



Neutral Citation Number: [2021] EWHC 3480 (Fam)

Case No: FD19P00246

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 22 December 2021

Before :

THE PRESIDENT OF THE FAMILY DIVISION, SIR ANDREW MCFARLANE

Between :

HIS HIGHNESS SHEIKH MOHAMMED BIN RASHID AL MAKTOUM **Applicant**

- and -

HER ROYAL HIGHNESS PRINCESS HAYA BINT AL HUSSEIN **First Respondent**

AL JALILA MOHAMMED BIN RASHID AL MAKTOUM **Second Respondent**

ZAYED BIN MOHAMMED BIN RASHID AL MAKTOUM **Third Respondent**
(By their Guardian)

Lord Pannick QC, Deborah Eaton QC, Daniel Bentham and Stephen Jarman (instructed by **Harbottle & Lewis**) for the **Applicant**

Charles Geekie QC and Sharon Segal (instructed by **Payne Hicks Beach LLP**) for the **Respondent**

Deirdre Fottrell QC Tom Wilson and Marlene Cayoun (instructed by **CAFCASS Legal**) for the children through their **Children's Guardian Lynn Magson**

Hearing dates: Wednesday 8th and Friday 10th December 2021

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE PRESIDENT OF THE FAMILY DIVISION, SIR ANDREW MCFARLANE

This judgment was delivered in private. The judge has not given leave for this version of the judgment to be published in any circumstances until a hearing on the publicity is heard. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

The President of the Family Division, Sir Andrew McFarlane :

1. The two children to which this judgment relates are Wards of Court. They are Sheikha Al Jalila bint Mohammed bin Rashid Al Maktoum (“Jalila”) who was born 2 December 2007 and is now aged just over 14 years, and Sheikh Zayed bin Mohammed bin Rashid Al Maktoum (“Zayed”) born 7 January 2012, and who will shortly be 10 years old.
2. The children’s father is His Highness Sheikh Bin Rashid Al Maktoum (“His Highness”/“the father”). He is the ruler of The Emirate of Dubai and is the Vice-President and Prime Minister of the United Arab Emirates (UAE).
3. The children’s mother is Her Royal Highness Princess Haya bint Al Hussein (“Her Royal Highness”/“the mother”). She is the daughter of His Majesty the late King Hussein of Jordan and the half-sister of the present ruler of Jordan, His Majesty King Abdullah II.
4. On 15 April 2019, the mother travelled to England with Jalila and Zayed with the intention, as she saw it, of escaping from Dubai. Since that time she has remained within the jurisdiction of England and Wales.
5. On 14 May 2019, the father commenced proceedings in England and Wales under the inherent jurisdiction of the High Court seeking orders for the children to be returned to the Emirate of Dubai. However, since October 2019, the father has accepted that the children will remain living with their mother in England. In May 2019, this court accepted jurisdiction with respect to the children who were made Wards of Court in July 2019. They have been represented within the proceedings by a children’s guardian appointed from the CAFCASS High Court team.
6. Despite the fact that these wardship proceedings have been vigorously contested by both parents throughout the two and a half years that have now elapsed since they commenced, this is the first judgment in which the court has been able to focus upon the welfare of the two children. In the intervening period the court has undertaken two substantial and entirely distinct fact-finding hearings. The first related to the mother’s time in Dubai but included findings with respect to the father’s conduct in relation to two of his older children, Sheikha Shamsa and Sheikha Latifa. The second fact-finding investigation, over a year later, related to the deployment of highly sophisticated hacking software in order to infiltrate the mobile telephones of the mother, key members of her security staff, and two of the partners in the solicitor’s firm acting for her in these proceedings.
7. In addition to the two substantial fact-finding hearings themselves, the court has heard and determined a range of legal challenges brought by the father, which, in different ways, have sought to prevent or curtail the court’s investigations.
8. Each of the substantive judgments in the proceedings has subsequently been published:
 - Main Fact-Finding Judgment dated 11 December 2019 [2019] EWHC 3415 (Fam);
 - The Foreign Act of State Judgment dated 29 October 2020 [2020] EWHC 2883 (Fam);

- The Non-Molestation Judgment dated 9 December 2020 [2021] EWHC 3305 (Fam);
 - Assurances and Waiver Judgment dated 11 December 2019 [2019] EWHC 3415 (Fam);
 - The Legal Services Order (LSO) Judgment dated 13 January 2021 [2021] EWHC 303 (Fam);
 - Publication Judgment dated 27 January 2020 [2020] EWHC 122 (Fam);
 - The Court of Appeal Foreign Act of State Judgment dated 8 February 2021 [2021] EWCA Civ 129;
 - The Court of Appeal Publication Judgment dated 28 February 2020 [2020] EWCA Civ 283;
 - The Case Management Judgment dated 12 March 2021 [2021] EWHC 915 (Fam);
 - The Immunities Judgment dated 19 March 2021 [2021] EWHC 660 (Fam);
 - The Phone-Hacking Fact-Finding Judgment dated 5 May 2021 [2021] EWHC 1162 (Fam);
 - The Court of Appeal Immunities (permission to appeal) Judgment dated 9 June 2021 [2021] EWCA Civ 890;
 - The Lives With Judgment dated 10 June 2021 [2021] EWHC 1577 (Fam);
 - The Court of Appeal Fact-Finding (permission to appeal) Judgment dated 15 June 2021 [2021] EWCA Civ 900; and
 - The Court of Appeal Fact-Finding Judgment dated 5 August 2021 [2021] EWCA Civ 1216.
9. In view of the substantial amount of detail that is contained within the published judgments, it is not necessary to do more than record the headline conclusions of each here:
- a) First fact-finding judgment [2019] EWHC 3415 (Fam) – 11/12/19:
 - i) In August 2000 Sheikha Shamsa, who had left her family during a visit to England and had for some weeks gone to ground, was abducted from a hotel in Cambridge and held overnight in one of the father’s properties in Newmarket. Mr Al Shaibani, who is now the Director-General of the Ruler’s Court in Dubai, was closely involved. The following morning, Sheikha Shamsa was flown by helicopter to France and then transferred to a jet for the onward flight to Dubai;

