, it appears that a dispute had arisen between the parents over whether or not the children had sufficient school uniform.
18. For completeness, I also note that the mother made an allegation to the police on 9 April 2021 that the father had attended her property in breach of a court order. On investigating, the police concluded that no such order was in place and the matter was closed.
19. As early as the core group meeting held on 3 December 2020, the mother was reporting to the local authority that the children were made to spend extended periods of time in their bedroom while staying at their father's home and that he was failing to telephone on Tuesdays, leaving the children disappointed, see [445]. She repeated this concern in January 2021, although it appears the local authority was sufficiently satisfied with the children's care to end the child protection plans on 15 February 2021, when a Child in Need ("CiN") plan was implemented .
20. There is a material dispute of fact between the parents as to whether or not child arrangements took place over the course of 2021 as per the 2020 order and, where they did not, at whose door the fault lies. It appears to be common ground that no face-to-face time took place between the children and the father for a period of some six weeks over the summer holidays. At a CiN meeting in July 2021, the father indicated that he had been evicted from his home and would not therefore '*be able to spend time with KM and KR for a month*'. For her part, the mother exhibits to her most recent statement a series of e-mails she sent to the father during this time, informing him that he had repeatedly missed not only direct time but also his twice weekly telephone calls with the girls, to which e-mails I will return in due course.
21. Term-time arrangements appear to have been reinstated from September 2021, the children again staying overnight with the father on alternate weekends. The arrangements again broke down in November 2021 after the children had been staying with the father from Friday, 26 to Monday, 29 November. On Tuesday, 30 November, the mother made a report to the police that an incident had occurred between KM and the father's new partner (now wife), T; this

has been referred to by the parties as the “pillow incident”. The police made a subsequent referral to the local authority, triggering a section 47 investigation.

22. The details of these events are discussed in more detail below. At this stage, it is sufficient to note that the father was next due to collect the children from school on Friday, 10 December. By letter dated 9 December, the mother’s then-solicitors wrote to the father to inform him that the mother would be ‘*suspending contact*’ with immediate effect save for indirect contact by way of cards and letters once per fortnight. The letter further suggested that the mother ‘*intends applying to the court to vary the existing order*’. It appears to have escaped notice that the mother was placing herself in breach of a joint lives with order and, in the event, I note she failed to make any application to vary at that time.
23. The local authority completed its investigation by 14 December 2021. The section 47 report makes for concerning reading in a number of respects. While the outcome was for no further action to be taken, the local authority noted that the parents ‘*continue to put their acrimony and their personal interest before the wellbeing of the children, which has always put them at risk of continuous emotional harm*’. Concern was expressed that the father had declined to give full details to enable checks to be undertaken of his partner. Meanwhile, professionals observed that the children continued to be ‘*caught up and incidents like this are ceased [sic] upon by parents to prolong their conflict*’.
24. The decision was made to undertake a Child & Family Assessment, which was completed by 30 January 2023. The assessment records that both children were beginning to show anxiety at school when they were due to be collected by the father, KM perhaps more so; the assessment records that KM had ‘*expressed she does not like going to dad’s as he sometimes shouts*’. While both parents were praised for having completed various parenting courses, professionals were plainly troubled by the ongoing acrimony between the parents and its impact on the children. For example at [317], the school is recorded as having reported as follows:

There is a lot of animosity between the two parents. They seem unaware of the damage this animosity is doing to the girls. The girls seem really happy at school but they are stuck in the middle.

The mother has now used the allegation to withdraw access to the children which goes against the court order. She has a solicitor involved. This is adding to the animosity.

The local authority conclusions contained within the assessment include the following observations at [317] and [319] respectively:

We are worried that KM and KR’s emotional and psychological wellbeing may continue to be negatively impacted, as a result of the

acrimonious relationship which continues to exist between their parents

...

... The acrimony that exists between [the parents] remains a concern as this could impact upon the children's emotional wellbeing.

Notwithstanding these concerns, the CiN Plan was brought to an end and the family's case closed to children's services for the first time since 2019.

25. The extent to which the children saw and spoke to their father in the initial months of 2022 is again disputed, as are the reasons for the fact that the child arrangements were (yet again) not in accordance with the 2020 order.

Procedural Background

26. It is in the above context that the mother made an application to vary the 2020 order by way of a Form C100 dated 3 March 2022. No attempt was made to mediate and an exemption was sought to the MIAM requirement. Although the box for '*other safety or welfare concerns*' was ticked, no Form C1A appears to have accompanied the application. At box 5b of the form, the mother states her brief reasons for the application as follows:

Father has not kept to these arrangements and on numerous occasions cancels contact at the last minute. The children have expressed to their mother and the school that they do not want [*sic*] to and they do not feel safe going for contact with Father. To which for the past year he has stated that his rented accommodation is having some work done as reasons for canceling [*sic*] contact.

27. I have not seen a copy of the initial order at gatekeeping but it appears provision was made for standard safeguarding checks to be followed by a further paper review. The safeguarding letter is dated 18 April 2022 and records the mother's assertion that the children '*are not wanting to see their father*'. The recommendation was for disclosure to be obtained from the local authority, following which a section 7 report might be required. The further paper review was conducted by a Legal Adviser on 27 April 2022, with the matter listed for FHDRA in June.

28. The matter came before Deputy District Judge McDonagh on 9 June 2022. The order records that the parties had agreed to use a parenting application to communicate as well as reaching general agreements not to '*demean the other parent to or in front of the children*' or else to '*try to disrupt or frustrate the time the children spend with the other parent*'. The 2020 order was varied such that the children were to reside solely with the mother and spend time with the father on alternate Saturdays, 12:30 to 19:30, with handovers to be effected by one of two named friends of the mother. In addition, the children were to have telephone contact with the

father every Wednesday. This, of course, amounted to a significant reduction from those arrangements set out in the 2020 order. The parties were directed to file statements and the matter listed for DRA.

29. While not immediately relevant to this hearing, it merits noting – for reasons that will become apparent – that an application was then made by the mother via Form C2, undated but the bundle tabs indicate a date in August 2022. The mother sought an order permitting her to obtain Nigerian passports for the children and, further, granting leave to remove the children from the jurisdiction temporarily for the purposes of a holiday. The Form C2 itself also includes a chronology of ineffective contact sessions between 18 June and 13 August 2022, with the mother’s account of why contact had not taken place in line with the order of 9 June.
30. The matter did not return before the court until 3 October 2022, when it was again heard by Deputy District Judge McDonagh. The order records the father’s objection to the mother’s application for passports ‘*due to concerns about the [m]other taking the children to Nigeria for female genital mutilation; the [f]ather agreeing that a conversation in relation to this issue has never taken place*’. The mother sought a reduction of the children’s time with the father on alternate Saturdays to just two hours; the Judge appears to have attempted to reach a compromise, leaving the contact times at 12:30 to 19:30 but suggesting it should be ‘*for a minimum of two hours*’. The order further records that the father had alleged that ‘*contact is not progressing due to parental alienation*’. In light of the father’s allegations of alienation and FGM, the court directed the local authority to provide a report pursuant to section 37. In the interim, the child arrangements were left as previously ordered.
31. The section 37 report is dated 20 December 2022 and was completed by ‘B’ Council. It is a lengthy report of some 39 pages which, as with the assessment in January 2022, identified continuing concerns around ‘*parental acrimony*’. The recommendation was for a CiN Plan to be implemented, in part because the children were said to be ‘*struggling during their contact with their father, and this appears to be getting worse*’. A series of recommendations was made for the parents to each attend courses and for therapeutic support to be accessed. While direct contact with the father was not supported at that time, the social worker recommended a plan ‘*which reflects the gradual build-up of contact*’ supported under a CiN Plan, with a view to direct contact being reinstated in the community within three months’ time.
32. On 6 January 2023, the matter appeared before the court for a further directions hearing. The order of that hearing records that the mother ‘*was in agreement*’ with the recommendation for indirect contact only whereas the father was not. The order includes a series of recitals in which both parties made cross-complaints as to why some direct and telephone contact had not taken place in the December. The court declined to vary the contact arrangements on an interim basis and directed Cafcass to advise upon the need for the children to be joined as parties. The matter returned before the court in short order; on 13 January 2023, having heard from Cafcass, the children were joined as parties and provision made for the appointment of a

Guardian pursuant to rule 16.4 FPR 2010. While telephone contact was to remain, all orders for direct time were suspended pending further order.

33. When the matter returned before the court on 24 February 2023, the children were represented through their Guardian. The court noted the father's continued allegation that the children were being subjected to '*parental alienation*' and the order provides for both parties to file statements setting out their response to the section 37 report, proposals for contact and a schedule of any allegations on which they sought to rely. It was further recorded that '*at the next hearing there will be a determination of whether there needs to be a separate Fact-Finding Hearing or any expert evidence in relation to the father's allegation of parental alienation*'.
34. By Form C2 dated 27 March 2023, an application was made on behalf of the children for permission to instruct an expert child and family psychologist. At a hearing on 28 March 2023, the court was informed that all parties were in agreement that Dr A (chartered counselling psychologist) should be instructed to prepare a report. It is perhaps worth noting that the scope of that report as directed at paragraph 10(b) of the order makes no reference to parental alienation. The recitals however, state as follows:

AND UPON the Court determining that the expert assessment of the family is necessary and proportionate in this matter to fully understand the family dynamics **and ensure the allegation of parental alienation raised by the father is fully explored. [emphasis added]**

I will return to this recital and the scope of the expert instruction in due course. Dr A was directed to report by 28 June 2023, with a further hearing listed on 14 July 2023. Due to a delay concerning the Legal Aid Agency granting sufficient funding, the date for the report was extended to 1 August 2023, with a hearing to follow.

