Neutral Citation Number: [2024] EWHC 1313 (Fam)

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

The Liverpool Civil & Family Court

35 Vernon Street, Liverpool, L2 2 BX

Before:

His Honour Judge Sharpe

(sitting as a Judge of the High Court)

B E T W E E N:

A MOTHER

Applicant

-and-

A FATHER

Respondent

Ms Lisa Edmunds for the Applicant

The Respondent was unrepresented

Hearing dates: 23 – 24 October 2023

Approved Judgment

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Use of initials

1. In this judgment I have deliberately used random initials to describe individuals and places rather than real names. The purpose of this is not merely to protect confidentiality and so secure privacy, a matter of importance in family proceedings, but also to enable this judgment to have a wider circulation, particularly amongst individuals who reside in the country from which the family originated. There may be much misunderstanding in that place as to why certain decisions have been taken and it will be important in the future for those who are members of the wider paternal family to understand how matters have concluded as they have. The use of names may, to some extent, restrict the ability of others to have access to this judgment and therefore to understand properly how and why these decisions were made.

2. The mother, through her counsel, indicated that she had no objection to the identification of the country referred to below but the father has not had the same opportunity to set out his position and, given the issues which he raised at the final hearing, I have decided that it would be inappropriate and possibly even dangerous to him to identify it without his knowledge, let alone his consent. Accordingly throughout the judgment the country shall be referred to as X.

Introduction

3. I am concerned with the welfare of a child whom I shall refer to as L (a randomly chosen initial), who is a boy now 7 years old. The legal proceedings which have been generated in respect of this child have been nearly as wide as they have been long. The applications before me have ranged across the family jurisdiction from wardship and return orders through committal proceedings and sequestration and then to welfare orders under the Children Act wrapped around personal protection orders and finally supported by an order in relation to financial support. This has been a case, more accurately a series of parallel proceedings, in which the term 'welfare' can properly be used in its very broadest sense.

4. Those various legal proceedings cover a two year period from 2021 until 2023 but which for both L and his mother (M) was only a part of a very difficult, turbulent and uncertain time for them and which will probably continue to reverberate emotionally for some time to come. I cannot know whether M will experience such emotional highs and lows ever again but I can be confident that she would not wish to endure the sense of desperation and despondency which has accompanied her during times in this litigation.

5. The word 'journey' is a much overused one in current times but is apt in this case. It is not an exaggeration to say that for both L and M this has been a journey not only in geographical terms, as will be described below, but for M at least one which took her to the very limits of family law. In her determination to be reunited with her son M traversed almost the full range of the legal landscape of the Family Division of the High Court. The only thing which came close to this mother's doggedness to care for her child was the commitment of her legal team to ensuring that nothing was left undone that could be done in the struggle to achieve a successful reunification.

The background

6. M and L's father, F, are both nationals of X. L himself, although born in England. is steeped in the culture and heritage of his parents' homeland and enjoys citizenship of that country as well as British citizenship.

7. M and F were married in X two decades ago and moved to this country two years later where, in due course, L was born. Initially the parents were in this country to pursue their separate academic studies and each was successful in that endeavour. M gained both undergraduate and postgraduate degrees and aspired towards a professional career as a teacher. F completed his studies and either began or took over the operation of a food store business through a shop in a

city in the north of England. In due course they purchased a home in a different city to the one where the business F was operating was situated.

8. Although the parents were together for several years prior to L's birth there is only limited evidence of their shared life together before they became parents and it does not paint a happy picture. M claimed that F required her to abandon her goal of teaching and instead work in the store where she was paid a low wage from which more than half was then deducted as a contribution towards family bills. According to M in her initial statements to the court this effectively meant that F had 'complete control over everything.'

9. In addition to financial control M alleged that she suffered physical abuse at the hands of F. The details are limited but M asserted that whilst matters between the couple were 'ok' at the beginning of their relationship F was abusive towards M both before and after L was born. On occasions this abuse was physical and M contacted the Police but thereafter F would be apologetic and she would not pursue any formal complaint.

10. Nowhere has M detailed as to on how many occasions or with which consequences F was abusive towards her. In relation to both these allegations it has not been possible to make findings in respect of any of these matters and they have not been the subject of any specific forensic exercise. It follows therefore that they have been neither proved nor rejected. I include these matters here as instances of the deterioration in the parental relationship which paved the way for what followed.

11. In January 2020 M alleged that F left the country and travelled to Switzerland where he remained until April. What he was doing there, how he lived and supported himself was not explained by M although, as will be noted below, F later asserted that they had all gone there for the purpose of visiting his brothers and had had to remain in Geneva for medical reasons when M and L returned home. In that period M asserted that F simply failed to provide for either her or L at all, that communication was very limited between the parents and that such that did take place was abusive on the part of F and indicative of a lack of care towards her and L.

12. F's return from abroad generated no improvement in his manner towards M, if anything it was worse as M described his behaviour as being 'really bad'. At this point M decided that the marriage was at an end and decided to separate. To achieve this M felt it necessary to contact the police but having done so she then decided against accepting their offer to be moved somewhere other than the family home and she and L remained in the property along with F.

13. It is not disputed that for some time F had been suffering with a medical issue pertaining to his kidneys which necessitated monthly visits to hospital. Whether connected to this or for other reasons F had arranged to fly to X in November 2020 but contacted M from the airport to inform her that he had suffered a collapse and requested her assistance to travel. F said that he would agree to their separating but that this should be arranged in X once they were all there and he was with his family who could then care for him. M agreed to this proposal and the family travelled together in November 2020 to F's home city in X.

14. Once there M asserts that far from securing her separation from him she was badly beaten by F and, even worse, separated from L to whom F would allow her only limited access from time to time. F removed all of M's belongings, including her phone and bank cards, and restricted her movements. Although M was allowed to attend at her own family's home in the same city she was apparently threatened that were she to say anything about her situation then she would not see L again as F would remove him from the city to an unknown location.

15. According to M this state of affairs continued for approximately seven months until M was finally able to use her own phone to contact services in this country who advised her to leave F's family home without L but to then return to England in order to secure his return via the court system. In late June / early July of 2021 M left the F's family's home following an assault which left her, she said, 'incredibly badly beaten' and went to her parents' house where she was protected by her own family until she returned to England on 28 July 2021.

16. All of the above is taken from the initial affidavits M filed with the court on making her initial applications, it is very much only her case. F has filed some evidence in response to the initial applications lodged by M but has never provided anything approaching a point-by-point refutation of her several allegations. Across various documents F has presented an alternative version of some of those events.