- ii) In June 2002, following an attempt to escape from her family, Sheikha Latifa was detained at the border between Dubai and Oman prior to being deprived of her liberty on the instructions of her father, for a period in excess of three years;
 - iii) In February 2018, following a second attempt to escape from her family, Sheikha Latifa was detained whilst a passenger on a yacht off the coast of India by Indian special forces. She was then handed into the custody of the UAE authorities who brought her and her companions back to Dubai. On her return to Dubai, Sheikha Latifa was held against her will;
 - iv) From early 2019 onwards, both during the period prior to her departure with the children from Dubai in April 2019, and since in the period prior to the court's judgment in December 2019, the father, either directly or by instructing or encouraging others to do so, maintained a campaign of fear, intimidation and harassment against the mother;
- b) [2021] EWHC 660 (Fam) – 19 March 2021: A formal document dated 4 October 2019 and signed by the father, as Vice-President and Prime Minister of the UAE and Ruler of Dubai made on his own behalf and on behalf of the UAE and the Emirate of Dubai contained a series of assurances. Whilst being afforded appreciation and respect by the court, it was held that the assurances could not have weight placed upon them in terms of providing protection for the children from the risk of abduction within England and Wales. A further document in which the father purported to waive his diplomatic or other immunity, was held to be insufficient to ensure that any person acting on behalf of the father would be unable to claim immunity if they were apprehended during the course of an attempted abduction;
- c) [2020] EWHC 2883 (Fam) – 29 October 2020: The court (Sir Andrew McFarlane P and Chamberlain J) determined that the “Foreign Act of State” doctrine did not prevent the court from adjudicating upon the mother's allegations relating to phone hacking;
- d) [2020] EWHC 3305 (Fam) – 9 December 2020: a non-molestation injunction that had been previously granted for the protection of the mother and the children was varied so as to prevent the father, or his servants or agents, purchasing property in the vicinity of the mother's home near Windsor Great Park. Despite requests made by the mother's solicitors from early 2020 for the father's solicitors to confirm that neither the father nor those acting on his behalf, would rent or purchase land or buildings close to the mother's homes in London or Berkshire, it was not until November 2020, following a direct request from the court, that those acting for the father accepted that a family trust was at an advanced stage in purchasing the 70 acre estate immediately abutting the mother's home. Although the proposed property purchase was abandoned, the court imposed a substantial exclusion zone around the

mother's homes in London and Berkshire preventing, amongst other activities, the purchase or renting of property;

- e) [2021] EWHC 660 (Fam) – 19/3/2021: The court (Sir Andrew McFarlane P and Chamberlain J) dismissed the father's claim to enjoy immunity from jurisdiction in respect of financial applications made against him by the mother for (a) financial support for herself and the children under Matrimonial and Family Proceedings Act 1984, Part III, and (b) an application under the inherent jurisdiction for financial support for herself and the children;
 - f) [2021] EWHC 1162 (Fam) – 5/5/2021: The court found that during the summer of 2020 six mobile phones belonging to the mother, members of her security staff, her principal solicitor, Baroness Shackleton, and another partner in the solicitor's firm, had been successfully infiltrated, or at least the subject of an attempted infiltration, by surveillance software. The software concerned was marketed by the NSO Group and was solely licensed for the use of Sovereign States. It was further held that the surveillance of the six phones was carried out by servants or agents of the father, the Emirate of Dubai or the UAE and that the surveillance occurred with the express or implied authority of the father.
10. Three of the father's four applications for permission to appeal first instance decisions have been granted. Firstly, with respect to the first publication judgment ([2020] EWHC 122 (Fam) – 27 January 2020), secondly the Foreign Act of State judgment ([2021] EWCA Civ 129 – 8 February 2021) and, thirdly, regarding the phone hacking fact-finding judgment ([2021] EWCA Civ 1216 – 5 August 2021). On each occasion the substantive appeal was dismissed and the father's applications to the Supreme Court for further appeal were refused.

The Welfare Hearing

11. Before turning to the substance of the issues before the court, it is necessary to describe the unusual context within which these proceedings generally, and this welfare hearing in particular, have been conducted. In short terms, the father as an individual has played no part whatsoever in the process. He last filed a statement in the wardship proceedings in November 2019. The content of that statement related largely to the fact-finding issues, and it has not been referred to during the present hearing. The court has, on a number of occasions, encouraged the father to engage directly with the court process, and with me as the judge charged with determining the issues regarding the welfare of his two children, in some manner which falls short of giving formal evidence and being open to cross-examination. These requests have been politely, but flatly, turned down. It follows that His Highness has neither attended nor played any direct part whatsoever in the many court hearings that have taken place during the past two and a half years. The process has been conducted entirely by English lawyers acting upon his behalf. Through position statements and oral submissions the court has simply been told of the father's instructions on the various issues that have from time to time arisen.
12. Fortunately, the father has engaged more directly with the children's guardian. The guardian initially appointed for the children was Mr John Power. In October 2019, Mr

Power spoke to the father and, subsequently, met him in Dubai (together with the children's solicitor Ms Melanie Carew). Unfortunately, it was necessary to replace Mr Power, who had left Cafcass, and, in September 2020 Ms Lynn Magson was appointed as the children's guardian in his place. In November 2021, Ms Magson, again with Ms Carew, visited Dubai and met the father.

13. As I will describe, the issues that have been contested at this welfare hearing are narrow and, in particular, no longer include the prospect of direct contact between the father and the children. Thus, evidence which had been filed by two nannies, who had participated in the care of the children when they had lived in Dubai, have not been referred to and neither has the evidence of a security expert who gave advice on possible venues at which the father might meet the children in secure circumstances.
14. The evidence before the court has, therefore, been limited to the testimony of the mother herself, represented by the substantial body of written statements filed during the course of the proceedings, which were confirmed in the course of the short oral evidence which she gave at the hearing, together with the report and oral evidence of the children's guardian. Counsel for the father did not cross-examine either the mother or the guardian.
15. In addition to the evidence before the court, I had the pleasure of meeting the two children on the day before the welfare hearing commenced. The purpose of the meeting was solely for the children to meet the judge. Both children understood that they had expressed their wishes and feelings to the children's guardian who, in turn, had reported on them fully to the court. My meeting with the children, who were accompanied by the guardian and Ms Carew, was therefore conducted in the most general terms.

Welfare: Issues

16. It is of note that, despite the substantial length of time and the truly enormous legal costs involved in these proceedings, in the end the issues relating to the children's welfare that now fall for determination are comparatively few.
17. For over two years there has been no dispute that the children should reside in England and Wales and live here with their mother. It is agreed that the wardship will continue in order to provide an overarching structure that can be reactivated if needed, and, particularly, to hold the status quo for the time being in the event of either parent's death.
18. Although it has been His Highness' stated primary wish throughout the proceedings to have some form of direct, face to face, contact with his children, in circumstances that I will explain in some further short detail, on 1 December 2021 he announced his decision not to pursue direct contact at this hearing.
19. Indirect contact has been available and, from time to time taken up, by means of telephone calls or WhatsApp messaging. [REDACTED]
20. With respect to parental responsibility more generally, the mother seeks an order which permits her to make arrangements for, and give sole consent to, any assessment or

treatment of the children in relation to their medical, dental, ophthalmic, orthodontic, psychological, therapeutic or educational needs. In that regard, the term “treatment” is to include, but not be limited to, medication, immunisation and surgery. Whilst the father accepts that the mother should have unilateral responsibility for “routine” matters of this nature, he objects to the mother being able to unilaterally consent to psychological or therapeutic assessment or to treatment or surgery. He seeks an order directing that the father’s consent is required for any of these categories of intervention. It is agreed that the mother will provide the father with reports about the children arising from any significant consultations, subject to any necessary redactions. The mother will also give him immediate notice of any serious injury or serious medical condition arising in the children.