35. Dr A's report is dated 1 August 2023. The matter next appeared before the court for hearing on 7 September 2023, when the order records that all parties agreed to a referral being made to the Improving Child and Family Arrangements ("ICFA") service. The Guardian was directed to make that referral, with the ICFA provider to report by 30 November. By the time of the hearing on 11 December 2023, however, it is plain from the recitals that the referral had not gone entirely to plan: the mother, for example, was objecting to the travel and sought a move into a contact centre local to the children rather than via the ICFA provider.
36. The hearing on 11 December 2023 was before Her Honour Judge Venables. The order records as follows:

AND UPON the Court expressing concern that the court appointed psychologist, Dr A, has gone beyond her remit as a psychologist and has found/purported to diagnose parental alienation and that those

parts of her report must be disregarded in line with the President's guidance.

I read that recital as referring to the President's guidance in *Re C*. The Judge went on to conclude that a fact-finding hearing was '*required in order to determine the Father's allegations of parental alienation against the Mother*' but that all matters might be determined at a '*rolled up*' final hearing. Time was extended for ICFA to report by 29 January 2024 and the matter timetabled through to a two-day hearing. Provision was made for the father to file a Scott Schedule and statement in support by 28 December 2023, with the mother to respond by

15 January 2024. The Guardian's final analysis was to be filed by 11 February 2024, with a pre-trial review listed the following day. Directions were also made for the appointment of a QLR to cross-examine the mother on behalf of the father.

37. The pre-trial review was heard by me on 12 February 2024. The ICFA provider had been unable to provide a final report and recommendations as directed, which in turn meant that the Guardian would not be in a position to provide her final analysis ahead of the final hearing. The parties were in agreement that the two-day fixture should be retained to dispose of the factfinding element, with a view to welfare issues being determined on a later date. All parties confirmed that Dr A's attendance was not required and I approved a witness template which provided only for the mother and the father to give oral evidence.

The Finding of Fact Hearing

38. So it was that the fact-finding hearing was heard by me over two days, 28 to 29 February 2024. The hearing took place as an attended hearing at Milton Keynes, with both parents being present and special measures provided by way of screens in the courtroom. The Guardian was permitted to attend remotely by video link.

39. I heard oral evidence from the father on Wednesday, 28 February. After confirming his statements and schedule of allegations, I indicated that I would permit him some time to give evidence-in-chief if he wished to do so. In the event, the father elected to move directly to cross-examination and his evidence was concluded on the first day by around 16:30. On Thursday, 29 February, I heard oral evidence from the mother, with cross-examination conducted on behalf of the father via the QLR, Mr Khan. Her evidence concluded at around 16:45.

40. Given the time, I directed the parties to provide their closing submissions in writing and reserved judgment. The additional time provided by the decision to reserve judgment has allowed me to read the entirety of the bundle, including all of the witness statements, the accompanying exhibits, the various reports from professionals and the additional documents to which my attention was drawn but which were not contained within the bundle, including the telephone logs provided by the father, a local authority assessment from 2019, additional police logs for 2016 and 2019, and the ICFA report dated 27 February 2024.

41. In preparing this judgment, as well as re-reading the entirety of the written evidence and all documents contained in the agreed core reading list, I have read my detailed notes of the oral evidence heard over the course of two days as well as the written closing submissions from all parties. I am very grateful to Ms Laurence, Mr Khan and Ms McMeechan for their assistance, as well as to the father for his written submissions.

Findings of Fact: The Law

42. I have had regard to those authorities set out in the agreed note of the law prepared by Counsel, for which I am very grateful. The legal burden of establishing an allegation as fact rests with the party asserting it. As stated in the case of *Re H and R (Child Sexual Abuse: Standard of Proof)* [1996] 1 FLR 80 (in the context of care orders) at p. 95:

... The general principle is that he who asserts must prove. Generally, although there are exceptions, a plaintiff or applicant must establish the existence of all the preconditions and other facts entitling him to the order he seeks ...

43. It is now well established that, within family proceedings, the standard of proof is that of ‘*the preponderance of probability, usually referred to as the balance of probability*’, see *Re H and R* at pp. 95-96. Also known as the ‘civil standard’, it has been alternatively expressed as follows by Denning J (as he then was) in *Miller v Ministry of Pensions* [1947] 2 All ER 372:

If the evidence is such that the tribunal can say: “We think it more probable than not”, the burden is discharged but, if the probabilities are equal, it is not.

44. In determining whether or not a party has established their case to the requisite standard in seeking findings, I of course bear in mind the judgment of the Supreme Court in *Re B (Care Proceedings: Standard of Proof)* [2008] 2 FLR 141, in which Baroness Hale observed:

[32] In our legal system, if a judge finds it more likely than not that something did take place, then it is treated as having taken place. If he finds it more likely than not that it did not take place, then it is treated as not having taken place. He is not allowed to sit on the fence. He has to find for one side or the other. Sometimes the burden of proof will come to his rescue: the party with the burden of showing that something took place will not have satisfied him that it did. But generally speaking a judge is able to make up his mind where the truth lies without needing to rely upon the burden of proof.

[70] ... Neither the seriousness of the allegation nor the seriousness of the consequences should make any difference to the standard of proof to be applied in determining the facts. The inherent probabilities are simply something to be taken into account, where relevant, in deciding where the truth lies...

On the latter point, I also have in mind the helpful commentary of Peter Jackson J (as he then was) in *Re BR (Proof of Facts)* [2015] EWFC 41, in particular the reminder that '*the fact that an event is a very common one does not lower the standard of probability... [nor] does the fact that an event is very uncommon raise the standard of proof that must be satisfied before it can be said to have occurred*'. Further, I remind myself that '*the frequency or infrequency with which an event generally occurs cannot divert attention from the question of whether it actually occurred*'.

45. That 'suspicion' is insufficient for the purposes of the court is well established, though findings may be made on the basis of inferences properly drawn from the evidence available. As was said by Baker J (as he then was) in *Re L and M (Children)* [2013] EWHC 1569 (Fam) at [48], any findings of fact made by the court '*must be based on evidence which includes inferences that can be properly drawn from the evidence and not on suspicion or speculation*'.
46. I remain aware of the need to avoid a process in which I evaluate or assess the available evidence in silos. As was said in the case of *Re T (Abuse: Standard of Proof)* [2004] EWCA Civ 558 at [33], '*evidence cannot be evaluated and assessed in separate compartments*' but, rather, the court is required:

... to have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward ... has been made out to the appropriate standard of proof.

There is perhaps a danger in any written judgment designed to assist the parties that, in appearance, the approach of the court might seem linear. I emphasise at this stage, therefore, that I have not simply looked at individual facts in isolation but considered the evidence placed before me in its totality. While it is true that findings in relation to one allegation *might* add weight to another, each allegation must be considered on its own merits.

47. I have also reminded myself of the recent approach to the *Lucas* direction as established by the Court of Appeal in *A, B and C (Children)* [2021] EWCA Civ 451. A deliberate lie, made before and/or during the hearing, *might* be probative of guilt. In the event the court finds that a party has lied deliberately, it must then consider the significant issue to which the lie or lies relate and consider on what basis it can be determined that the only explanation for the lie is guilt. The reality is that people lie for all sorts of reasons; for example, shame, humiliation, misplaced loyalty, panic, fear, distress, confusion or emotional pressure.

Alienating Behaviours

48. The predominant focus of this hearing has been on allegations of alienating behaviours. I have had regard to the guidance of Lord Justice Peter Jackson in the case of *Re S (Parental Alienation: Cult) [2020] EWCA Civ 568*, in which his Lordship summarised the relevant authorities at [13]:

In summary, in a situation of parental alienation the obligation on the court is to respond with exceptional diligence and take whatever effective measures are available. The situation calls for judicial resolve because the line of least resistance is likely to be less stressful for the child and for the court in the short term. But it does not represent a solution to the problem. Inaction will probably reinforce the position of the stronger party at the expense of the weaker party and the bar will be raised for the next attempt at intervention. Above all, the obligation on the court is to keep the child's medium to long term welfare at the forefront of its mind and wherever possible to uphold the child and parent's right to respect for family life before it is breached. In making its overall welfare decision the court must therefore be alert to early signs of alienation. What will amount to effective action will be a matter of judgement, but it is emphatically not necessary to wait for serious, worse still irreparable, harm to be done before appropriate action is taken. It is easier to conclude that decisive action was needed after it has become too late to take it.

49. I have already observed my preference for the term '*alienating behaviours*', in line with the President's recent comments in *Re C*. In the context of fact-finding on allegations of alienating behaviours, I have also reminded myself of the guidance provided in that case, as set out above at paragraph 6. Whether alienating behaviours have occurred is a question of fact to be determined in the same way as (say) an allegation of domestic abuse.
50. In an agreed note on the law, Counsel have drawn my attention to the draft guidance of the Family Justice Council ("the FJC") and the '*three elements*' identified at page 4 of that document. At present, the consultation on that draft document has closed and the FJC has confirmed that further time is now needed to consider the voluminous responses received. It is, perhaps, safe to observe that the FJC guidance has generated a degree of debate and that the guidance is therefore subject to further amendment. At this stage and in the circumstances, I do not consider it necessary or appropriate to consider that guidance when determining the issues of factual dispute now before me.