17. In an email sent in response to the initial Without Notice orders secured by M, F denied that the police had ever had dealings with him whilst the family lived in England. He accepted having departed for Switzerland in 2020 but asserted that it was a family trip and his health prevented him from returning to England with the family and his having to remain in Geneva. The decision to return to X was due to the father's known medical condition and was a planned move in which M played a full role in both agreeing to and implementing it. Upon their return to X the family lived initially with the maternal family before moving into their own flat. In reference to the allegations of physical abuse and control F produced (by email and not exhibited to any sworn statement) several photos which show groups of people, including M and F, all wearing the traditional garb of citizens of X, at what appear to be either family or general social gatherings. The inference being that these were all occasions when M was neither under the control of F nor bearing any evidence of having been assaulted. In addition, F has asserted that M was free to move around of her own volition and she used that freedom to visit the maternal home, which he stated was within the same street as the paternal family home, and to access professional services in X including places away from the city in which they were living. F accepted that during this period L was living with him but claimed that it was always known and accepted that they would all return to England following the conclusion of the unspecified course of treatment F was undertaking. M, according to F, was depressed and this had been part of the family's joint decision to return to X and once there M had effectively abandoned L and F and come under the control of her own family who were intent on securing monies from F for the sole benefit of M.

18. It has not been necessary to make findings as to how the marriage came to an end or what happened in X because the material issues between the couple arose from what happened after M arrived back in this jurisdiction.

The litigation history Part 1 - London

19. Irrespective of the allegations and counter-allegations being made by the parents there is no doubt that by early August of 2021 M was not only back in this jurisdiction but had accessed legal services and made initial applications to the High Court for L to be made a ward of court, for a return order to be made in respect of him and for F's property and monies in this jurisdiction to be frozen. Within her initial application M alleged an on-going risk to her in this jurisdiction from F, notwithstanding that he was in X, through friends, associates or allies of his should he be made aware of her specific location here.

20. The matter came before the first of several Judges or Deputy Judges of the Family Division when on 6 August 2021 Mrs Justice Lieven made Without Notice Freezing orders in respect of F's accounts held with various banks in this country and, separately, a prohibition against his dealing with his assets in this jurisdiction, including his business and residential properties. In addition, by separate order L was made a ward of court and in which order was included a recital which asserted that it was in L's best interests for him to be returned to this jurisdiction.

21. At the return hearing of the Without Notice applications on 13 August 2021, the date of which F had been notified by email, Mrs Justice Knowles made the first of what would become a series of return orders requiring L to be returned either by F or on his behalf and to do so by 21 August 2021. Directions were given for F to file evidence in the event that he applied to vary the freezing orders. An order was also made requiring F to make L available for indirect contact with M by videolink and for M to have the opportunity to speak with L away from F.

22. A further hearing was listed in early September (there was an error within the order as to the date of that hearing) and the matter duly came before Mrs Justice Judd on 6 September 2021. By that

time F had been in email contact with M's solicitors and was asserting that his medical condition was known, real and currently prevented him from travelling to the UK or even participating remotely at a court hearing. However he indicated that he intended to return to the UK as soon as his health 'allows it'. His inability to participate remotely was initially explained on the basis of being in hospital and not having access to stable, consistent wi-fi but he then changed his position to it being due to the effect of the medication he was taking. Notwithstanding his apparent inability to participate in a court hearing F indicated an intention to challenge what M had sworn to in her affidavit (summarised above) but that his inability to be present at a court hearing or to be in a position (for unspecified reasons) 'to write details at this stage' precluded him doing so at that time. It will have been noted from the paragraphs above that his medical issues had not prevented him writing emails in which he made clear efforts to set out his stall. Prior to the hearing on 6 September F continued in email communication with M's solicitors and indicated his willingness and ability to facilitate the indirect contact previously ordered, however he was keen to delay the next court hearing on the grounds that he was struggling to secure legal representation in this jurisdiction. By this point F had also slightly altered his stance in relation to L. Having previously indicated that he would return L when his condition allowed it he was now stating that if he could not do so then he would identify someone who could escort L back to this country.

23. On the morning of 6 September, prior to the further hearing before Judd J, F indicated that he had identified someone who could bring L back to England but not before 20 September. In a further email also prior to that hearing F identified a second person, like the first also a member of his family, who was proposing to travel to Finland and who could take L there for M to then collect him. During the course of that morning the hearing took place and in the order which followed it was recorded that F had participated remotely. Within the sealed order there was confirmation of the proposal for L to be returned to the jurisdiction by a family member and a date set of 21 September for that to have occurred. Directions were given for monies to be made available from the frozen funds to allow for the travel costs to be met. Crucially for what followed but entirely understandably from the position of a court concerned to ensure that its orders were going to be had been complied with the case was not concluded and a further hearing set for 24 September. As a consequence the freezing orders had been extended through to that date also. For good measure the order also made reference to an expectation that at the next hearing and if L had been returned consideration would be given to the making of section 8 orders (a 'Child Arrangements / live with' order and a prohibited steps order preventing further removal from the jurisdiction.

24. By 12:57 pm on 6 September a third email was received from F indicating a complete volte-face on his part in relation to the return of L. F was clear that he was not now going to return L to the UK 'because my assets are going to be frozen or transfer *[sic]* them to my wife.' It would appear from his email that the prospect of being unable to personally travel with L as well as the on-going nature of the freezing orders were active in this change of mind by F. In the email communication which took place over the next couple of days F appeared to resile from this new stance and be working towards arranging the necessary consents to enable L to leave X in the absence of a parent as well as being able to return back into the UK (two separate issues which threw up different challenges). Despite this apparent, if late, indicator of compliance with Judd J's return order the frequency of communication out of X began to decrease significantly and by 21 September, the date by which L was to have been returned if F was to comply with the order, F was emailing M's solicitors to inform the that he would 'attend' (probably 'participate' was a more accurate word) at the hearing on 24 September to explain why L would not be returned.

25. F did participate in the hearing on 24 September (listed before Mr D. Lock QC sitting as a Deputy High Court Judge) and had lodged a document entitled a 'Defense Bill' in which he made several allegations against M regarding her mental state, her being controlled by her family in respect of financial issues and to which he attached the several photographs. There was no mention of his own medical condition, of L's welfare, of the reasons for his change of heart regarding L's return or of any other matters which were pertinent to the issues before the court. What was attached were various statements either purporting to be evidence of M's mental ill-health or the close bond enjoyed between F and L. To suggest that the same were self-serving, procedurally incorrectly

put before the court and of little, if any, weight would be to significantly overstate the collective evidential value of the material.