21. An issue therefore exists as to the extent to which the mother is to be given sole authority to discharge parental responsibility in these important aspects of the children’s lives.
22. With respect to education, a positive feature, in a case which has otherwise been contested with unrelenting vigour at every turn, is the fact that the parents have agreed upon the choice of school for each of the two children. [REDACTED]
23. Further in relation to education the mother seeks permission from the court for her to make all arrangements for the children’s education, including sole authority to sign any necessary forms, subject only to a requirement for the mother to give the father reasonable notice of any proposed change of school for either child. Each of these latter matters is contested.
24. Again, in relation to parental responsibility, both parents accept the need to establish a channel of communication between them that does not rely upon the deployment of teams of lawyers. Identifying the character, and then, further, the identity, of this necessary intermediary is currently in issue. In the absence of any detailed evidence as to choices, it is not a matter that the court is able to resolve at this hearing, but I will offer some guidance in this judgment in the hope that that maybe helpful to both parents.
25. In addition to the issues I have listed, small matters remain as to the persons and agencies to whom copies of the resulting order from this hearing should be served. Finally, it is agreed that there needs to be some further extension of the non-molestation order to cover the children [REDACTED].

The overall context

26. Striking though the court’s factual findings undoubtedly are, there is a danger in simply listing the fact-finding judgments that have been given before passing on to determine such few outstanding issues with respect to the children’s welfare that remain. It would also be an error for the court to compartmentalise each of the separate sets of findings, without standing back in order to survey the overall landscape.

27. The elements of that landscape include:
- a) The abduction and long term confinement of Sheikha Shamsa;
 - b) The capture on two occasions and confinement of Sheikha Latifa;
 - c) The campaign of harassment and intimidation from January 2019 onwards against the mother of these two children;
 - d) The attempted purchase, in secret, and whilst denying that any such purchase was taking place, of the estate immediately adjacent to mother's home, including higher ground immediately overlooking her property;
 - e) Using sophisticated software, only available for use by States, in order to hack the phones of the mother, certain of her security staff and her principal solicitors;
 - f) The father's stance within and conduct of this litigation;
 - g) The absence of any acceptance of responsibility, expression of remorse or understanding of the impact of this behaviour on the mother; and
 - h) The absence of any acknowledgement by His Highness of Her Royal Highness' role in providing good care for their two children through this difficult period.
28. During the course of various judgments I have had cause to make the following observations:

“It is necessary to maintain focus upon the unusual factual background to this application. The father is an individual of immense wealth, political power and international influence. The findings of fact made in December 2019 demonstrate the manner in which he is prepared to use his position to impose his will on family members when he considers that it is right to do so. The findings with respect to the abduction of two of his adult daughters, one from England and one in international waters off the coast of India, demonstrate his ability to act and to do so irrespective of domestic criminal law.” (Non-molestation judgment – 9 December 2020 – [2020] EWHC 3305 (Fam), para. 48)

“The recent history, of course, itself sits within the overall background to these proceedings which is characterised by coercive and controlling behaviour of a high order by the children's father and which is marked by the serious findings made by the court in the main fact-finding judgment.” (10/6/2021 – [2021] EWHC 1577 (Fam))

[With regard to the potential purchase of the neighbouring property and opportunity it presented for surveillance and possible abduction of a child] ... “This deliberate course of conduct relating to property purchase has been carried on by the father, or those acting on his behalf, and it has been justifiably regarded as intimidating behaviour of a high order by the mother.” (Non-molestation judgment paragraph 57)

29. Finally, in this regard, at the conclusion of the phone hacking judgment I said this:

“Having stated my conclusions on these factual matters, the focus of the court will, at last, turn fully to the welfare of the two children. In this context, I note that in a position statement dated 2 October 2020 the father stated that “it is hard to see how the hacking allegations make a substantial difference” to the issue of the father’s contact with the children. The Court will return to this aspect in detail at the welfare hearing, but to assist the father at this stage I wish to make it plain that I regard the findings I have now made to be of the utmost seriousness in the context of the children’s welfare. They may well have a profound impact upon the ability of the mother and of the court to trust him with any but the most minimal secure arrangements for contact with his children in the future.

It does not take long to contemplate just how an individual would react to discovering that their personal phone, and those upon whom they rely for confidential advice, support and protection, have been infiltrated by the most sophisticated software that is available, and to know that a very substantial amount of personal data has been stolen, yet not knowing precisely what. It is often said that the most important thing that a house-burglar steals is the peace of mind of the householder. The same must surely be true of phone hacking.

The Court has, on many occasions, stressed to the father since the start of these proceedings that the most important goal should be to build up ‘trust’, so that the mother and the court, and indeed the children, can trust him – in particular trust him not to take unilateral action to remove the children from their mother’s care. The findings made in this judgment prove that he has behaved in a manner which will do the opposite of building trust. The findings represent a total abuse of trust, indeed an abuse of power, to a significant extent. It is an abuse which has been compounded by the manner in which the father has contested these allegations and instructed his lawyers... . At no stage has the father offered any sign of concern for the mother, who is caring for their children, on the basis that her phones have been hacked and her security infiltrated. Instead he has marshalled a formidable forensic team to challenge the findings sought by the mother and to fight the case against her on every point. It is of

course the right of a litigant to contest proceedings as they see fit, but to do so may not be without consequences for the relationships of trust and mutual understanding that the court has been keen at all stages to see developing.” (paragraphs 172 – 174)

30. From these short references, and from the detail within the judgments from which they are taken, the overall context within which the welfare decisions now fall to be taken could not be more clear. It is one in which the father has consistently displayed coercive and controlling behaviour with respect to those members of his family who he regards as behaving contrary to his will. Given his immense power and wealth, the potential for the father, and those in Dubai who do his bidding, to act remorselessly against the interests of the mother has been proved during these proceedings in three entirely separate contexts. In addition the manner in which the mother has had to face a very substantial and most expert legal team, who have been instructed to contest these matters in every legitimate manner, both at first instance and on appeal, over two and a half years, is in itself a manifestation of the same desire to coerce and control her.