A Note on the Expert Evidence

51. I pause to note at this stage an area for caution, building on what I have already said at paragraphs 5 to 6, above. Having had the benefit of considering the report of Dr A in detail, I agree entirely with the observations made by Her Honour Judge Venables at the hearing on 11 December 2023:

... the Court expressing concern that the court appointed psychologist, Dr A, has gone beyond her remit as a psychologist and has found/purported to diagnose parental alienation and that those parts of her report must be disregarded in line with the President's guidance.

Even a cursory read of the executive summary to Dr Arora's report at paragraphs 1.2 and 1.3 makes clear she is expressing a clinical opinion that the children present with psychological profiles '*consistent to that of a child who was exposed to parental alienation*'. To the extent that Dr A's report purports to express an opinion as to a diagnosis of alienation and/or her opinion of the factual matrix, I reject those opinions without hesitation. They are of no assistance to me in determining the live questions of fact before the court.

52. The one issue on which I would respectfully disagree with Her Honour Judge Venables is the suggestion that Dr A went '*beyond her remit*'. Sadly, having had the benefit of reviewing the procedural history of this case in detail, the fault would appear to lie much further upstream from the expert to the extent that – far from acting beyond her remit – she was arguably complying with her express instructions.

53. The first seed of error can be found in the order of 24 February 2023, which records that the next hearing would be used to consider '*whether there needs to be a separate Fact-Finding Hearing or any expert evidence in relation to the father's allegation of parental alienation*', **[emphasis added]**. Given the President's comments in *Re C*, it is perhaps regrettable that the court order was drafted in such a way as to imply that '*expert evidence*' might be needed to explore the father's allegations of alienation.

54. This confusion was then compounded by the subsequent application made on behalf of the children, the Part 25 Notice appended to which reads as follows:

You are instructed to undertake a holistic psychological assessment of the parents and the children, in order to consider their functioning, wellbeing and their relationships, in particular whether parental manipulation, alienation or estrangement are relevant for the children. **[emphasis added]**

When the Part 25 application was considered at the hearing on 28 March 2023, the order records:

AND UPON the Court determining that the expert assessment of the family is necessary and proportionate in this matter to fully understand the family dynamics **and ensure the allegation of parental alienation raised by the father is fully explored. [emphasis added]**

With the greatest of respect to those responsible for drafting the above, it is quite plain that both the Part 25 Notice and the recital on the face of the order of 28 March fly entirely in the face of *Re C* and the warning against an approach that views alienation as a syndrome to be diagnosed by an expert rather than an allegation of fact to be determined by the court.

55. At paragraph 3.1 of her report under the subheading ‘*Reason For Report*’, Dr A summarises her instructions, which include verbatim the above offending words from the Part 25 Notice. It is abundantly clear that, far from acting on a frolic of her own, the expert was doing exactly as she had been asked: to express an opinion as to whether or not this was a case of alienation. To that extent, she is perhaps to be forgiven.
56. What I consider to be especially unhelpful in the present case is the delay this erroneous approach then caused, for the parents and the children. Rather than assisting the court to grapple with the father’s allegations as issues of fact, the court appears to have been led down a path of attempting to bypass the need for fact-finding by instructing Dr A to do the job. The result has been a delay of over a year between the court identifying the possible need for fact-finding in February 2023 and fact-finding actually taking place in February 2024.

Impression of the Witnesses

57. The father was self-representing in circumstances where both the mother and the children were represented by Counsel; I do not underestimate the difficulties he faced as a litigant in person and would describe his overall conduct as courteous and respectful. In terms of his oral evidence, he was a forthright witness with a very clear view as to the events that have taken place; at times when his narrative was challenged, he could become flustered, turning pages of the bundle to find a counterpoint that (more than once) he was unable to locate. He presents as a passionate individual with deeply held views as to what is and is not true, to the extent that he at times could be heard to huff and puff during the mother’s evidence.
58. The father’s diction often tends towards the melodramatic. For example, when describing his travel to and from contact, he informed me this was a “*treacherous route*”. At other times, he was forthright in making bare assertions without any supporting evidence; in places, I found his chronology to be muddled and the dates of his exhibits and the alleged events they are said to support to be unclear. I was told that certain text messages exist that would support his case but they could not be located during the overnight adjournment; equally, photographs included with his exhibits were undated, the father struggling to provide any real clarity.

59. In other regards, the father has simply not been truthful. In his first statement to the court in June 2022, he alleged that the mother ‘*has threatened to run away to Nigeria in the past and carry out female genital mutilation on the girls*’. That statement is signed with a statement of truth. At the next hearing on 3 October 2022, however, the order records the father’s admission that no threats had ever been made by the mother concerning FGM. His initial statement, then, was false. Given the seriousness of the allegation, the father’s willingness to make such a baseless claim is troubling.
60. Where information recorded by the local authority challenges his own narrative, the father claims this is because previous social workers ‘*falsified documents*’. In this, I detect a willingness to make bold, serious and wholly meritless allegations against both professionals as well as the mother. I am concerned by the father’s repeated assertion that the mother made allegations he had sexually abused the children and that this led to a medical examination being conducted, the implication being that the children were subjected to an examination of their genitals. This, in fact, forms the basis for allegation 1(e), that the mother ‘*has alleged that the father has sexually abused the children and the children are aware of this*’.
61. In support of this allegation, the father provides text messages from 30 October 2019 in which the mother expresses her concern that the father was often naked in the presence of the children and slept naked in the same bed as them; she claimed to be in ‘*fear*’ for the children and suggested she would bring her concerns ‘*be4 the authorities*’ with possible checks in the hospital. I note that these messages immediately proceed the father’s complaint to the police on 31 October 2019, which led to the parties’ separation. While the mother’s implication is clear – she will allege sexual touching of the children – there is simply no evidence that she ever actually made such a complaint to the authorities and/or that the children were ever examined.
62. Notwithstanding, the father has continued to repeat his assertion. He informed Dr A of this during his interview with her in 2023, see para. 8.44. As recently as his detailed schedule dated 22 December 2023, he describes again how this ‘*diabolical allegation*’ was made and that a ‘*[m]edical examination and assessment of the girls showed otherwise*’. Having considered the totality of the professional evidence and third-party disclosure, I am satisfied that no such allegation was ever made by the mother to professionals, despite her threat made in the text messages in 2019. There is no record *at all* of such an allegation being made or investigated in the manner alleged. Rather, the *only* record is of the father informing professionals that he was concerned the mother herself might sexually assault the children and then blame it on him. That is a quite extraordinary allegation to have made.
63. Sadly, it is clear that the children are aware of the father’s assertions. During the section 37 enquiries in late 2022, KM is recorded as having informed the social worker that the father ‘*told them that their mother had told the Court that he had sex with both [of them] ... KM said this made them more upset*’. It emerged that the father himself had said this to the children during a trip to the park on 18 November 2022. The father confirmed in oral

evidence that this had happened, acknowledging it was “*inappropriate, I put my hands up*”. KR has also recalled this occasion, informing Dr A: “*The last time I saw him, he was just shouting that mummy said we had sex with him, but she never said that!*”.

64. What to make of all this? It is troubling that the father has continued to inform professionals that a formal complaint was made by the mother when no such complaint was ever made. Equally, he has continued to allege that the children were subjected to a medical examination when there is no evidence at all to support that assertion. While I accept that the mother raised the spectre of such an allegation in her text messages to the father in October 2019, that he would continue to misinterpret events so vehemently in February 2024 in an attempt to support his narrative of ‘*parental alienation*’ leads me to conclude that he is not always a reliable witness of fact. I must, therefore, approach his evidence with a degree of caution.
65. The irony of all of this – and I make this finding on a balance of probability – is that the *only* reason the children are aware of this issue is because the father himself has raised it with them in circumstances that he himself accepts were entirely inappropriate. What on Earth were the children to make of being told their mother was alleging sexual abuse? I do not accept that allegation 1(e) is made out; this is simply not an example of the mother exhibiting alienating behaviours. If anything, it illustrates how the father’s own actions have been liable to cause confusion and upset.
66. Turning to the mother, she was equally forthright in her answers. At times, she raised her voice when her narrative was questioned, growing irritable under cross-examination. To that extent, I would observe that my experience of the mother was similar to that of Dr A, who describes the mother as being ‘*[a]t times ... either hostile, frustrated, defensive, or sarcastic in her manner of interaction*’, see paragraph 8.61. By the end of her evidence, I formed the impression that she has found these proceedings draining and has to some extent checked-out of the litigation process: she informed me that she has elected not to read Dr A’s report, notwithstanding its detailed analysis of herself and the children, and the recommendations made that are designed to assist all parties. Likewise, she had not read the ICFA report.
67. At times, the mother showed a degree of derision for the father and the court process. When it was put by Mr Khan that the father loves the children, she replied “*Really?*”. When I asked her to confirm whether or not she accepts that the father loves the girls, she replied:

I don’t accept it. He’s not fighting. He’s only trying to paint a picture, he’s not fighting [to see them].

I find that this is her genuinely held belief, albeit I do not accept the premise that the father does not love his children. It is abundantly clear to me – as is common ground amongst the professionals – that the father loves the girls very much. That the mother thinks so little of the father is very plain; to some extent, this colours her evidence insofar as it relates to the father.

68. As for her credibility, there are aspects of the evidence that give pause for thought. I have had sight of historic documents from both the police and the Home Office in which concern is expressed as to the mother's honesty. In 2008, for example, her application for a student visa was rejected on the basis that she had not been frank in her application; despite claiming it was her first application, the clearance officer discovered that the mother had made a previous failed application under a different passport. The officer concluded, '*I am satisfied that you have altered your identity in order to obtain a new passport in order to conceal the fact that you have been previously refused entry clearance*'. The father wishes me to place great weight on this document, which I note is now some sixteen years old, from a time when the mother was doing what she could to enter the UK. I do not consider this to be of any real assistance in considering the mother's credibility in 2024.