26. Unsurprisingly the court made an order in the same terms as the preceding three orders, including a further return order, now phrased as a 'forthwith' order, together with further directions both in regard to the medical issues preventing his returning L to the jurisdiction and also in relation to the assertion that he had, prior to these proceedings, disposed of his business to a family member. This was required as at this hearing and without earlier indication F now asserted that he had sold the business back in 2020 to an individual whom he named and who was immediately identified by M as his cousin.

27. A fifth hearing before a fifth different judge (Mrs Justice Roberts) took place on 13 October. The outcome was a reconfirmation of the wardship and a further return order for L, to which was now attached a penal notice. The court gave further directions for achieving compliance with the return order and confirmed the existence of the financial orders. F was now legally represented and had sworn a statement in which he asserted that the sale of the business had resulted in two cash payments both made in X rather than in England and with which monies F had used to live due to having no income in that country. It was also revealed that F had taken out a Covid loan, a facility made available during the pandemic to assist businesses during lockdown, in the sum of £50,000 which had now been spent. The expenditure, F claimed, had not all been the business, despite that being the purpose of the loan, as a considerable portion had been spent either in respect of or on behalf of M and her family. F was clearly now asserting that not only did he not own the business but now was in significant debt as a result of it. F's figures, as set out in the document, suggested that he had in fact spent more money than he had borrowed and yet had still had retained sums in X. Insofar as F addressed his medical condition he exhibited a one page document purportedly from a Nephrologist practicing in X which suggested kidney failure.

28. Prior to the further (sixth) hearing now listed before Mr D. Lock QC (who had dealt with the fourth hearing and therefore offered the first consistency of listing since the start of the proceedings) M made an application seeking a direction that the purported purchaser of F's business attend court to give evidence. In addition an application was made for permission to issue a writ of sequestration (as it was termed) in respect of F's assets in this jurisdiction, the previous orders having been only to the effect of freezing those assets and preventing their dissipation.

29. In her accompanying statement M was clear that despite F repeatedly failing to comply with the return orders by claiming that his health difficulties prevented him from travelling, his diagnosed condition was Polycystic Kidney disease, a longstanding condition readily capable of management through medication and which condition had not prevented him from travelling either to Switzerland in early 2020 or then to X later in the same year. The same statement addressed two other issues raised by F. Firstly, M refuted F's allegations that she had suffered from poor mental health. F had alleged that M had seen a psychiatrist in X because of her difficulties but M averred to never having even met let alone having been assessed by that individual. Secondly M challenged aspects of F's financial evidence as being inherently contradictory in terms of the sums involved and their sources.

30. By that sixth directions hearing on 29 October 2021 it was clear that the efforts being made to secure the return of L to this jurisdiction were not working and M accordingly stepped up her efforts to secure his return. Before the court M indicated through counsel her intention not only to have F found to be in contempt of court in respect of his failure to comply with the successive return orders which had been made but also to pursue the sequestration of his assets in this jurisdiction. Directions were made and those matters were to be listed with the on-going applications on 22 November 2021 with a time estimate of 1 day. The return order was continued and therefore a failure to comply would be an additional matter for consideration on that occasion.

31. Pursuant to those directions those instructed by M duly lodged applications for contempt of court and sequestration of assets on 9 November 2021 which were to be considered by Mr Justice Holman (the sixth judge) at that next (seventh) hearing. On the day notwithstanding that M

travelled to London for the hearing, F neither attended nor participated having, through his solicitors, indicated that he was unwell (a proposition supported only by a document written in the native language of X) and further that, despite still being instructed by him, those solicitors would not be representing him at that forthcoming hearing.

32. At the subsequent hearing on 22 November 2021 Mr Justice Holman maintained all the existing orders then in place but transferred the entirety of the proceedings to the Liverpool District Registry of the High Court and directed that thereafter continuity of judicial allocation would be required. Other than the need for consistency of judicial control no other reasons appear in the order as to why the matters were so transferred. Once transferred to Liverpool (a city with which M had no personal connection) matters were then allocated internally and it was by that route that the matters thereafter appeared before myself where they have remained ever since.

The litigation history Part 2 – Liverpool & Financial Matters

33. Following initial directions given without a hearing in February 2022 the first participatory hearing took place in March 2022 at which M was present and represented by Ms Edmunds, making her debut in the proceedings. At the final hearing in London it had been pointed out by Holman J that there was a mandatory minimum period of fifteen days required to effect good service upon F in X in accordance with FPR 2010 PD 6B, para. 7.1. That time limit was duly complied with but despite the efforts made by those instructed by M, F was a noticeable absentee. This was not unexpected as he had failed to respond to all efforts to communicate the fact of this hearing. However it was attended by both the family member to whom F had allegedly sold his business, Z, and also by Y, the person who had months earlier been identified as the person who would bring L to this jurisdiction from X.

34. The attendance of these individuals was directed not merely to secure evidence in respect of financial matters, which was one of the purposes of requiring Z's attendance, but was a deliberate act to attempt to create a better understanding by those who would be expected to communicate with F in X of what the court was trying to achieve. Successive hearings in London had failed to persuade F to engage meaningfully, let alone actually cooperate, with either M or the court in securing even any up to date information as to the well-being of L and the prospect of M spending any meaningful time with L, whether via video screen or otherwise, was looking increasingly remote.

35. Given that F had made it clear that he was not prepared to engage with M nor comply with court orders it was important that some other method of reaching out to him was attempted in order to persuade him that a court in this jurisdiction was not simply concerned with the extraction of L and his consequent removal from F's day-to-day life but with L's wider welfare, which included and gave proper consideration to his relationship with *each* of his parents and not simply one to the exclusion of the other. It was equally important that F, steadfastly remaining in X and giving no indication of being willing to reflect upon the necessity for any dispute resolution mechanism, was encouraged to understand that despite being a court in this country and applying the laws of this jurisdiction critical decisions pertaining to L's welfare were not going to be decided only in accordance with any presumption that this jurisdiction was the only place L must be or that a parent situated in this jurisdiction would be perceived more favourably over one who was elsewhere.