The impact on the children’s mother

31. In a statement in July 2020 Her Royal Highness said this:

“Intimidation and harassment of me continues across both the children and financial proceedings; it is waged across a number of different forums; all of it is designed to undermine me, and ultimately crush me. I continue to be utterly terrified by the power that Sheikh Mohammed wields, the risks he (and those around him) continue to pose and the pressure that he seeks to place upon me. He is using everything in his armoury to grind me down, and the reach of his power is immense.”

32. It should be noted that those words were written prior to the discovery that phone hacking had taken place and prior to the uncovering of the plan to purchase the estate immediately adjoining the mother’s property.
33. In her oral evidence the mother was asked to explain her feelings when she first learnt that Dr Marczak had identified possible phone hacking. The word used in her response was striking; she said “I felt relieved when I heard from Dr Marczak and more specifically when I heard from [Baroness Shackleton] that somebody had contacted them.” She explained that she had indeed felt “relieved” because she had long been very sure that something of that nature was taking place. She had, she said, spent many months telling her legal team what she thought was happening, only to receive reassurances that there was nothing to worry about. When the call came from Dr Marczak, she said that she felt as if a huge burden had been lifted “because I felt as if I had at last been believed in that some other people could see the danger I saw the children and I faced.”
34. Her Royal Highness went on to describe the impact upon her of learning that those acting for the father and his family were in the process of completing a purchase of the property neighbouring hers in Berkshire. She said “fear never travels alone, it travels with a sense of helplessness”. There was a feeling that there was nowhere that she and

the children could go in the world where they could travel and avoid those acting for the father looking over them.

35. In terms of the impact of the court process itself, the mother said:

“Every day in court is an important day, every statement is an important statement, every letter, every correspondence, you cannot afford to brush anything off or not to look at it properly. There is not enough hours in the day. The children need me and managing their lives is a big endeavour, it is not easy.”

36. Her Royal Highness was invited to look to the future and indicate whether she had any concerns about Sheikh Mohammed’s conduct towards her, she replied:

“It was with sadness and regret that I read the position statement for the last time again last night and early this morning. Although the tone is a reasonable one, I felt that there was no way in the entire statement that he was able to so much as mention my name or I was not even looking for credit, but kindness, understanding. ... but he was not even able to mention my role in that. To look forward to shared parental responsibility with somebody who cannot even see you as a parent, or bear to mention your name on paper, does not feel like that there is anything shared about it.”

37. Her Royal Highness went on to describe her experience of shared parenting over the last two and a half years, where (by agreement) she was only required to engage with the father on important matters, rather than day-to-day decisions she said:

“Yet the letters and the questions and the never-ending bombardment of – it has taken so much time and so much energy that I could have devoted to the children and it is a promise of [what] the future will look like, just this constant. And that was an example, my example, of what shared parental responsibility would look like.”

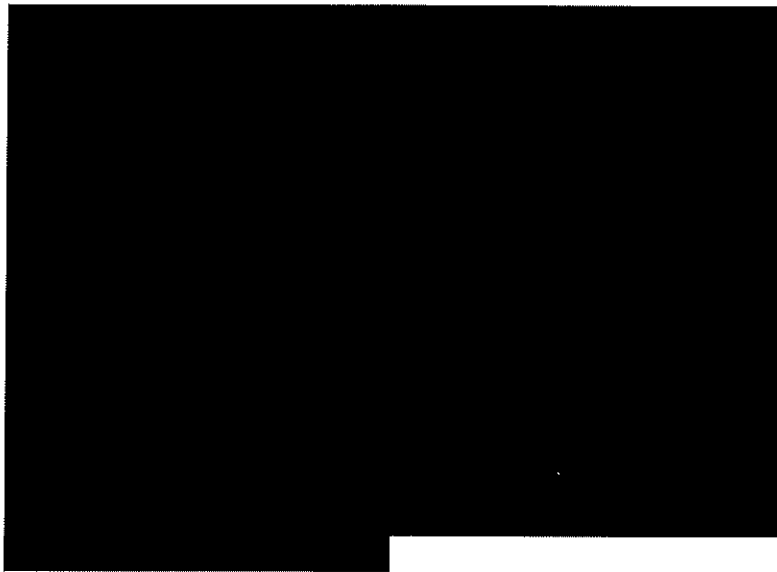
The mother as a parent

38. The circumstances in which the mother has been forced to provide care for the children since their arrival in England are well outside the ordinary. [REDACTED]

[REDACTED] The need to avoid any chance that the children may be abducted has meant that their lives are most tightly confined. [REDACTED]

39. Against that background it is plain, and not challenged, that the mother has striven to provide the most appropriate education and, more generally, stimulation for the children [REDACTED]. The children’s guardian, who has met them on numerous

occasions since her appointment, describes each of the two children and their development in the most positive terms. [REDACTED]



40. Later in the same report the guardian states:

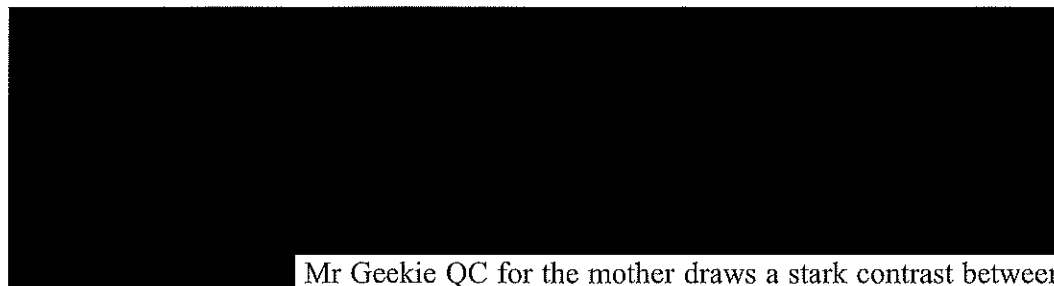
“I have observed Jalila and Zayed in the care of Her Royal Highness on the occasions I have visited. They have a very warm and close relationship with their mother, with whom they speak openly and freely. ... Whilst I have not had the opportunity to observe the children with their father, it is accepted that Her Royal Highness has been the parent involved in the children’s daily care throughout their lives and has had their sole responsibility over the last two and a half years.”