69. I note the observations of Dr A at paragraph 8.62 of her report, that the mother was not truthful when she claimed to be in a confidential space on her own when, in fact, it was quite obvious that someone else was present. In several key regards, I also consider that the mother's evidence has been inconsistent. For example, the account of the pillow incident in November 2022 differs between her written and oral accounts. Where in the past the mother has been clear that she spoke to the children about the alleged incident on the Monday evening after collection from school, in her oral evidence she informed me:

That morning we were getting ready for school, KM complained of a pain in her head. I asked ... she told me about the incident and said she wanted to tell.

That strikes me as being a significant departure from her earlier account, implying the allegations by the children were not made until the Tuesday morning rather than the Monday evening. I explore the pillow incident in more detail, below.

70. I have also noted what, in my view, was the mother's lack of willingness or ability to concede very obvious points. For example, Dr A records at paragraph 10.7:

KR expressed a belief that [the father] wants her and KM to be moved to a foster care because he does not care about them. She disclosed that [the mother] had spoken to her about her experience of being held by police in a cell ... KR was aware that [the father] is against her travelling to Nigeria. It is likely that KR was either directly told this information or she may have overheard adults talking about it and may have picked up implicitly on the maternal negative attitudes towards [the father].

When asked how KR might know about the father's previous reference to foster care, the mother denied telling the girls herself, saying they are "*very intelligent and might just be*

smart to think it might happen, they read books, watch films". I am afraid to say I consider that explanation to be wholly unconvincing.

71. On the issue of the children travelling to Nigeria, I note that KR made similar comments to the Guardian in March 2023, when she *'spoke of her dad spending lots of money travelling but that he was not willing to let her have a passport so that she could travel'*. KR further reported that the mother had read e-mails out to her. The mother's acceptance on these issues was belated and begrudging, with admissions only made towards the very end of her evidence when questioned by Ms McMeechan. It is quite obvious that the mother has spoken to the girls about the father's suggestion of foster care and his refusal to agree to her application for Nigerian passports and I make that finding accordingly.
72. Sadly, neither party impressed me as being straightforward witnesses of fact. Both have axes to grind and both seem willing to say whatever they believe will help their case. This of course leaves the court in an invidious position, not least in those areas where there is no supporting documentation to corroborate what is being said.

The Allegations

73. The father's Scott Schedule includes three umbrella allegations, each of which includes several sub-allegations. All fall under the headline allegation that the mother has alienated the children against the father through a pattern of behaviours.
74. I remind myself again of the guidance in *Re C*, that the identification of alienating behaviour should be the court's focus rather than any quest to determine whether the label 'parental alienation' can be applied. To that end, the father alleges three core types of conduct said to have been perpetrated by the mother: first, exposure of the children to inappropriate information and discussions; second, limiting and frustrating contact between the children and their father; and third, withholding or frustrating access to important welfare information relating to the children. I make some general findings before addressing those allegations in turn.

Contact Since the 2020 Order: Findings

75. I have received a schedule of missed contact sessions from January 2021 onwards. As with much of this case, there are significant areas of disagreement.

January to July 2021

76. I have not seen any evidence to support the mother's assertion that there was no direct contact between January and July 2021 due to the father having no water or heating; the father maintains that contact took place largely in line with the 2020 Order. This was explored by Ms McMeechan with the mother in cross-examination, when she accepted that issues of

nonattendance did not really start until July 2021. I note also that the local authority remained involved throughout this time and the CiN Plans rather imply that contact was taking place. On balance, I do not accept the mother's assertion and find that the children spent time with the father broadly in line with the 2020 order.

July to September 2021

77. On any view, that changed in July. The children spent the weekend of 16 to 19 July 2021 with the father but then did not see him again until after school recommenced in the September. That is an agreed position. The father informs me that this was because he had been evicted and was effectively homeless, although provides no evidence in support. The mother alleges that the father was in Nigeria during this time. She points to a series of e-mails she sent to the father on 30 July, 20 August and 16 September in which she complains he had failed to attend contact (direct and via telephone) and that on one occasion this meant the children waiting for 30 minutes in the rain to see if the father would attend. The father denies ever receiving those e-mails although they appear to have been sent to his current address.

78. On a balance of probability, I remain wholly unconvinced by the father's explanation. Whether or not he had been evicted or whether or not he was in Nigeria I cannot say: what is obvious, however, is that he failed to keep the mother abreast of his situation and/or to make any alternative proposals to see the children. Quite why he could not maintain the telephone calls as a minimum is unclear and – to the extent that the father says he could not because of his financial and personal circumstances, or because he was otherwise blocked by the mother – he has failed to evidence the same. I find on balance that contact did not take place during this period for reasons that lie entirely at the father's door and that, in his failure to maintain contact, he showed a lack of insight into the impact this would inevitably have on the children and their relationship with him.

October 2021

79. While the children saw their father in September 2021, this was again disrupted in the October. The CiN Plan dated 21 October records as follows:

Dad said the local Authority does not support him with accommodation and for the next 1 month, he will not be at his address because he has been given an eviction notice. Thus he will not be seeing the kids during this time. He said it was impossible for him to see the kids during the weekends as he is struggling with accommodation. He did not reply when H suggested he meets the kids at the park.

There is no dispute that face-to-face contact did not take place, the father confirming that he was '*struggling with accommodation*'. I note again that the father failed to consider

alternative ways of maintaining contact, even when a suggestion was made by the local authority. I find that the mother was in no way responsible for this gap in contact and that the father, again, acted without consideration for the children and the impact this gap in contact would have.

November 2021: The Pillow Incident

80. Next, we come to the suspension of the children’s time with the father following the so-called “pillow incident” in November 2022. There is no dispute that the children did not see the father following the mother’s unilateral decision and the letter from her solicitor dated 9 December 2022 informing the father that his time with the children had been suspended. The question remains, however, whether or not the mother’s actions were reasonable.
81. The children had been staying with the father from Friday, 26 to Monday, 29 November. The father explains that his new partner (and now wife) T came to visit with her young son; this was only the second or third time the girls had met T. The father accepts that there was some dispute between T and KM over a pillow, during which T ‘*had just taken one of two pillows from under KM’s head and wherein KM’s head landed softly on the second set of double pillows in the pillowcase*’. As far as he was concerned, that was the end of the matter. Certainly, no concerns were recorded by the school on Monday and the children were collected by the mother at the end of the day.
82. The first independent record appears in the GP notes following an appointment at 10:30 on Tuesday, 30 November. It appears that the mother attended with KM, the mother informing the GP that when she had collected the children from school KM ‘*did not look good*’, which she put down to tiredness. The note goes on:

... they got home, and mum was giving her shower to wash hair, and then [KM] complained of pain on her head. Mum gave calpol. Daughter [complained of] pain again later again. [KR] started talking and said [KM] and sister were in bedroom at dads house, and a lady and son came to visit there. [KM] said the lady ... a friend of her dads needed a pillow as her back was hurting. [KM] refused to give the pillow as she was laying on it, and the lady ‘snatched’ the pillow from under her head and in doing so, the patient hit her head on the wall. Head hurt straight away and she says her dad gave her calpol on Sunday after it had happened.

Although KM is said to have pointed to a ‘*tender area on back of head*’, no swelling, cuts, redness or bruising were observed. Calpol was advised if necessary.

83. In her statement dated 23 June 2022, the mother states that on collecting the children KM ‘*was complaining of pain in her head and told me what had happened*’. She goes on to

explain that she ‘*asked the girls if their father had been told – they both confirmed he had but he did not believe them*’. The mother then asked KM to call her father (to what end is unclear) but he did not answer, so KM instead sent a text message.

84. The statement goes on to suggest that the GP advised the mother to call the police; no such advice is recorded in the GP notes and the mother did not in any event contact the police until 19:41 that evening. The police log reveals several inconsistencies in the mother’s account. First, she claimed that KM did *not* tell her father at the time, contrary to her later statement. Further, she informed the police that ‘*the doctor confirmed that she had a little bruise and to carry on giving her paracetamol*’, neither comment being supported by the GP notes.

85. I have had sight of a text message apparently sent to the father at 16:24 on 29 November:

Daddy T pulled the pillow
from my head and she made
me hit my head on the wall
and it still hurt.
I WILL TELL MY SOCIAL
WORKER ok

At 16:26, a second message reads ‘*FROM KM*’ followed by a later message at 19:07 to say ‘*My head really hurts*’. The father responded shortly before 09:00 the next day in a series of long messages, in which he suggests KM is telling ‘*a lie because your mother has asked you to do so*’. He describes her behaviour as ‘*shameful*’ and calls KM ‘*a liar*’ who has been ‘*trained by [the mother] to tell lies*’. It is of note, however, that the father accepts in these messages that an incident did occur in which KM had two pillows, ‘*one was taken off and [her] head landed on the second one*’.

86. During the subsequent section 47 investigation, both children were spoken to. KM confirmed that T had ‘*snatched*’ a pillow from under her head causing KM to hit her head ‘*on the wall*’; T then asked, ‘*do I have to fight you*’. When KR was spoken to, she did not volunteer information about the alleged incident and initially told professionals that she had had fun with the father, with a movie night and a trip to KFC. Only on being asked twice if there had been any visitors did she finally give an account that (on paper) appears almost word-for-word the same account as KM’s, including the phrase ‘*do I have to fight you*’.