36. When determining matters under the inherent jurisdiction, which was the basis of the applications in respect of L, a child's welfare is the court's paramount consideration. Welfare is an aggregation of many different facets of a child's life of which a child's nationality, their familiarity with their geographical location and the attachments and connections they have to the place and people there are important factors in that determination of their welfare. But so to is the importance of maintaining historic cultural connections with a foreign homeland, significant familial ties in another part of the world and the values of the society in which the family has been rooted, including religious faith and belief systems which are ingrained within the societal values

to which the child and family adhere. All have a role to play in welfare determination but none of them are dispositive. Whilst welfare incorporates all of these it also transcends them all. Furthermore a child's welfare is never determined by giving any priority to simply being in this jurisdiction as opposed to a different country or any preference for 'Englishness' in the values, mores and morals which will inform the child as they grow and develop. In the same way as there is no promotion of a local view there should be no demotion of values, beliefs or attitudes which have greater currency in another place.

37. This was all spelt out to those who were present who could more effectively be in communication with F so that he could understand that he was not disadvantaged by his location, his nationality, his faith or his preference to live in X rather than this jurisdiction. It was made equally clear that actions attempting to deprive L of a relationship with M and failing to enable there to be any effective communication between a mother and son were likely to be detrimental to any case he wished to make as to why L's welfare was best met by his remaining in X in the care of his F and why return orders should be discharged.

38. Whether by reasons of efforts on the part of those who had been in attendance or not F did engage in subsequent hearings in April and to a very limited extent some indirect contact took place whereby M was able to see and speak with L via WhatsApp video calls. Unfortunately that appeared to be the high watermark of co-operation from F and by May 2022 it was clear that any efforts via this alternate approach of seeking to persuade F to consider matters from L's position and the importance of the child not having to continue to endure a situation whereby he saw nothing of one parent but was cared exclusively only by the other when other options were available were having little lasting effect..

39. The lack of progress with respect to the welfare arrangements for L were matched by alarming developments in relation to the financial and property assets held by F in this jurisdiction. In early March 2022 there was a fire at the former family home in northern England, now unoccupied as M had never returned there. A Fire Investigation report was prepared by the local Fire Service and a copy of the report was disclosed into the proceedings. The report made for disturbing reading. Just after midnight on the morning of 10 March 2022 a male was caught on the CCTV camera of a neighbouring property running from the house with what looked like his clothes on fire. There was a fire within the property itself and the emergency services were called. The fire itself was relatively easily extinguished and there was no serious damage to the property. What was noted however was that within the property there appeared to multiple seats of fire, i.e.. multiple places where individual fires had started, and no indication that one blaze had then spread throughout the property. Within the house a strong smell of petrol was detected and a along with two petrol cans and a bag which contained an axe. The report concluded that the cause of the fire was the deliberate bringing together of a heat source and combustibles which were flammable liquids. A police investigation was started which in February 2024 resulted in the conviction of an individual who, according to M, happens to be the son of a close friend of F.

40. This information became known only after the final hearing but may, in M's mind at least, have served only to confirm her in the view which was her position throughout the proceedings: that this action had been a deliberate act of Arson engineered by F, albeit using others, to deprive M of a potential asset which he had already been injuncted from dealing with, including destroying or diminishing it. To M and those whom she had instructed this was a worrying development and hastened the need for her to progress both her attempts to bring about L's return but also to control the assets F had in this jurisdiction to prevent their diminution and so undermine their value in the wider picture of securing co-operation regarding L.

41. As referred to above a writ of sequestration had already been issued whilst the proceedings were being heard in London and been listed for hearing in November of that year before Holman J. Now this matter was placed firmly in the court's sights at a hearing in April and listed for determination at a hearing on 11 May 2022.

42. F participated at the hearing on 11 May via a videolink and gave evidence before me as did M. Each had the opportunity, albeit F was unrepresented, to challenge evidence and I was satisfied

that the process was fair. With suitable modifications to remove information which I have deliberately kept from this judgment I have appended that judgment to this one for three reasons. Firstly, to ensure transparency and the comprehensiveness of this record. Secondly, to clearly identify that F was in contempt of court by reason of his serial failings to return or cause the return of L to this jurisdiction. Multiple return orders had been ignored. F had repeatedly asserted that he was too ill to travel and that no one was available to escort L in his absence. This was despite the clear indications he had given earlier in the proceedings that at least two different people were willing and able to do so. There was no evidence to support his apparent state of ill-health and insofar as M accepted his on-going kidney issue she was clear that it had not prevented his flying abroad on other occasions when it suited him to do so. His protestations of holding anything approaching a reasonable excuse for his failings therefore was firmly and fully rejected. The third reason for appending this judgment is that it is important to ensure that the threats allegedly made by F and brought to M's attention by the individual referred to as D in the Appended Judgment (but who is in fact Y in this judgment) are recorded because they will feature in the risk analysis undertaken later.

43. F was accordingly found to be in contempt of court.

44. What M did not seek to do at that stage was to seek for a sentence of imprisonment to be passed upon F. In taking that course M, rightly in my view, considered that to do so would more likely than not make it less likely that L would be returned to this jurisdiction. If F decided that by returning L he was opening himself to serving a sentence of custody (a not unlikely outcome given the findings made in respect of the multiple Return Orders with which he had failed to comply) then the prospect of a return would diminish. As importantly the imposition of a custodial sentence might only fuel suspicions in the minds of those around F in X that a foreign court was minded only to mete out injustice to an absentee party who was not either from or in that jurisdiction. None of that would assist in securing the return of L.

45. Instead M sought the use of a remedy which is always open to a court having found a party to be in contempt. The instrument by which the process had been initiated in late 2021 was via a writ of sequestration. Although orders were made which removed the property from the control of F but he was not stripped of any legal or beneficial ownership. If M was to achieve more than simply keeping it from him, which of itself had been an important part of her strategy in seeking to encourage F to co-operate in respect of L, she needed to now identify how that loss of control over it could be turned into realising the value of that asset for L's benefit.

46. What followed thereafter was a long and at times tortuous route to ensure that having obtained control over the property M could be in a position not only to sell it but thereafter to access the proceeds of sale. The difficulties which were encountered in the securing legal aid, establishing the correct jurisdictional route to follow, ensuring that those directly dealing with the property (it had been placed for sale prior to the confiscation) were aware of the sequestration order and ensuring that it was brought to the attention of the correct company were significant and it is right to place on record the sterling work undertaken by M's solicitor in getting across all of these issues and, together with Ms Edmunds, finding solutions each time a new problem presented itself.

47. It is unnecessary to record here all those difficulties but their number and magnitude meant that it was not until March 2023 that the way forward was clear. By this time the former matrimonial home had been sold by authorised sale and the proceeds of sale of £75,000 were being held dependent upon further other of the court. As noted above although confiscation had taken place the property and thereafter the proceeds of sale which resulted remained the property of F albeit, by reason of having been found to be in contempt, he was not in a position to utilise his own assets.