41. The children’s guardian reports having observed the mother speaking freely and affectionately to the children about their father, and, quite conversely, has not seen any evidence to indicate that the children have been consciously, negatively influenced by their mother against their father.
42. All of the evidence indicates that these children are most fortunate to have had a mother who has striven to protect them as much as possible from the very significant stress that she has been under, and to keep them physically safe, whilst meeting all of their needs for care, education, stimulation, love and humour to a very high degree. There is no evidence to the contrary. Whilst the father, through his lawyers or in direct conversation with the children’s guardian, has not referred to the children’s mother at all, those acting for him have not been instructed to challenge any of the otherwise wholly positive evidence about her parenting.
43. Throughout these proceedings I have stressed that a primary goal for the parents and for the court should be the establishment of trust. Part of the equation necessary to determine the mother’s suitability to act on her own as the parent with responsibility for all issues of health, psychological well-being and education must be to question whether she can be trusted to do what is necessary and right in all such circumstances

for each of the two children. Fortunately for the children, the answer to that question, in my view, is clear. Indeed, there is no evidence to the contrary. It is very difficult to contemplate that Her Royal Highness would do anything other than diligently investigate the needs of one or other of the children, should circumstances require that, and then, after consideration, choose the best way forward in those circumstances.

Father's involvement with the children since separation

44.



Mr Geekie QC for the mother draws a stark contrast between the level of inactivity around indirect contact and the father's vigorous activity within the court process.

45. Counsel for the father now submit that the arrangements for indirect contact should be expanded so as to permit a wider window within which calls can be made each day. There is, however, no evidence, either filed in statement form or even in a position statement, to indicate that the current arrangement fails to meet the children's needs or is otherwise impracticable. On the other side, the mother's oral evidence is that she fears that the father's motives for requiring the bespoke telephone to be carried by her and the children for a greater part of each day may be to facilitate covert eavesdropping or, at least, tracking of their location.

46. In addition to telephone calls, the father has from time to time sent appropriate presents and/or messages to mark birthdays or other appropriate festivals.

47. A year ago, on 9 December 2020, the infrequency and brevity of indirect contact, when compared to the father's full on and multi-layered litigation conduct, caused me to ask his leading Counsel, Lord Pannick QC, "what is this case about?". I went on to observe:

"I do seriously wonder what it is [the father] actually expects to achieve in the proceedings if he is not laying the groundwork by being in touch with the children as best he can. ... As a family judge I just do not understand how he is approaching the family side of this, which is what the case is all about. We can have days of arguments about all the fascinating legal points that bristle here, ... but I do question what it is [that] this is all about and whether your client actually wishes to proceed with getting to the welfare stage and achieving contact. If he is not prepared to take up that which is seemingly on offer, then it does not seem to be a very fruitful exercise."

48.



The position, therefore, that faces the court in terms of the father's commitment to, or the ability to commit to, indirect contact remains effectively as it was a year ago

when I asked Lord Pannick what the case was about and made the observations that I did.

49. In terms of the discharge of parental responsibility generally, the picture is more positive. The father has taken a key, personal interest in the choice of schools for each child. Following initial choices by the mother, the father has directly engaged with the Principal of each school and satisfied himself as to the soundness of the choice.
50. With respect to the children's health, happily, there has been little need for parental decision making. The most significant episode related to a medical procedure for one of the children [REDACTED]. In this respect, also, the father directly engaged with the treating clinician, and, having satisfied himself as to the diagnosis and arrangements, gave his consent for the medical procedure [REDACTED] to take place. Despite that positive development, in a case that has been otherwise so hotly contested, Mr Geekie points to what then followed in terms of correspondence between the parents' respective solicitors. The father's consent had been given before the end of 2019. Mr Geekie, however, took the court to the solicitors' correspondence, relating to the medical procedure [REDACTED] (which took place in early February 2020) with letters passing between the solicitors on the topic until April 2020. The procedure [REDACTED] had been undertaken without difficulty and the child [REDACTED] recovered well, yet solicitors acting on the father's instructions continued to press for details of the procedure and for redactions that had been made to the short medical report for security reasons to be removed. Mr Geekie submits that this is an example of how parental responsibility would be operated were it to be shared on an ordinary basis between both parents.

The children's guardian

51. Ms Magson, who took over as children's guardian in September 2020, has filed a most thorough and helpful report. In it she records that the facilities for the children's education [REDACTED] are impressive and that both children have had the benefit of "high quality education put together by their mother, in as normal environment as possible."

[REDACTED]

[REDACTED]

[REDACTED]

55. During her discussion with the children's mother, the guardian reports that she was struck by the mother's ability to provide a balanced and positive view of the children's relationship with their father, describing the happy, fun times they enjoyed together, as a family in Dubai and acknowledging His Highness's love for the children. To these judicial eyes, that is a striking and impressive observation given all that the mother has had to endure during the past three years.
56. When speaking to the children's father, the guardian was struck by the obvious warmth in his voice as he described them. As had been the experience of Mr Power before her, the guardian plainly valued the opportunity to meet His Highness in Dubai and to see the children's former home and something of the overall culture and environment.
57. On the issue of indirect contact, the guardian asked whether His Highness would wish for support or suggestions as to how the calls could be developed, she records, however, that "he was content with the calls as they were and was happy with them." [REDACTED] telephone contact [REDACTED] is supported by both parents and the children, and has enabled them maintain a connection with their father. On that basis the guardian supports its continuation.
58. At the conclusion of her report, Ms Magson was not able to recommend face-to-face contact at this time as being in the children's best interest. She gives her reasons, but as this matter is no longer in issue there is no need to rehearse them in this judgment.

59.

[REDACTED]

Ms Magson

observed:

"I have seen through my meetings with Her Royal Highness the impact upon her of the proceedings during my involvement. I have spoken with her and observed the impact upon her... and the toll that these proceedings have taken. From my discussion with Her Royal Highness and from my meetings with her, the decisions that she makes around the children are very, very thoughtful, very sound decisions. She is a very able and very creative and thoughtful mother in all aspects of their care."

60. Later Ms Magson expressed her confidence that the children's mother will consult appropriately [REDACTED] Ms Magson was explicit in saying that the children's mother is the appropriate decision-maker [REDACTED], she will, she said "make the right decision when the time is right."
61. Ms Magson was also clear that it was, in her view, "imperative" that the children's mother is able to go forward without having to account for day-to-day decisions.

“MR. GEEKIE: And what is particularly important as the court today decides what the regime going forward should be, is that it should not replicate the history that we have within this litigation of avalanche of correspondence, the mother having to deal with multiple details, all of those matters that you heard her speak about this morning. It is imperative that that is avoided; do you agree?”

A. My Lord, I agree with that, yes.

THE PRESIDENT: You agree with the word "imperative".

A. Yes, I think Her Royal Highness needs to be able to put all her energies back into the children and being there with them on a day-to-day basis.”

62. Ms Magson’s view is that the mother decides any issues in a thoughtful, child focused manner with regard to each of the children’s needs.
63. Finally, the guardian supported the continuation of the wardship proceedings and the nomination of a suitable person to act as a trusted conduit for communication between the parents.