87. Neither parent has given a consistent account. At times, the father has maintained he was in the bedroom when the pillow was removed; in his oral evidence, however, he informed me that “*when [he] got into the room, T was standing there with the pillow*”. Similarly, the mother’s chronology is messy. Her contemporaneous accounts consistently record that KM spoke to the mother about her head after school on the Monday, which timeline fits with the text messages sent at 16:24 that day. In her oral evidence, however, the mother described collecting the children from school on the Monday; “*KM was having a haircut ... I wash their*

hair every morning ... she told me the story". Later, she repeated that her discussion with KM took place "*that morning when they were getting ready for school*". I am left entirely unclear as to when the mother says she spoke to the children about the incident.

88. I do not consider that I am in a position to adjudicate one way or the other as to exactly what took place between T and KM. The only certain witnesses to the event were T and the children, none of whom have provided evidence save the children's hearsay accounts as recorded in the section 47 report. What I am certain about, however, is that *something* took place that weekend, the results of which – for whatever reasons – continue to echo into 2024.
89. It cannot be ignored that T was, if not entirely new to the children, at least unfamiliar; just as their time with the father had been restored after the extended hiatus that summer, they were introduced to their father's new partner and her son. That seems to me to show a certain lack of insight by the father into the needs of the girls at that time. Clearly, an event occurred that was significant enough for KM to have been upset and to have spoken to her mother about it; it may well be that her complaint was unjustified or exaggerated but the father's labelling of his daughter as a "liar" was entirely unhelpful and shows a lack of empathy and ability to view events from his daughter's perspective.
90. As for the mother's approach, she appears to have leapt on these events as a reason to suspend the children's time with the father. Neither child volunteered allegations to staff at the school on Monday and, on the mother's own evidence, details were only obtained by her with some degree of questioning of the children. The trip to the GP identified no visible injuries while the mother's call to the police logged later that evening indicates a significant degree of exaggeration if not fabrication on her part. The section 47 investigation concluded that '*incidents like this are ceased [sic] upon by parents to prolong their conflict*'. I agree and find, on a balance of probability, that the mother deliberately exaggerated and weaponised this event in order to frustrate the children seeing their father. To be clear, however, neither party covered themselves in glory: the father's refusal to provide details to enable safeguarding checks on T is a case in point.

January to March 2022

91. Although there is some slight disagreement around when contact recommenced, it is common ground that the children stayed with their father from school on Friday, 21 January to the following Monday. They were next due to stay with the father from 4 to 7 February, 18 to 21 February and 1 to 4 March 2022 but none of those weekends took place. The first of these, the father says, could not take place due to '*circumstances beyond his control*'. By e-mail dated 2 February 2022, he explained that his heating was broken; his home was therefore '*unconducive for the girls right now*' and he was waiting for the landlord to undertake repairs in the next few weeks. The second missed weekend appears to have been cancelled because the father's heating was still broken.

92. I do not accept, therefore, that the mother might be held responsible for those first two missed weekends. On 28 February, the mother's solicitors e-mailed the father to inform him that an application was about to be lodged. The third weekend did not take place; neither party sought to explain in any detail why that was the case and I am unable to make a finding either way.

Contact during proceedings

93. Since March 2022, the matter has been before the Family Court. I note that the children do not appear to have seen their father until the order of Deputy District Judge McDonagh on 9 June 2022, when the 2020 order was varied and contact was to take place on alternate Saturdays, 12:30 to 19:30, commencing 18 June 2022. On 3 October 2022, the order was rephrased to ensure that contact was '*for a minimum of two hours*'. On 13 January 2023, all direct contact was suspended pending further order.

94. Between June 2022 and January 2023, the children's time with the father on alternate Saturdays was inconsistent. On 18 June, 30 July and 13 August, the mother asserts that the children were made available but that they refused to spend time with their father. On other occasions, one or both of the children were not made available for contact due (it is said) to being '*unwell*'; this happened on 2 July and 3 and 17 December. Finally, there were also sessions that did not take place on 16 July and 31 December 2022 because the father himself did not attend.

95. I have been given no explanation from the father for the missed contact on 16 July. Regarding the 31 December, he tells me this was because he was stuck in traffic. It is unclear what (if any) attempts he made to communicate with the mother but, regardless, it cannot be said that the mother was responsible for these sessions not taking place. As for the three contacts cancelled by the mother due to the children being unwell, I have seen no medical evidence to support that assertion nor is there any evidence that the mother offered to rearrange the missed time.

96. During the course of this hearing, the court has been furnished with a copy of the ICFA report dated 27 February 2024. The ICFA work has been undertaken by a contact centre, who undertook preparatory work with the children on 2 December 2023. Contact sessions were held on 20 January, 3 February and 17 February 2024. The father is recorded as having arrived 20 minutes late to the first session; although the children appeared quiet and sombre at the start, the notes indicate that things improved over time with some moments of discussion and laughter. The second session was less successful. This time, the children arrived late and made repeated comments about historic events; when support staff intervened, the girls claimed the father was only pretending to be nice. They began to cry and asked to be collected by the mother early, saying they did not wish to see the father.

97. During the third ICFA session on 17 February, the children appear to have been upset from the start. KM returned to discussing events regarding the father's partner and is described as

being visibly hostile towards the father, ‘*glaring*’ at him. The session was said to have been ‘*heavy and stressful*’, with KM stating that for matters to improve ‘*she needs to be believed and would like a stop to being called a liar*’. Following that session, the father raised with the staff his concern of ‘*parental alienation*’, suggesting he has found the court process draining and may not be able to continue. The system, he said, ‘*has not helped him*’.

Allegation 1: Exposure to Inappropriate Information

98. The father alleges that the mother has alienated the children by exposing them to inappropriate information and discussions. In support, he pleads sub-allegations (a) to (j), all of which are denied by the mother in her response to the Scott Schedule.

Allegation 1(a)

99. It is alleged that the mother has shared inappropriate details or documentation about the previous and current court proceedings with the children. The mother denies this and confirmed this denial in her oral evidence. There is no question, of course, that the children are aware of the court proceedings given their interaction with Dr A and the Guardian. The question is, has anything been shared by the mother that ought not to have been? Examples are said to include:

- (a) Foster care – Dr A records KR’s belief that the father wants the girls to be moved to a foster placement, see paragraph 10.7. While it is correct that the father raised this during the section 37 assessment, how do the children know that? The mother’s explanation is that they are “*very intelligent and might just be smart to think it might happen, they read books, watch films*”;
- (b) Passport – Dr A also records KR’s belief that the father ‘*is against her travelling to Nigeria*’. The mother ultimately accepted in oral evidence that she had this conversation with the children: “*Yes, I did say we cannot travel because I cannot get consent from [the father]*”; and
- (c) Documents – during a discussion with the Guardian on 24 March 2023, KR stated that her mother let her read e-mails; she then corrected herself to say that the mother reads e-mails out to her. This comment was made in the context of KR having ‘*spoke of her dad spending lots of money travelling but that he was not willing to let her have a passport so that she could travel*’.

From these three examples alone, it is very clear that the mother has shared inappropriate details with the children about the current court proceedings and I make that finding accordingly. Further, I am satisfied – on a balance of probability – that the mother made these comments, at best with reckless disregard for the impact they would have on the children and, at worst, with a view to painting the father in a negative light. I do not consider it necessary to determine what the children do or do not know about the earlier 2020 proceedings.

100. Whether or not the mother has actually shared court documents or limited herself to sharing the information contained within those documents is beside the point: the children should have no knowledge of what the father has said in these proceedings. It would be wrong, however, for me to leave matters there when there is ample evidence that the father is also guilty of this charge. I have already found at paragraphs 63 to 65, above, that it was the father who informed the children on 18 November 2022 that the mother had made allegations against him that he had sexually abused them; not only was this untrue but it was deeply inappropriate. While I cannot ignore the greater responsibility that rests with the mother to shield the children given her role throughout proceedings as the parent with whom the children spend the most time – a responsibility she has ultimately failed at – neither party comes out squeaky clean. Both have behaved poorly in their reckless inclusion of the children in the acrimonious parental dispute.

Allegation 1(b)

101. The father alleges that the mother has told the children that, during their marriage, he used coercive and controlling behaviours towards her as well as physical abuse, controlling her friendships and financially abusing her. In support, he asserts this allegation is evidenced by the *‘adult conversations as recorded in all social services reports’*. The allegation is denied.
102. Having read the totality of the social work disclosure, I do not agree that there is evidence there to support this allegation. More compelling, however, are the comments made by KR to Dr A as recorded at paragraph 9.10 of her report:

With prompt, KR reported that the reason for our meeting is so that we can talk about *“how it is going with Dad”*. When KR was prompted to elaborate on this, she spoke about seeing marks on [the mother]’s body from being hurt by [the father]. She said that [the father] used his phone to hurt [the mother] and also used other objects. She could not tell me which other objects these were. When I asked KR if she actually saw this happening, she initially said that she did but then said that she and KM went to their bedroom to hide. When I asked her to clarify what she saw, she said: *“I just saw him abusing her and mostly hitting and pushing. Then I closed the door and went back in and me and KM hid under the blanket”*.

Elsewhere in her report, Dr A records KR’s description of the mother being in prison following her arrest in October 2019, see paragraph 9.22. This included the mother being *‘well-fed but [she] got marks on her bum from sitting down on the metal benches in her cell’*. KR confirmed *‘that she was told this by [the mother]’*.