48. The route which was finally identified to enable M to secure those funds was an application under Schedule 1 of the Children Act 1989 ('Schedule 1'). Although M and F were married and although it was clear that the marriage had broken down no steps had been taken by either party to either secure a divorce in this jurisdiction or elsewhere and thereafter apply, in the basis of having

secured an extra-jurisdictional divorce, for financial remedy orders. This meant that orders which could otherwise be made under the Matrimonial Causes Act 1973 could not be utilised. However there was no jurisdictional bar to an application using Schedule 1 of the Children Act 1989 and such application was duly made in June 2023.

The return of L

49. Schedule 1 applications are predicated upon a parent or carer being able to evidence that they need financial support from the other parent / carer to meet the costs of caring for a shared child. That presupposes that the applicant parent is actually caring for that child. What enabled that Schedule 1 application to be pursued effectively was not a legal jurisdictional issue but the reality that by June 2023 M was once again caring for L.

50. Following the sequestration hearing in May 2022 M had redoubled her efforts to seek to persuade F that non-compliance was not the way forward. She had held back from seeking specific personal penalty, such as a custodial sentence, against F following the contempt hearing, preferring instead to pursue the sequestration of the property as the proper outcome of those findings having been made, and continued to seek to bring pressure to bear upon F through other routes. One particular matter which had been raised at successive hearings was whether some form of mediation in X involving members of the wider family to whom custom and tradition required that respect be accorded, notwithstanding the difficulties between the parents, could be utilised. Although M had made efforts to identify those who could intercede upon her behalf these efforts did not produce any positive benefits. In an effort to assist that process or at least to engage those within the parents' wider families who might speak with authority to F at the hearing on 23 June 2022 the court order allowed for the possibility of members of the wider families being allowed to participate at a further hearing in August so as to ensure that there could be both a proper understanding of the nature of the proceedings as well as enable others within the family to bring such influence or authority to bear upon F to enable L to move to M's care. It was important to make clear that by so doing F would not be losing L but rather that the child, after over a year of not having seen his mother at all save for infrequent and short videocalls, could spend time with her again whilst investigations were made in whether more permanent arrangements could be established which would enable L to be able to spend time with each parent even if F remained in X.

51. Unfortunately at the hearing in August neither F nor any member of the wider family of L participated and it was clear that this option was not one which was likely to be fruitful. It was after this that M decided to change her strategy.

52. M had attempted to persuade F to allow L to return to her care through a combination of not seeking his imprisonment as well as through an invocation to tradition and community values via the senior members of their community / family. This had not even shifted the dial, to use modern parlance, let alone brought a positive response. Having tried successively litigation, negotiation and even offers of mediation M now embarked upon an unconventional form of impasse breaking.

53. On 31 October 2022 I conducted a remote Without Notice hearing at which Ms Edmunds informed me that L was now in the care of his mother and sought orders to reflect that reality as well as to protect the immediate position pending a further hearing. The specific circumstances of what had occurred were not matters which I considered necessary to have set out in any detailed statement for a variety of reasons but it was necessary to be satisfied that what had occurred was not unlawful, antithetical to the child's interests or likely to generate yet further litigation based upon any relevant international convention. I was so satisfied.

54. In essence only what occurred was that M was made aware that F was taking L away from his parents' home city, leaving X and crossing into a neighbouring country. This was important information to M because having left X she now considered that she was unable to return there for reasons of personal safety and that, irrespective of her own safety, a return would not, even

though she was L's mother, assist her to resume care of L whilst he remained in X. L being taken into a neighbouring state gave M cause to believe that a retrieval attempted from there would be less risky for her personally and more likely to succeed. This is what occurred. Whilst L was in the neighbouring state M had been allowed to meet with L, with F's knowledge, and whilst in her care there she was then able to leave that country with L and they both returned to England.

55. In acting as she did M did so of her own accord and without the sanction of the court. M's action was covert and unilateral but not, in my judgement, unlawful. L was a ward of court in respect of whom a best interests decision had been made as far back as 6 August 2021 that he should be returned to this jurisdiction, which decision had never been rescinded, appealed or otherwise formally challenged by F. In addition, no order had been made either in this jurisdiction or in X which confirmed that L should be in the care of F and certainly nothing which required that he should not spend time with M. F had unilaterally but effectively created a situation whereby he had sole custody, care and control (to use a phrase from old legislation) of L, no court had sanctioned this. In taking the steps that she did M simply reversed this arrangement and L's exit from the neighbouring state was undertaken by a parent holding parental responsibility for their child and therefore, to the knowledge of this court, neither in breach of any order of this court nor any applicable legislation to which effect had to be given. It was unorthodox and undoubtedly highly risky but not illegal.

56. At a subsequent hearing at which F participated he stated that he had consented to M spending time with L in the neighbouring country and that the parents had reached an agreement that L could move to the care of M provided that there was daily indirect contact, direct (physical) contact between L and F on a quarterly basis in the neighbouring state but that in the event that M remarried L would have to return to the full-time care of his father. F asserted that this had been agreed not just between M and himself but also with members of their families with standing. F further asserted that in acting as she had M had broken its terms by removing L to England. No evidence was put forward to support such an agreement having been reached and no document provided which confirmed its terms. Even had one been produced the idea that a child's arrangements would be reversed without recourse to their welfare but on the basis of a parent's decision to marry is completely inconsistent with modern definitions of welfare and not something which would be sanctioned by a court in my judgement.

57. It is unnecessary to make findings in relation to the disputed positions about how L came to be in M's care. If what F has said is true the best that can be said is that F after nearly two years was finally able to understand the importance for L of being able to spend time with each parent. However the reality is that for two years F saw fit to ensure that M had little if any real opportunity to spend time with her son and rejected multiple requests, whether from M or the court, to allow L to leave his care. It must be said however that the idea that F suddenly changed his mind and allowed this to happen is not immediately and without much more cogent evidence a probable conclusion.

58. Of far greater importance was L's welfare. From the information made available I am unaware that L's period of time in isolation with F had left him with any physical issues. There is no suggestion of any ill-treatment, neglect or lack of care in physical terms. On the contrary, I have no doubt that F loves his son and therefore ensured that whilst in his sole care he was properly cared for in almost all respects. I could see that for myself at the hearing in May 2022 when L inadvertently came into view whilst F was participating in that hearing. Whilst I may have been reassured to see that L appeared to be happy and unfazed by his situation I have no doubt that the sight of her son was deeply distressing to M, a fact which F should have been aware of and which he wholly failed to acknowledge.