The father’s submissions

64. On behalf of His Highness, Lord Pannick rightly drew attention to the number of references contained in the guardian’s report to the fact that both children are loved by their father. I would observe that that love is expressly attested to by Her Royal Highness and is not in dispute. Lord Pannick submitted that the father wants to be involved in important decisions regarding the children’s future, in particular with respect to matters of education and health.
 65. Lord Pannick submitted that the father deserves credit for a number of important matters. He has not insisted on a return to Dubai. He has agreed the choice of schools. He agreed to the medical procedure [REDACTED] and other more minor medical decisions. [REDACTED]
 66. On the question of whether there should be more flexibility over indirect contact, Lord Pannick submitted that this was a suggestion from the children’s guardian’s position statement where it states: “It is understood that the parents agree that ... ongoing indirect contact should not be the subject of an order defining frequency or timing. The Guardian agrees.” Whilst it was not originally to be put forward as part of the father’s case, the court is now urged to relax any restrictions.
 67. Enlarging on the overarching submissions of Lord Pannick, Ms Deborah Eaton QC submitted that His Highness should continue to be involved in decisions regarding education and welfare which were other than routine. Ms Eaton submitted that the record of agreement between the parents over the medical procedure [REDACTED] [REDACTED] showed the father in a positive light.
- [REDACTED]

- [REDACTED]
69. Ms Eaton concluded her submissions by asserting that it would be a positive for the children to be able to see both of their parents in agreement on issues. This point was then taken up by Lord Pannick, who submitted that, rather than trusting the children's mother to choose [REDACTED], it was more important for Jalila and Zayed to see both parents acting together.

The mother's submissions

70. In his oral submissions on behalf of the children's mother, Mr Geekie placed stress on the total absence of any positive observation of any nature made by, or on behalf of the father, in relation to anything that the mother has done to care for the children during their lives. Mr Geekie drew attention to, what he called a chilling moment in submissions on behalf of the father, which occurred after I had pointed out (as I had at earlier hearings) the importance of the parties building bridges and that "it would mean so much if [the father] acknowledged her role as a mother", to which Lord Pannick replied:

"LORD PANNICK: I have said twice today already that the children are a great credit to both parents. ... I will be making no submissions in any way to dispute the credit that is due to the mother for what she has done. That is no part of my submissions. I cannot say more than that, my Lord, because your Lordship does not have, I accept, the voice of the father on these matters."

71. Mr Geekie submitted that, just as the proceedings had been attritional in the manner in which they were conducted, and their impact on his client, so too was the manner in which the father had exercised shared parental responsibility. As an example he took the court, as I have explained, to the solicitors' correspondence relating to the medical procedure [REDACTED].
72. Mr Geekie submitted that taking account of the history of coercive, controlling behaviour and harassment which is demonstrated by the court's findings, the conduct of the litigation and the history of shared parenting, the only outcome that would meet the children's welfare needs now was for their mother to be given sole responsibility for all educational, medical and other related decisions.

Children's guardian's submissions

73. On behalf of the children's guardian, Ms Deirdre Fottrell QC claimed that the manner in which the children's mother had provided very good care for both children in very difficult circumstances was a striking feature of the case. On the basis of her track record, Ms Fottrell asserted that the court could have confidence that Her Royal Highness would exercise parental responsibility for the benefit of the children. She also submitted that the litigation had plainly taken a toll on the mother and that, in oral evidence, the guardian had stated that it was "imperative" for the mother to be protected from further harassment in the discharge of parental responsibility.
74. Ms Fottrell's overall submission, therefore, was that the order to be made should very largely reflect that sought by Mr Geekie on behalf of the children's mother. If a line is

to be drawn at all on the exercise of parental responsibility with respect to medical matters, Ms Fottrell submitted that it should relate to 'serious medical treatment' or administration of 'a general anaesthetic for serious medical treatment'. Ms Fottrell explained that such a course was justified both because doctors are likely to look for the consent of both parents in such circumstances and also that the mother would in any event be expected to inform the father if serious medical treatment were to be undertaken.



76. In relation to indirect contact, Ms Fottrell clarified the guardian's position which was that the arrangements should not be expanded beyond the present regime and that there should not be a requirement that the contact phone should be taken with the children if they are away from home.

Discussion

77. Whilst the issues that now fall for determination are comparatively narrow, they are not unimportant and are intended to set the parameters around the discharge of parental responsibility and the care of the children for the coming years. Further, by seeking sole authority to discharge parental responsibility for the children in all aspects relating to health and education, where the children's father plainly loves them and wishes to remain involved in the more important aspects of those issues himself, the mother is seeking an order which is outside the norm. I have therefore rehearsed the history in greater detail than might otherwise have been necessary given the extent of the remaining issues.
78. Fortunately, there is no issue between the parties as to the relevant legal principles. In relation to each decision, I must determine the issue by affording paramount consideration to the welfare of each child. I should do so by taking account of all of the relevant circumstances, but having particular regard to the factors listed in the 'welfare checklist' at Children Act 1989, s 1(3).
79. Each of these parents has full parental responsibility for their two children. The children are to remain wards of court and the court, too, shares parental responsibility for them with the parents. As a matter of law, it is open to the court, when the welfare of the child(ren) requires this, for the court to limit the ability of one parent to exercise some or all aspects of parental responsibility by making a 'prohibited steps order', under CA 1989, s 8. In *H v A* [2015] EWFC 58, MacDonald J described the approach that should be taken:

"51. Where however the manner in which a parent chooses to exercise an aspect of their parental responsibility is detrimental to the welfare of the child, the court may prescribe, to whatever extent is in the child's best interests and proportionate, the exercise by that parent of their parental responsibility.

52. Within the context of this case, the court may make a prohibited steps order pursuant to s 8 of the Children Act 1989 to prevent a parent from exercising his right to see the children's school records under the Education (School Records) Regulations 1989 (see *R v Leicestershire Education Authority ex parte C* [1991] Fam Law 302). Pursuant to s 2(8) of the Children Act 1989, the fact that a father has parental responsibility for a child does not entitle him to act in a way which would be incompatible with any order made under the Children Act 1989.

53. In considering whether to grant a prohibited steps order each child's best interests are my paramount consideration and I must have regard to the matters set out in the 'welfare checklist' contained in s 1(3) of the Children Act 1989. I should not make a prohibited steps order unless doing so would be better than making no order at all.

54. In *P v D & Ors* [2014] EWHC 2355 at [109] Baker J noted that, in very exceptional cases, the power to grant a prohibited steps order extends to making an order prohibiting a parent from taking any steps in the exercise of his or her parental responsibility.