103. Interestingly, KM informed Dr A that she did not know whether or not the parents’ arguments were ever physical, see paragraph 9.42. She was careful not to assign blame and implicated both parents in the arguments. I note that – at the point the parents separated in 2019 – KM was aged six years whereas KR was aged just four years.
104. Standing back and considering the totality of the written and oral evidence, I find on a balance of probability that the mother has made comments to the children to the effect that the father was violent during their marriage. It seems clear to me that the mother lacks insight as to what she should and should not share with the children; her description of her time in prison, for example, seems deeply unhelpful and designed to meet her own needs. I do not, however, find allegation 1(b) made out in its entirety: there is no evidence to support a finding that the mother discussed with the children being the victim of controlling and coercive behaviour, as alleged or at all.

105. For the avoidance of doubt, nothing I say above should be read as minimising or determining the mother's allegations of abuse which she reports to have experienced during the marriage. The court has on a previous occasion held that such allegations do not need to be determined and they do not fall to be determined by me today. The finding I have made above applies whether or not the mother's allegations of abuse are true and whether or not the children themselves witnessed domestic abuse: the point being, I am satisfied on balance that the mother has discussed her allegations with the children and that this discussion was inappropriate. I am reinforced in this view by the sheer level of hostility that both parents maintain towards the other and their continued cross-allegations of historic abuse which both have continued to make well into these proceedings.

Allegation 1(c)

106. The father alleges that the mother told the children that the reason she removed them from his care was because he was going to 'take them away' from her. The allegation is denied.
107. I understand this allegation to pertain to events back in 2019, when the mother effected a change of residence by collecting the children from school and moving to a different area. In support, the father points to the fact this was the reason given by the mother at the time; the local authority disclosure records the mother's concern 'that [the father] was planning to move out of the local area and take the children with him'. Further, he cites the mother's comments to Dr A in a similar vein as recorded in her report at paragraph 8.95. Finally, the father draws attention to paragraph 9.20 of Dr A's report, where KR – when asked how her mother might feel when the children spend time with the father – responds, 'she felt worried, sad and scared. Sad because she missed us, scared because he might take us away'.
108. I do not consider the mother's reasons for collecting the children from school in December 2019 to be evidence which supports this allegation. More significant is the comment made by KR to Dr A, that the mother may have been scared because he (the father) might take the children away. To my knowledge, however, that comment is not repeated elsewhere in any of the professional assessments over the years; it arises only in the context of a nuanced discussion held in mid-2023, at a time when the children were not seeing their father.
109. While the father provides one reading of Dr A's note, there are other equally valid ways of interpreting it. For example, Dr A appears to have asked a conceptually difficult question regarding how the mother must have felt *in the past* about contact; arguably, KR simply provided her own thoughts and ideas. Indeed, KR is recorded as going on to explain *why* she gave that answer, in which explanation she makes no mention of the mother having told her that the father posed an abduction risk. Ultimately, I remind myself that the balance of probability rests with the father; for the reasons I have given, I do not find that he has discharged the burden of proof and make no findings on this allegation.

Allegation 1(d)

110. The father alleges that the mother has encouraged the children to believe that he shouted at them. This is denied by the mother, who asserts that the children are simply reporting their lived experience.
111. There is certainly no disagreement that the children have reported to multiple professionals being shouted at by the father:
- (a) Within the police disclosure, I note that KM (then aged six years) was spoken to by officers along with a social worker on 31 October 2019. During that discussion, KM reported that the father *'shouts when [she] is naughty and she doesn't like that'*. This reference to shouting was made on the day of the parties' separation, up to which point the children had been living with both parents in the family home;
 - (b) During a child protection visit in November 2020, KM reported that *'daddy shouts at her for no reason ... she feels scared when he shouts'*;
 - (c) During the section 47 investigation in December 2021, KM was asked if she was happy going to see the father to which she replied *'no, because, he always shouts at us'*. While discussing the pillow incident, she was asked if she was afraid of the father; that leading question aside, her response was *'have you ever seen him shout?'*. These comments appear to have been summarised in the subsequent Child & Family Assessment of January 2022, when KM is recorded to have *'expressed she does not like going to dad's as he sometimes shouts at them'*;
 - (d) During the section 37 work completed in 2022, the social worker spoke to both children.
She records that both children alleged that *'their father shouts at them during contact'*. During a school visit on 30 November, KR is recorded as saying *'[w]e don't miss going to dad's home as he used to shout at us for no reason'*; at a further visit on 7 December, she indicated that she would like to see the father *'if he stops shouting at them'*. In the opinion of the social worker, it was the children's concerns around the father's shouting which had *'contributed to them being reluctant to spend time with him'*; and
 - (e) In her discussions with the social worker, KM made more detailed allegations of specific occasions when the father is said to have shouted. She gave the example of an occasion when she asked to leave contact early and the father began shouting and would not stop.
112. In his statement dated 8 January 2023, the father accepts the children have made repeated claims that he shouts but that this *'is clearly not normal'*. He denies shouting at the children and maintains that their comments must arise from being coached by the mother. He relies on two specific pieces of evidence contained in the bundle. First, he notes that in her statement responding to the section 37 assessment, the mother suggests it is *'quite clear from what the*

children have said that he [the father] does shout at them'. Second, he points to KM's observations to Dr A at paragraph 9.44 of her report:

“He is getting angry a lot more quickly. I can tell by his facial expression. Like sometimes his lips would be fuming and you can see a bit of wrinkle on his forehead. This was before, when I saw him in person. I can tell by the tone of his voice too”.

113. Of course, this evidence from the children is hearsay and – while the father does not challenge the fact the children have made allegations of shouting – the children's account has not been tested. Equally, I remain alive to the fact that professionals have expressed concern that the children – KR in particular – have at times '*parroted*' phrases used by the mother. In this instance, however, I do not accept that to be the case. There is no evidence that the mother has coached the children in this regard and I note Dr A's conclusion that KM is, in fact, more balanced in the comments she makes about the father. It seems to me that there is a consistent thread to these allegations in the comments made by the children over a significant number of years, beginning long before contact began to break down.
114. On a balance of probability and having weighed the evidence in its entirety, I do not find that the mother has '*encouraged the children to believe that he [the father] shouted at them*'. Rather, having observed the father's passionate and forthright presentation firsthand, I agree with the observation made on behalf of the Guardian: that the girls have more likely reported the father shouting at them because '*this is the girls' perception of his behaviour*'.

Allegation 1(e)

115. For the reasons set out at paragraphs 60 to 65 above, I do not find this allegation made out. To the extent that the children are aware of an allegation concerning sexual abuse, the blame rests entirely with the father.

Allegation 1(f)

116. The father alleges that the mother has encouraged the children to believe that he and his wife are dangerous. Further, that she has encouraged the children to believe that the father's wife hit KM's head against a wall during the pillow incident and that the father cannot protect them. This allegation is denied in its entirety.
117. I have already considered in some detail the so-called pillow incident at paragraphs 80 to 90 above. As I have already explained, the court is simply not in a position to adjudicate on exactly what took place between T and KM. I have been critical of the mother's handling of events and the manner in which she seized on the occasion to suspend contact. I remain concerned by the exchange of messages between KM and the father, and the role the mother admits to playing in suggesting that KM message him.

118. There is no evidence that the children have described the father or T as ‘*dangerous*’ nor that they have ever reported anxiety that the father cannot protect them. As to the assertion that the narrative of KM hitting her head has been driven by the mother rather than the children themselves, I remain unsatisfied having had regard to the totality of the evidence. That is not to say I am not troubled by the children’s repeated reference to this incident as a reason to avoid contact, as well as by the inconsistencies in the mother’s own account; there is a suspicion that the mother’s role in this allegation was more significant than she lets on. That, however, is the height of the father’s case and – suspicion being insufficient – I conclude that the father has not discharged the burden of proof in this regard. I make no finding on this allegation.

Allegations 1(g) and (h)

119. I take these two allegations together as they are, in many ways, sides of the same coin. First, the father alleges that the mother has told the children that he does not love them anymore and has encouraged them to believe that he has rejected them for his new family. Second, that the mother has repeatedly made negative remarks in front of the children about the father, T and members of the extended paternal family. Again, all allegations are denied by the mother.

120. The father draws principally on the comments made by the children to Dr A. At paragraph 9.57, she records the following interaction:

... when I asked KM how he [the father] might feel now that she does not want to spend time with him, she said: “*He basically has his own life. I think he feels neutral in a way because he does not care. He has his own life with his girlfriend and her child. I don’t like them*”. When I asked KM how [the mother] might feel about [the father]’s girlfriend and her child, she said: “*She does not like them either because she knows I have a reason (the pillow incident) not to like them*”. When I enquired how [the mother] may have felt towards them before the pillow incident, KM said that [the mother] did not like them before and then added that she is unsure why this was the case.

Both children expressed the view that the father is no longer part of their family.

121. Under cross-examination, the mother was asked about the father’s relationship with T, during which she flatly denied the possibility that the children might have picked up on her own negative views. She could provide no coherent explanation as to why KM, would have made such remarks to Dr A. She was also asked about the wider paternal family, to which she responded, “*he [the father] has no family*”.