59. The single but significant deficit in F's care of L throughout 2020 and up until the Autumn of 2022 was the near total absence of M from L's life for such an extended period. There can be no argument but that prior to her involuntary separation from him M was at least as responsible for L's care as F and probably far more so given that it appears to be a truism of families everywhere that a mother very often takes on the greater share of child-rearing responsibilities as between two

parents. L would therefore have had a significant and deep attachment to his mother. It was a serious failing by F not to ensure that, despite the geographical distance, L was able to talk with M frequently upon her removal from his life after November 2020 and especially upon her return to England. I have no doubt that this will undoubtedly have had an emotional impact upon L. F was repeatedly told this by me at successive hearings and constantly failed to accept it or to do anything about it. The impact upon L of effectively losing his mother and then regaining it unexpectedly and without warning nor preparation will have been traumatic. It should be added that the secondary effect, of losing his father (which is how it must have seem to L) will have been equally difficult and on-going. It should not have come to this that a child having been monopolised by one parent to the detriment of the other had to snatched by the other to the detriment of the former. This is very far from good child-centric care. I hold the father directly responsible for this state of affairs.

60. The immediate consequence of M's action in retrieving L was that F returned to X and shot the maternal grandfather. Fortunately the wound was to the leg and the gentleman has recovered. Although F was reported to the authorities M understood the position to be that because F allegedly had connections to or at least some influence with the state security authorities he was not arrested. Whether this was true could be questioned by the fact that F did apparently go into hiding, despite these alleged connections, and the general level of civil disorder and protest in X meant that no immediate action appeared to be likely.

61. All of this however created a very high risk situation for M and L and at the hearing on 31 October I made a Child Arrangements order which placed L in the care of M and made a 'no contact' order between L and F for the time being. In addition I continued the wardship, made a Port Alert order, a Prohibited Steps order to prevent F either removing or arranging for the removal of L from Ms care and orders covering both L and M made pursuant to s.42, Family Law Act 1996. Understandably M's focus was upon securing L's situation and enabling him to move through the trauma of isolation and then removal.

The final hearing and the long term orders sought

62. By March 2023 M had identified that she would make an application under Schedule 1 of the Children Act 1989 for orders seeking a lump sum from the proceeds of sale of the former matrimonial home for the benefit of L. The final hearing was listed in June 2023 when all applications were before the court. At that hearing however F indicated that he was not currently in X but at an undisclosed location in that region of the world, that he was imminently about to undergo surgery for his long running issue with his kidneys and that, for the first time, he wished to have the use of an interpreter to assist him at the final hearing. Upon his application therefore the hearing was adjourned and re-scheduled for later in the Autumn, a long adjournment but necessary to take into account of F's needs, counsel's availability and court listing commitments.

63. F also added that at that hearing and at many if not all previous hearings he had not been alone but had had a member of X's state security services present who had been listening to everything which had been said. It was known that F and M were not only nationals of X but also members of a minority ethnic group in that country which had, in times past, been subjected to repression on a regional basis. However to now suggest that F was being covertly controlled during court hearings was new information which was entirely contrary to all previous assertions that had been given by F when confirming his situation with regard to privacy and isolation for the purposes of a remote court hearing. There had been no indication, even on the occasion when L had innocently wandered into the room from where F was participating in the hearing, of anyone else being present. It was clearly incapable of verification but raised questions either about F's ability to conduct litigation, about his willingness or ability to be open with the court or possibly even about F's mental health. In any way this assertion did not assist F's case.

64. At the adjourned final hearing the following applications were before the court:

    a. Applications under the Children Act 1989 for:

i. a Child Arrangements order (live with),

ii. a Child Arrangements order ('No contact'),

iii. a Prohibited Steps order in two respects:

1. to prevent F from removing L from the jurisdiction; and

2. to prevent F from accessing information pertaining to L from any third party which might identify his whereabouts (e.g. education and health);

iv. An application for a s.91(14) order.

b. An application for a Port Alert order in respect of L;

c. An application under the Family Law Act 1996 for a non-molestation order;

d. An application under Schedule 1 of the Children Act 1989 for a lump sum order;

e. Ancillary orders to ensure the finalisation of the proceedings.

65. In response to those matters F had filed a statement some time beforehand in which he opposed a no contact order, any transfer of monies to M even on behalf of L and sought to argue against any restriction upon F travelling to this jurisdiction (which was not being sought) and to prevent M from leaving the jurisdiction with L for any reason.

66. I heard submissions on behalf of M and heard directly from F who was participating by videolink but without the need for an interpreter on this occasion.

67. In his oral evidence F returned to the theme he had introduced at the adjournment hearing. Having previously stated that during hearings he had been in the company of members of the security services of X whilst in his family home he was now claiming to be a hostage of them and in the total control of that state. What that amounted to, he claimed, was that he was required to return each evening to a prison where he spent the night before being released the following morning. He stated that because of this he could not access any legal advice (presumably in respect of his local difficulties as well as the legal issues which were the focus of the court hearing) and was not allowed to travel abroad. In this hearing F asserted that a further form of control being exercised upon him was being denied kidney surgery, the need for which operation he said was essential. He did not indicate whether this was the same operation he had said was imminent and which necessitated the adjournment in June. Furthermore F said that his wider family were similarly in the control of the state and gave the clear impression that this was an additional difficulty he was facing. F added that he was now at risk of torture if it was the case that any information from the hearing was then passed to the state security services. How that last comment squared with his initial claim to be the hostage of the state was not clear.

68. The status of political prisoner is not one which should ever be mocked or blithely dismissed. To be imprisoned or detained because of one's political activities undertaken in the absence of violence is a clear breach of an individual's human rights on multiple levels and rightly a cause of concern for all those who support the rule of law. However there was no evidence to suggest that anything F said was true. It was clear that that he had been able to join and participate at the hearing despite whatever custodial regime was in place. F displayed no physical evidence of having been controlled or intimidated, there were no injuries, no appearance of degradation or weariness associated with imprisonment. Furthermore this information was being given for the first time during the hearing. There was no prior issue or difficulty which had been indicated and M had received no information from any other source which could verify or even support anything F was saying. In short I could not conclude that anything F was saying at this point in time was true and was unable to ascertain any reason why he might make such otherwise outlandish assertions.

69. However whilst rejecting F's claim to be a political prisoner his statements gave rise to a real concern as to F's state of mind and his ability to rationalise or simply to tell the truth. Dishonesty whether or not linked with mental disorder is not a helpful basis upon which to safely consider

that previous risks have been mitigated or that trust and candour can be assured, to say nothing of a willingness to recognise the authority of the court and to abide by orders made.