55. Finally, it is important to note that, however extreme or exceptional the facts of a particular case, a prohibited steps order is a statutory restriction on the exercise by a parent of their parental responsibility. Any such order made by the court must accordingly be based on objective evidence. There is a high responsibility on the court not to impose such a restriction without good cause and reasons for imposing a restriction must be given (see *Re C (Due Process)* [2013] EWCA Civ 1412, [2014] 1 FLR 1239). Specific consideration must be given to the duration of the prohibition (see *R (Casey) v Restormel Borough Council* [2007] EWHC 2554 (Admin) at [38]).

56. Within this context, and in circumstances where a prohibited steps order constitutes an interference with the Art 8 rights of both the parent against whom the order is made and the child who is the subject of the order, the making of, the terms of, and the duration of a prohibited steps order must be proportionate to the mischief that the order is designed to address.”

80. There is no dispute between the parties as to the existence of the jurisdiction to limit parental responsibility, or to the approach that is to be taken to exercising it by affording paramount consideration to the welfare of each child.
81. Further, on this central issue, those acting on His Highness’ instructions accept that the court is justified in drawing a line which affords to Her Royal Highness a unilateral role in determining all ‘routine’ matters relating to health and education, with the exception of matters [REDACTED]
82. Within the confines of the way his case is put, the submissions made on behalf of the father are seemingly compelling. His Highness is, as I fully accept, a father who loves these two children. The children, in turn, love him. They know that their father is an important and powerful man, who has shown kindness and love to them, and they wish

to remain in a continuing relationship with him. He is beyond doubt a parent who would be capable of investigating any parental issue that required his input and then coming to a clear decision upon it. The experience of the father agreeing to the children living in England with their mother, the choice of schools, the medical procedure [REDACTED], and, recently, not to pursue direct contact, demonstrate child-centred decisions in which he has agreed with the opinion of Her Royal Highness. Why should he not, it may be asked rhetorically, be permitted to share parental responsibility with the children's mother on matters which are outside the routine or day-to-day round of parenting.

83. The answer to that rhetorical question becomes clear once attention is turned to the other circumstances of the case, which, in the presentation of his case to the court, the father has stoically and consistently ignored.
84. The findings of fact that have been made establish that the father has acted, in a wide manner of ways, over a period of years, in a wholly coercive and controlling manner towards the children's mother to a degree which can only be seen by her to be all consuming and all encompassing. His Highness' behaviour towards the mother, in each of its separate manifestations, whether by threats, poems, coordinating press reports, covertly arranging to purchase property immediately overlooking hers, phone-hacking or in the conduct of this litigation, has been abusive to a high, indeed exorbitant, degree. Despite the court's findings, in no respect has His Highness accepted that any of this behaviour has either taken place or that he has had any part in orchestrating it. Although the highly negative impact of his behaviour upon Her Royal Highness, who has the responsibility of caring for their children, has been well documented in her court statements and elsewhere, there has been not one word of apology to, or sympathy for, her. Equally, on behalf of the father, there has not been any acknowledgement, or even any reference to, the success that the mother has made of the most difficult task of bringing the children up in their present circumstances. Despite the most positive description that the children's guardian (whom the father praises for her work) gives of all aspects of the children's care and upbringing, the most that is said by the father, through his leading counsel, are the grudging words of Lord Pannick that he would not be making submissions to dispute the credit that is due to the mother.
85. Although conducted on a scale which is entirely outside the ordinary circumstances of cases heard in the Family Court in this jurisdiction, the father's behaviour towards the mother of his children is 'domestic abuse'. The court must evaluate the issues that fall for determination by applying the welfare principle having viewed the abusive conduct through the lens of Practice Direction 12J and, in particular, paragraph 35 which requires the court to consider the conduct of both parents towards each other and towards the child(ren) and the impact of the same.
86. In terms of Her Royal Highness' conduct towards His Highness, no submissions have been made during the present hearing, but it is a matter of record that, some three years ago, she was involved in an affair with one of her security staff which was carried on not only when in England, but more importantly in Dubai in circumstances where the relationship became known about. On 15 April 2019 the mother travelled to England with Jalila and Zayed. Although it was normal for the children and the mother to visit England, she made it clear soon after arrival that she and the children would not be returning to Dubai. Since then she has stood up to him as best she can, both within these

legal proceedings and no doubt in other ways. Other than that, she has continued to foster in the children a positive and loving attitude to their father, and, despite all that has happened, she too can speak positively about him as their father during her interview with the guardian.

87. In contrast, in terms of the father's conduct towards the mother of his children, I have already spelled out my conclusions. But, in the context of the Family Court's approach to cases of domestic abuse, it is right to point out that the absence of any acceptance that the abusive behaviour has occurred is of significance as it prevents the court having any confidence that such behaviour may not be repeated, or undertaken by a different means, in the future.
88. Whilst I have, thus far, dwelt upon the impact of this multi-faceted and sophisticated abusive behaviour on the emotional wellbeing of Her Royal Highness, the focus of the court must be upon the children and their welfare, and not that of their mother or father. In this regard it is right to underline just how serious domestic abuse may be in terms of its potential to be harmful to children. The point is clearly made in PD12J, paragraph 4:

"Domestic abuse is harmful to children, and/or puts children at risk of harm, including where they are victims of domestic abuse for example by witnessing one of their parents being violent or abusive to the other parent, or living in a home in which domestic abuse is perpetrated (even if the child is too young to be conscious of the behaviour). Children may suffer direct physical, psychological and/or emotional harm from living with and being victims of domestic abuse, and may also suffer harm indirectly where the domestic abuse impairs the parenting capacity of either or both of their parents."

And at paragraph 7:

"In proceedings relating to a child arrangements order, the court presumes that the involvement of a parent in a child's life will further the child's welfare, unless there is evidence to the contrary. The court must in every case consider carefully whether the statutory presumption applies, having particular regard to any allegation or admission of harm by domestic abuse to the child or parent or any evidence indicating such harm or risk of harm."

89. It was clear from her own, unchallenged, evidence that the sustained, attritional (to use Mr Geekie's word), abusive behaviour that this mother has experienced over the past three years has had a profound impact upon every aspect of her day-to-day life and her emotional wellbeing. It will have totally dominated her thoughts, taken away her peace of mind and removed from her any sense of autonomy. She encapsulated this by saying "fear never travels alone, it travels with a sense of helplessness".
90. For the children's mother to be rendered thus, can only have been most harmful to the emotional and psychological welfare of these two children. Further, the children's lives are totally dominated by the consequences of their father's abusive actions. They live in highly restricted circumstances. [REDACTED] solely because of the actions of [REDACTED] their father and the risk that their mother believes, and the court has found, that he poses to their wellbeing were they to be abducted [REDACTED]

[REDACTED]

91. In this case, the two most relevant elements within the CA 1989, s 1(3) welfare checklist are:

(b) [his] physical, emotional and educational needs;

and

(e) any harm which [he] has suffered or is at risk of suffering.