122. In her closing submissions, Ms McMeechan draws my attention to the observation of Dr A at paragraph 9.13, that KR listed the father's negative qualities and '*came across as robotic in her manner of delivering*'; in doing so, her views at times '*closely resembled and parroted [the mother]'s views of [the father]*'. The mother herself was unable to make any positive comments about the father to Dr A and, when asked to describe him, simply responded '*I cannot describe him, sorry, because I don't want to remember anything about him*'.
123. I have to place this allegation in the context of the repeated and long-standing concerns of professionals as to the level of parental acrimony. The mother's hostility and, at times, derision for the father and her inability to acknowledge that on some level he genuinely loves his daughters (see paragraph 67, above) are instructive. On balance and with regard to the entire canvas of the evidence before me, I find that the mother has failed to shield the children from her own negative views, both of the father and his new partner. Whether or not she has expressly informed the children that the father does not love them, I cannot say. I have no doubt, however, that the children are aware of the mother's hostility towards the father and, to a large extent, appear to have sided with her. Equally, I am satisfied that the mother has done little to promote the children's paternal identity and that she remains dismissive of their need for a relationship with the wider paternal family.
124. None of this is meant to excuse the father from his own poor decisions. I have no doubt that any feelings of rejection the children now express are not simply due to the mother's attitude but their experiences over the past few years: the significant gaps in contact and the hurried way in which the father appears to have prioritised the children meeting T and her son, for example, have likely contributed to any sense the children now have that the father has rejected them for a new family. I remain concerned by the father's complete lack of acceptance or insight in this regard, and his concerted efforts to blame the mother for everything that has transpired.

Allegation 1(i)

125. This allegation has two distinct parts. First, the mother told the children that their maternal grandfather died due to the parental acrimony. The mother denies this allegation. The only evidence in support is a comment made by KR to Dr A that '*one of her aunties in Africa had said that her maternal grandfather had died because [the father] had stressed him out with what he had been saying*'. In oral evidence, the mother again denied making such a comment but accepted that the children *may* have overheard telephone discussions with the maternal family back in Nigeria. I do not find that the mother herself made this remark to the children but that she has failed to shield the children from the negative views of the wider maternal family expressed regarding the father.
126. Second, the father alleges that the mother inappropriately showed the children a photograph of their deceased aunt. In support, the father initially exhibited some eight photographs showing what I am told is her body before burial; at the pre-trial review, I directed that they

were to be removed from the bundle unless and until a formal application was made to include them. The father has since explained that he received those photographs by e-mail as far back as February 2014 but – in evidencing the same – the advocates and the court have once again needed to see the photographs, which were incorporated into the e-mail chain.

127. The mother describes how her sister died very suddenly at the age of 27 years. The funeral was held four days later and the mother was unable to attend; members of the family therefore arranged for photographs to be sent to the mother. She told me this was to provide ‘closure’ and I accept her evidence on this issue. I am told that the impact of seeing these photographs again has caused the mother much distress, which evidence I also accept. When asked by Mr Khan if she had shown the photographs to the children, the mother was adamant, “*I would not show them a corpse. I have photos of my sister when she was alive. Why for God’s sake would I show them a corpse?*”.
128. There is no evidence at all to support the father’s bare assertion that these photographs were ever shown to the children. He himself provides no dates as to when this allegedly happened nor has he explained adequately why he himself has retained those photographs ten years on from her death and nearly five years post-separation. Sadly, much as he has made meritless allegations regarding *inter alia* sex abuse and FGM, I am drawn to the conclusion that the father has fabricated this allegation in an attempt to bolster his alienation case. Further, I have no doubt that the father would have been aware that exhibiting these photographs to his statement would cause immense distress to the mother. It was a crass act, if not a cruel one.

Allegation 1(j)

129. The father alleges that the mother ‘*cannot be trusted due to her use of deception through her abuse of the immigration process*’. I have already commented on the immigration decision that forms the basis (at least in part) of this allegation at paragraph 68, above. As I have said, it is a very old document. I do not consider that the allegation amounts to an example of alienating behaviour nor is it otherwise likely to assist the court in determining issues of welfare. I make no finding on this allegation.

Allegation 2: Limiting and Frustrating Contact

130. The father further alleges that the mother has alienated the children by limiting and frustrating contact. In support, he pleads sub-allegations (a) to (g), all of which are denied by the mother.

Allegation 2(a)

131. The father alleges that the mother has rarely made the children available for contact and at times has refused to do so. I have already dealt with the chronology of contact in detail at paragraphs 75 to 97, above. In 2021, I have found that the children did not see their father between July and September and again in October for reasons that had nothing to do with the

mother; although the mother unilaterally stopped contact in December 2021, it was then the father who failed to attend in February 2022 due (I am told) to a lack of heating. On two occasions between June and December 2022, the father himself failed to attend court-ordered contact before all face-to-face time was then suspended by the court in January 2023.

132. That is not to say that the mother is without fault and I remain dissatisfied by her bare assertions that the children were ‘*unwell*’. Ultimately, however, she cancelled contact on just three occasions in the space of six months. The burden remains on the father to prove his own allegation; on the available chronology, it cannot be said that the mother ‘*rarely*’ facilitated direct contact and I do not accept, therefore, that the father has discharged the necessary burden of proof. As to telephone contact, I address that below.

Allegation 2(b)

133. The father alleges that the mother would ‘*often*’ make excuses for not bringing the children to contact, saying they were too unwell or too tired or that it was too cold. Again, I have already dealt with the chronology of contact in detail at paragraphs 75 to 97, above. In total, there were three occasions when it appears the mother cancelled contact on the basis alleged here, on 2 July, 3 December and 17 December 2022.
134. The father has provided text messages apparently sent by the mother concerning the two December cancellations. His formatting is unhelpful, with different messages having been pasted onto the page so that there is no coherent run and messages appear out of order (e.g. 09:21 on 17 December, then 15:17 on 3 December followed by a message at 15:36 on 16 December etc.). What they do appear to show is that, on 3 December, the mother did not message the father until just after midday stating ‘*Children sick. They can’t come out*’. By that time, the father says he had already set off for the 12:30 collection time. It does appear that the mother failed to inform the father in a timely manner that contact could not take place that day.
135. On Friday, 16 December 2022, the mother messaged the father stating ‘*Sick child. Wouldn’t bring them out tomorrow. Too cold*’. On that occasion, therefore, she informed the father the day before contact was due to take place on the Saturday. I find that the mother did cancel contact on three occasions reporting that the children were unwell but that she did not do so often, as alleged.

Allegation 2(c) to (e)

136. These three allegations concern telephone contact and so I shall consider them together. First, the father alleges that the mother would interfere and frustrate telephone contact by singing loudly or making loud background noises. Second, he alleges the mother would often encourage the children to end telephone calls quickly or end the call abruptly. Third, it is

alleged the mother blocked the father's phone number on the children's mobile phones and swapped the children's SIM cards to frustrate calls. All allegations are denied by the mother.

137. In general, the father alleges repeated difficulties in telephoning the children following the 2020 order, which provided for calls at least twice per week. This was subsequently reduced to once per week during the current proceedings. In support, he has provided telephone logs which, he says, demonstrates his point. I note that the log covers only the period 11 to 28 January 2023 inclusive, by which time calls were scheduled for Wednesdays at 19:00 pursuant to the order of 6 January 2023; on 13 January 2023, this was amended to Saturdays at 19:00. The log shows two attempts to call at 18:59 on Wednesday, 11 January which do not appear to have been successful. There were then attempts to call on Saturday, 14 and again on Saturday, 21 January. It is unclear whether or not a call was attempted on 28 January. I am concerned that the only phone logs provided are for such a short span of time, for which no explanation has been provided.
138. The father further asserts that, at times, the mother would block his number to frustrate this contact. There is little in the way of corroborative evidence here save I note that, buried amongst the father's exhibits, a message that failed to deliver (whatever that may show). There is also a recording on the order of 3 October 2022 which indicates the father was reporting his phone had been blocked. While the father also exhibits runs of messages showing texts he would send to the children if he had called and not received an answer, there are no years provided nor is it possible to get a coherent picture from the cherry-picked jumble. Ironically, the one reference to a phone number being blocked is when the father blocked the mother on 5 December (year unknown).
139. What the messages do evidence, if anything, is an on-going dispute between the parents as to whether or not the father should phone using mobile signal (as the mother requested) or else via the internet using WhatsApp (to which the mother objected as she did not have data). While this discussion does not reflect well on either parent, it is unclear why the father persisted to use WhatsApp calls. Beyond that, there is no evidence that the mother blocked the father's phone number on the children's mobile phones nor that she swapped the children's SIM cards. I make no finding on allegation 2(e).
140. There is no direct evidence to corroborate the father's assertion that the mother would sing loudly or make loud background noises, nor that she would encourage the children to end telephone calls quickly. To a large extent, this allegation comes down to a question of credibility. That being said, some indicators are found in the evidence of Dr A. When asked why she is not more proactive in phoning the father if he fails to call, the mother responded '*in a hostile manner*', saying:

"Why do I want to call him? I don't have to call him if he wants to have a relationship with his children. I don't have to make him do that. They don't talk to him. They don't want to. I would say most times I am

the one who picks up the phone. I pick it up and leave it in their rooms.

When I go back to check, it is already ended. I don't really think they speak to him. I don't ask them because they get really upset".

The mother's ambivalence to telephone calls between the children and the father is clear. Further, I note that her account of leaving the children in their room to speak to the father is contradicted by what the children themselves say.

141. KR informs Dr A that the mother is present for telephone calls and that she '*just stands there listening so that we can talk*', see paragraph 9.9. Later, at paragraph 9.56, KM suggests that when she speaks to her father on the phone the mother '*is just annoyed about hearing his voice*.

I don't think there is anything else that she feels'. I accept Ms McMeechan's submission on behalf of the children that the mother's presence during these calls is, of itself, a concern when placed in the context of her negative feelings towards the father.