The relevant law

70. The legal principles involved when considering the making of orders under the Children Act 1989 are settled, well-known and do not require detailed repetition. However for the benefit of those reading this judgment in X I can summarise them in the following terms (references to sections are to the Children Act 1989):

    a. the welfare of the child is the court's paramount consideration (s.1(1));

    b. Any delay in determining the issue is likely to be prejudicial to the child (s.1(2));

    c. A court should not make any order unless to do so would be better than not making the order and therefore that if making an order the court should take the least interventionist option (s.1(5));

    d. In determining the welfare of the child regard must be had to those matters set out in s.1(3) of the Act ('the welfare checklist') but which in themselves do not constitute an exhaustive list of the matters which should be taken into consideration when determining the application.

    e. The 'welfare checklist' is set out at s.1(3) and replicated below:

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

        (b) his physical, emotional and educational needs;

        (c) the likely effect on him of any change in his circumstances;

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

        (e) any harm which he has suffered or is at risk of suffering;

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

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

    f. When a court is considering whether to make an order pertaining to the arrangements for the child or the exercise of parental responsibility in respect of that child it should operate a presumption that the involvement of that parent in the life of the child will further child's welfare, unless the contrary is shown.

71. When determining whether to make a financial order under Schedule 1 of the Children Act the court should have regard to all the circumstances including:

(a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(c) the financial needs of the child;

(d) the income, earning capacity (if any), property and other financial resources of the child;

(e) any physical or mental disability of the child;

(f) the manner in which the child was being, or was expected to be, educated or trained.

Discussion

72. Having dealt with matters at some length in this judgment I can set out my conclusions and the orders I shall make fairly succinctly.

73. I will make a Child Arrangements order that L will live with his mother. This order will continue until L is 18 because I find that there exceptional circumstances in this case which justify the continuation of that order beyond the norm.

74. I make a separate order that L shall have no contact, including indirect contact, with F until a Risk Assessment has been completed in respect of F by any local authority in his area L is then ordinarily resident.

75. I make a Prohibited Steps order which reinforces both aspects of the Child Arrangements order made above by reinforced the prohibition against removing L both from the immediate care of M and from the jurisdiction generally. The prohibition is directed at the father and any person acting on his instructions, on his behalf or otherwise in support of him. It is not a general prohibition against L leaving the jurisdiction provided he is in the care of M.

76. In support of that Prohibited Steps order I make a separate Port Alert order in respect of L which will cause any attempt to remove him to cause an alert. This order will continue until L is 18 or further order.

77. In order to protect against removal I make a Specific Issue order to limit the operation of F's parental responsibility in respect of L so as to prevent F from accessing any health or medical information in relation to his son. That order will continue until L is 16 or further order of the court.

78. Pursuant to s.42 of the Family Law Act 1996 I make an injunction to restrain F from approaching within 100m of M or L or any property in which he believes that they are then occupying. It is not necessary for F to know the address at which M and L are then staying, it will be a breach of the order if he is identified as being within 100m of the same in the absence of a clear explanation as to his presence in that vicinity.

79. In relation to the Schedule 1 application I make a lump sum in the amount of the lesser of the sum or £75,000 or the totality of the proceeds of sale of the former matrimonial home. The sum so ordered shall most likely extinguish those proceeds but will be considered paid in full if those proceeds are thereby extinguished without the figure of £75,000 having been paid. The freezing orders made in 2021 in relation to the various bank accounts identified within those orders shall be discharged upon payment of the lump sum. Their purpose has been served.

80. Finally, the wardship in respect of L is hereby discharged, it having served its purpose whilst he was out of the jurisdiction and will now only hinder the proper exercise of parental care which M is more than capable of doing.

81. I make the above orders for the following reasons.

82. L is currently in the care of M and is thriving. No doubt the effects of his extended separation from her will be felt for some time to come and may prove an indelible memory beyond his childhood. Similarly he will undoubtedly be experiencing a sense of loss from any contact with F and this too may be a difficulty he will endure for some time to come. I consider that M is well placed to anticipate, identify and meet all of L's needs and ensure that the remainder of his childhood is geared towards minimising this period of turbulence he has suffered rather than exacerbating it. Furthermore M has throughout these proceedings demonstrated fortitude, patience and an unwavering commitment towards L and towards achieving a fair outcome for all members of the family. The actions she took to retrieve L were not illegal but necessitated by F's blatant refusal to even consider what was in the best interests of L. I have no difficulty in accepting that

M genuinely sought to exhaust all avenues open to her before embarking upon her plan to secure L from the neighbouring state. Throughout these proceedings M has been clear, honest and acted entirely appropriately and with a clear focus upon L's best interests.

83. The same cannot be said of F. The reasons why the family travelled to X and of what happened there to cause M to leave without L are disputed but insofar as M and F differ in their accounts I unhesitating prefer M. F lacks credibility, not merely by reason of his sensationalist claims in relation to being a prisoner within X but through his actions throughout these proceedings. F has been inconsistent, untruthful and duplicitous. He has made such statements as he believes will assist him without any regard for consistency or credibility. Furthermore F has acted according to what he wanted, not what he considered was in L's best interests. F never once sought to put forward any reasonable proposal by which L could spend time in England as well as in X or offer any guarantees as to L's well-being whilst being away from M. As in so many cases before the family courts F's unwillingness to offer anything approaching regular and frequent video contact demonstrated the true state of his mindset. F was concerned to ensure his principal bargaining chip, L, was kept close to him and therefore away from M. He showed a callous disregard for L's welfare in so doing and acted in a deliberately cruel and vindictive manner towards M.

84. It is important therefore to be clear that L living with M is not by reason of any necessity and not because of any argument F makes as to his lack of liberty or ill-health. I have no doubt that F is not restrained from travelling out of X if he so wishes or that he is medically able to do so. L is with M because she and she alone is the parent who can best meet his welfare.

85. Having confirmed L's living arrangements with M it would ordinarily be incumbent upon me to avoid making an order which then precluded L from having any contact with F. Such an order is undoubtedly a significant disruption to both L and F's rights to associate and continue their relationship which is undoubtedly extremely significant to both of them. F is his father and has been, even if not for positive reasons, L's full-time carer for nearly two years. In addition L has lived amongst his paternal family and undoubtedly developed significant ties with them which, in the absence of F, will be impacted.