Although, in the most difficult circumstances, Her Royal Highness has provided care of a high order to the children, she has been prevented from meeting the full physical, emotional and educational needs of the children as a result of their father's actions. The need for security and to live their lives in restricted circumstances will continue to be required. But the children are being harmed by the degree to which their mother is compromised emotionally and in terms of the time and focus she has been able to give to them because of the need to engage with all of the issues that have preoccupied her these last three years, and by the impact that the need constantly to engage with the demands of this court process has had on her. The harm to the children from all of these factors will, I am clear, continue if she is, in the future, required to communicate with His Highness to gain his approval for matters, even serious matters, relating to the children's health, education or psychological wellbeing.

92. A further aspect which is of real concern to this court is the fact that, since the very start of these lengthy proceedings, and at a number of key stages in their progress, I have stressed the need for the father to do what he could do to increase the ability of the mother and the court, and the children, to trust him to behave in a benevolent manner and to build bridges. Trust has, as it is in many family cases, been at the very centre of this case. Despite the very clear understanding that the father must have had of what was necessary to rebuild the relationship that he had with his children, and the relationship that he must continue to have with their mother in order to share in the joint task of parenting, his actions have been entirely to the contrary. The covert property purchase and the astonishingly intrusive and abusive action in hacking her telephone and those of her staff and principal solicitors were carried out in the very lead up to the court's planned hearing on the issue of welfare. If any bridges were being built, and there was no sign that they were, each of these two episodes on its own would have obliterated them.

93. The result is that the co-parenting relationship between these two intelligent and valuable parents is entirely bankrupt. There is no communication between them, other than via remorseless legal correspondence or during court hearings. They cannot even agree on who might be an intermediary who could act as a channel of communication in the absence of solicitors. Instructions given by the father to his legal team are so proscribed that not one word is said by them even to acknowledge Her Royal Highness' role as the children's mother.

94. I accept in full the mother's evidence of the impact that this remorseless and unremitting behaviour, which has now gone on for nearly three years, has had on her. She simply

cannot contemplate any prospect of sharing parental responsibility for any aspect of the children's medical or educational care with their father. She needs time out, time away from all of the business of litigation and all of the stress that it has generated. Based on her experience of sharing responsibility even for the modest decisions that have been taken jointly during this time, and noting that in fact His Highness was not in dispute about her choices once he had become involved, she sees the whole experience, embellished and drawn out as it was by those acting on his behalf, in a wholly negative light. As I have said, I accept her evidence, which was unchallenged, and it is on that basis, as well as my own overall view of the case, that I make my decision, which is to accede to her request to be given sole responsibility for determining all issues relating to the children's medical care and schooling in the terms that I set out at paragraph 20. It is agreed that the mother will keep the father informed of any significant matters that arise with respect to the children's welfare and I am satisfied that she will do so, just as she has done in the past.

95. The decision to afford the mother sole responsibility for these important matters is justified by the need to reduce the potential for continuing harm to the children. It is very much in their interests for the balance to be recalibrated and for their mother to feel that she now has enhanced autonomy as a parent and that this will be protected by a court order. This step will reduce the potential for the children to be harmed by the impact on their mother from the need to be involved with their father, and it will enhance her ability, as their primary carer, to concentrate on them and their immediate needs.
96. I have taken account of the children's guardian's reasons for suggesting a caveat with respect to 'serious medical treatment', but I would expect the order of this court to be sufficient authority for any treating doctors to accept the mother's sole consent if that is required. I trust the mother to inform the father if serious circumstances of that nature were to arise, but, in any event, she is in agreement with a requirement in the court's order that she would give him immediate notice of any serious medical condition or injury relating to the children.
97. So far as indirect contact is concerned, by the end of the hearing it was apparent that any supposed dispute was not one of substance. In Dubai, the father told the guardian that he was happy with the calls as they were. The idea that there might be change seems to have arisen from a misunderstanding generated from Ms Fottrell's position statement, and not something that the father was separately wishing to pursue. In closing submissions, Ms Fottrell clarified the position to the effect that the guardian did not support a change in the current arrangements. In any event, there is no evidence that there is anything about the arrangements which is contrary to the children's welfare or otherwise impracticable; in short the need for any change is not made out.
98. Before leaving the issue of indirect contact, and understanding the difficulties involved and the father's reticence in using the medium of phone or WhatsApp, it is my hope that he will not only continue to take up indirect contact, but do so with more regularity and with calls of a longer duration. He is the father of two fine children, neither of whom is shy, and each of whom has much of interest to speak about. As the guardian says, they are children to be proud of. The time for building bridges is not over; in some sense it may now begin, or at least begin from firmer foundations without the ongoing tension of the court process. It is my earnest hope that these children will continue their

relationship with their father through indirect contact and that this will over time develop.

99.

[REDACTED]. In keeping with the decision to afford sole autonomy with respect to education to the children's mother, subject to the need to inform their father, the decision [REDACTED] is to be left to her alone. [REDACTED]

100. Dealing with other matters that require a decision or clarification shortly:

- a) The text proposed at paragraph 8 of the current draft order is justified so as to provide clarity to any authority, unfamiliar with the detail of these proceedings, with the key factual matters that are recorded there;
- b) Provisions relating to direct and indirect contact will be recorded in the body of the court order, rather than in recitals, but the text relating to indirect contact will simply endorse the continuation of the present arrangements;
- c) The father has no objection to the mother being at liberty to remove either or both of the children temporarily from the jurisdiction of England and Wales for any part of the school holidays and at any other time for up to one month. This is an entirely reasonable and flexible arrangement. I agree that there should be a requirement to inform the father and to seek the permission of the court if she wishes to take the children out of the jurisdiction for more than one month during term time;
- d) The wording that has been agreed between the parties as to draft paragraph 19 is to be inserted;
- e) Email exchanges regarding the disclosure of the court order to various authorities will be considered separately [whilst the draft judgment is being circulated];
- f) Both parties are to be under a restriction against applying for any order in relation to the children in any court outside England and Wales, subject to a caveat that the mother is at liberty to do so in the event of an emergency or if the children are, or may have been, abducted;
- g) The court order will make provision for costs in accordance with the agreement that the court understands has now been reached.

101. The remaining issue relates to the identification of an intermediary or other channel of communication. Other than seeing the sense in there being such a person or protocol, and on this both parents are in agreement, the court is not easily able to progress matters in the absence of more information as to the options that may be considered. I would urge the parties not to leave this issue as unfinished business; it is important. It is to be hoped that a mechanism, avoiding the use of solicitors, can be agreed, but if not then the issue can be brought back to the court for determination.