142. The burden as ever remains on the father. I am unable to make a finding that the mother deliberately interfered with telephone calls by singing or making loud noises. I do, however, find on a balance of probability that the mother was often present for the telephone calls and that her presence alone and demeanour must have impacted negatively on the children's ability to enjoy their time with the father freely, feeling they had the emotional permission to do so. In those circumstances, it is entirely unsurprising that the girls would have felt unable to engage in extended discussions with the father, their mother hovering over them.

Allegation 2(f)

143. It is alleged that the mother would send abusive text messages to the father after frustrated contact sessions. The mother denies this, suggesting that the messages exhibited by the father evidence nothing more than her frustration. Having reread the entirety of the messages exhibited, there are two messages sent on the same day which are clearly abusive in that the mother calls the father a '*bastard*' and goes on to make disparaging remarks about a teacher living in in those conditions '*carrying yourself like you are somebody*'.

144. The father made a complaint to the police on 21 November 2022 in which he '*claimed there has been some abusive messages from [the mother]*'. On investigating, the police concluded that '*the messages both of them [have sent] have been just as offensive to one another*'; indeed, the father was '*given words of advice ... about the messages he has been sending in reply to his partner as it will not look good for him when he goes back to court*'.

145. I remain aware of the fact that I have before me a limited selection of cherry-picked messages spread over several years. In the circumstances, I make no finding on this allegation.

Allegation 2(f)

146. It is alleged that, on one occasion on ‘a Saturday’, the mother refused to bring the children to handover; when the father attended the mother’s address to collect the girls, she was swearing and cursing before sending several abusive messages. This allegation is denied by the mother.
147. The father struggled to provide a date for this incident. In the end, there was a consensus between the parties that the date concerned was probably Friday, 9 April 2021, for which occasion there is a police log of a report made by the mother. The father alleges he arrived to collect the children but that the mother refused to bring them and would not respond to text messages; he says he called the police (although there is no record of such a call) as well as the local authority. The social worker at the time spoke to the mother by phone, who reported being in Slough at a health appointment and that she had taken the girls with her; the worker did not believe her, however, and said that the mother appeared to be at home. The father therefore attended the mother’s home when she ‘started swearing and cursing’. In the end, the children were made available but KR was ‘crying profusely’ and KM was ‘terribly sad’. That is all, I should say, the father’s account.
148. In support, he exhibits photographs of the girls sitting in a car, which the father says were taken that day. KR in particular looks miserable. The attached note says that the photographs were taken on the Saturday but that must be incorrect as 9 April 2021 was a Friday and Saturday collections did not start until June 2022. He also attaches some text messages sent on an unknown date, in which the father can be seen asking the mother to bring the children outside; one of the messages indicates it was read (and perhaps sent?) on a Saturday, not a Friday.
149. In response, the mother explains that she did not take the children with her to the appointment but left them with a friend, M, who took the children to the handover location. After two hours, the father did not arrive and so the children were taken to M’s home. The text messages exhibited by the father make reference to him arriving late. The mother says the father then attended her property in breach of a court order. That evening at 18:58, she reported to the police that the father had attended her home at 15:45 screaming on the intercom.
150. Ms McMeechan submits that the father’s position ‘was confusing and vague in relation to this occasion. Initially, [he] was not able to confirm the date of this incident or find the photos on his telephone, despite these photos being exhibited to his statement... [he] then confirmed the date of this incident but confirmed he had not seen the date of the photos on his phone’. I agree entirely with that analysis. Further, his account is not supported by the contemporaneous police report. That is not to say that the mother’s account is not without issue, not least the fact that no order existed in April 2021 preventing the father from attending her property.

151. On balance, I am not satisfied that the father has discharged the burden of proof and decline to make the finding sought. The text messages appear to relate to events post-June 2022 when contact was for seven hours (12:30 to 19:30) and took place on Saturdays; the 9 April 2021 was a Friday. The father has not assisted me to resolve this conundrum. Whatever date the father's allegation may be referring to, however, he has not proven that the mother refused to make the children available. It does appear from the text messages he himself relies upon that the father had been late to collect the children, the mother then expressing her frustration in that regard. Ultimately, the children were made available at which point the father took what I consider to be wholly inappropriate photographs of the girls looking miserable in his car.

Allegation 3: Withholding or Frustrating Access to Welfare Information

152. The father's final allegation is that the mother has alienated the children by withholding or frustrating his access to important welfare information relating to the children, including their medical and academic information. In support, he pleads sub-allegations (a) to (c), which are denied by the mother.

Allegation 3(a)

153. It is alleged that the father was unable to access the children's medical records as the mother withheld her consent. When medical records were received, he alleges that 'data was concealed' from him. This allegation is denied.

154. I accept in principle that the mother is not proactive in providing updates on the children. At paragraph 8.67 of Dr A's report, she records the mother's comments:

"I don't see the reason why I should be giving him updates. If he is interested in his children, he can still message and send emails. Does he even call the school to ask how the girls are doing? I am very busy, and I have these children to look after and I am all by myself, I don't have that extra time to update him!"

That is not the same, however, as the allegation that she has actively sought to prevent the father seeking access to the children's medical records.

155. Save for the father's bare assertion, there is no evidence to corroborate this allegation. He draws my attention to a GP log for KM, which shows that on 15 December 2021 he requested access to the notes of the appointment on 30 November following the pillow incident. There is no indication that his request was refused; rather, the note records that the social worker agreed with the request.

156. In his detailed schedule, the father claims that to access the children's medical records he:

... must first make a written application to [the GP surgery] ... who in turn must first obtain express permission from [the mother]. Then I would receive a letter from the surgery about a week or so later stating they are waiting for approval permission from [the mother]; if approved, I will then get another letter that my application will be considered within *ten to twenty-eight working days* for me to get the requested report. But if [the mother] refuses, I get nothing at all regardless of the [2020 order].

The emphasis here is the father's own. His complaint seems to be more around the procedure of accessing medical disclosure and the bureaucratic delay, rather than evidence that he has actually made a request which was subsequently blocked by the mother.

157. That is the extent of the available evidence. I note that the father accepts that he has now received the medical disclosure. His complaint that '*data was concealed*' appears to relate to the fact the mother's address was redacted. On balance, the father has failed to discharge the burden of proof and I make no finding on this allegation.

Allegation 3(b)

158. It is alleged that the mother attempted to change the children's surname without informing the father. When asked about this in his oral evidence, the father pointed to the fact that previous orders have contained a child arrangements order warning that, where a child arrangements order is in force '*nobody may cause the child to be known by a new surname ... without the written consent of every person with parental responsibility for the child or leave of the court*'. That is the standard warning to be given whenever a child arrangements order is made. It does not follow, therefore, that such a warning was included because of a specific action taken by the mother. The father has not discharged the burden of proof and I make no finding on this allegation, although I accept that the father's concern appears to have arisen from a genuine misunderstanding.

Allegation 3(c)

159. Finally, the father alleges that the mother intended to move KM to a new secondary school without his consent. That allegation is denied by the mother.
160. As with medical records (above) I have no doubt that the mother has been less than pro-active in this regard. In fairness, the father shares parental responsibility and accepts that he receives information from the children's school directly. On investigation, the issue here is not that the mother has attempted to '*move*' KM to a different primary school but, rather, that she has made arrangements for her to transition to secondary school this September and in doing so failed to involve or consult the father.

161. In her oral evidence, the mother accepted that she made an application for secondary school places in October or November 2023. She accepts that she did not consult the father, informing me that he is “*not interested*” and complaining that he did not contact her about the application process. Having considered the evidence, I find on balance that the mother has made unilateral decisions concerning KM’s move to secondary school on which the father ought properly to have been consulted, not least where the child’s welfare is before the court and she has the benefit of solicitors. To that extent, I find the allegation proven.

Concluding Remarks

162. In assessing the father’s overarching allegation – that the mother has perpetrated alienating behaviours – I have attempted to take an aerial view of the case: to look at the entire sweep of the evidence and consider it holistically in order to view the quality of the mother’s alleged behaviour as a whole.
163. There is little doubt that some of the father’s allegations are made out: the mother, for example, has shared inappropriate information with the children. Whether deliberate or not, the mother’s overwhelmingly negative feelings regarding the father have been communicated to the children and she remains, in my view, unable to promote a positive paternal identity. Nor has she been able to give the children the emotional permission they need to have a relationship with the father. All of that, as I have stressed, must be placed in the context of the father’s own failure to maintain contact with the children on a consistent basis. His own comments to the children have at times been equally inappropriate and – in terms of the children’s reports of shouting – I have found this to be more likely a result of the children’s own experiences rather than any manipulation by the mother.
164. In my view, the use of the word ‘alienation’ in this case is deeply unhelpful. In the end, the father seeks to attribute blame to the mother for the children’s current reluctance to spend time with him, in circumstances where the picture is far more complex and nuanced. I remain concerned that both parties currently lack sufficient insight into the emotional needs of the children. In the context of the father’s allegations, this is especially so given that many of his assertions would appear to evidence his inability to accept that he too has had a role to play in the deterioration of his relationship with the girls.
165. At its core, this case has always been – and remains – one in which the ongoing risk to the children arises primarily from the parents’ extreme acrimony. That has been the view of professionals now dating back over several years and is a consistent theme running throughout the local authority records. The section 47 report from December 2021 noted that the parents ‘*continue to put their acrimony and their personal interest before the wellbeing of the children, which has always put them at risk of continuous emotional harm*’. That comment is as true today as it was then.

166. Those are the findings of the court. I will hear submissions on any matters arising from this judgment and as to further case management.