86. However despite all these reasons and the statutory imperative towards parental involvement it is necessary to make a 'no contact' order at this time. It is clear in my judgement that F has shown neither an ability nor a willingness to abide by court orders. Such a demonstration does *not* mean that an individual is thereby deprived of contact with a child as some form of punishment. The proper response to non-compliance (as this father now knows) is a finding of contempt not a deprivation of contact. However a child arrangements order that enables a person to spend time with a child requires a willingness to abide by the terms of that order, to make the arrangement work and not to seek to undermine it or sabotage it. I could have no confidence in F at all that this would not be his primary goal. It also assumes that the involvement of the parent is of benefit to the child. In this case I have to take into account the known risks presented by this father – of abduction, isolation and control - and such unknown risks as he now raises but which cannot be verified.

87. The known risks are clear:

    a. F has forcibly separated M from L and physically attacked her.

    b. F has previously refused to return L either to his primary carer or to the country with which he is most familiar.

    c. F has deprived L of any meaningful contact with his primary carer for an extended period.

    d. F has attacked a member of L's maternal family and shot him.

    e. F has made threats against M.

88. The unknown risks are also significant:

    a. F asserts that his life is in jeopardy from local security services.

    b. F asserts that he is in danger of being tortured.

c. F suggests that his own freedom in his home country is now compromised.

d. F suggests that this level of state interference in private life extended through him and to the lives of members of his wider family.

89. It would therefore appear to be clear that F is unable to guarantee his own safety let alone L's. He is at risk of inhuman and degrading treatment being visited upon him and that risk applies to those around him. Were F to have contact with L there is a real risk of abduction from this country to X and once there a real risk that L would not be allowed to leave, whether by reason of F's actions or the state's actions against F.

90. It should also be noted here that X is not a signatory to the Hague Conventions and therefore no protection could be afforded L were he to be in the control of F and returned to X thereby rendering nearly impossible any hope of lawful, processed return. A fact with which M is altogether too familiar.

91. L spending time with F in this jurisdiction would theoretically remove many concerns pertaining to F's life in X but would only accentuate the risk of abduction and removal which is now a real fear of M's. That fear is fully justified by reason not only of F's previous actions and also now of M's. F isolated M from L whilst the family were in X and thereafter refused to return him. M however then retrieved (snatched might be a not inappropriate word) L from F's care. Each parent has resorted to unilateral action in respect of L. It is now what they do. The risk to L of F attempting a copy-cat action is high and the risk to L of that succeeding is significant if, as it undoubtedly would, what resulted was more of the same of what L has had to endure these past two years.

92. For all of those reasons the only effective order which can safeguard L's welfare at this point in time is to have no contact with F. However that is by no means the best outcome for L in the longer term. As was repeatedly said to F in successive hearings a child having to lose his relationship with one parent simply to gain one with the other loses every time this occurs. What L needs is not repeated swings of a pendulum between one parent and the other but a balanced, settled approach whereby he is able to enjoy a good relationship with each which allows him the fullest opportunity to explore his understanding of himself, including his cultural heritage and his connections to his wider families.

93. L does not have that at this time but it is a necessary absence until such time as there can be greater information about F and his situation, F is away from X and not in a position to directly threaten L's re-removal there. For that reason it will be necessary for F to make himself available to a local authority or other qualified individual to undertake a full risk assessment in order then to commence a planned approach to re-engaging with L. When that can happen and the stages which will be required to be worked through will be dependent upon the situation at the time.

94. Until that can occur whilst there would normally be indirect contact that in itself is problematic. Indirect contact, particularly when it involves instantaneous communication, can too easily become an interrogation session for a child when talking with a parent who is determined to use it as a device to locate whereabouts. Where an individual is considered high risk there is a real danger than indirect contact itself requires monitoring, supervision and a degree of control. The point was eloquently made most recently by Hayden J:

> It is a professional and, indeed, a human instinct to preserve some thread, however vestigial, that leaves open options for a child who does not have contact with a parent. Generally, this is considered to be an opportunity for a child to obtain some understanding of their cultural and genetic inheritance. As a principle, it is obviously both sound and important but it must not be seen as automatic. The need for it and the potential damage that might be caused by it, need properly to be evaluated. Nor, in my judgment, should the importance and reach of indirect contact be underestimated.
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> *F v M [2023] EWFC 5 at 27*

95. In this case I am satisfied that the effect of indirect contact would be to allow F to reach into L's life not for the purpose of enriching it but to locate him, undermine M and ultimately to seize L and return him to X and away from M's care and orbit as deeply and permanently as possible. That is a risk which cannot be allowed to materialise and therefore against which such significant protection is required as outweighs even the benefits of indirect contact at this time.

96. It is in support of that objective that the Port Alert, the injunction and the Prohibited Steps orders are made. The combined effect of these different orders is to create around M and L a protective network which works to keep F from discovering where they are and also to ensure that L, in particular, is protected against forced removal. I consider that the orders are necessary and proportionate at this time. The extension of the period of operation of the Child Arrangement order ('live with') until L turns 18 is another part of this phalanx of orders. A Child Arrangements order brings with it certain legal protections such as the criminalisation of any unauthorised removal, which, at this point in time, would appear to be necessary for L.

97. Finally in relation to welfare orders I am satisfied that the wardship in respect of L should now be discharged. A ward is a person in respect of whom no person can take a decision of significance without the leave of the court. It is inconceivable that L would benefit from multiple applications to court in order that M could properly parent her child. The period of control that was required by the court has now passed as the purpose of the wardship is concluded. The wardship is accordingly discharged.

98. I was invited by Ms Edmunds to make a s.91(14) in respect of future applications in relation to L. That is a direction that a parent who would otherwise be entitled as of right to make an application to the court in respect of their child must first secure the permission of the court to make such an application. It is a device by which access to justice can be controlled as opposed to barred. Any application of merit made by a litigant will be allowed to progress but those which are hopeless, fanciful or serving a darker purpose, such as using the court processes to seek to control or at least puncture the calmness of life for the other parent.

99. In reality the only applications likely to be made are by F, particularly in respect of the absence of any arrangements to spend time with L. I questioned what purpose would be served by the making of such a direction and whether in fact the better outcome was simply to direct that any future application in respect of L is listed before myself. In the event, whilst I will make a direction that any future application in relation to this child is reserved to myself I have concluded that there is a benefit to the making of a s.91(14) direction because I will direct that prior to the granting of permission the application shall not be served upon M but remain an issue for F to persuade the court of the value of his application. In the absence of merit the application will not proceed and M need not be troubled with it. By this means F can ensure that the court door is not closed to him but that M need not be unnecessarily disturbed by his banging on it for no effective purpose. The term of the order is five years. Therefore the direction will stand until 2 October 2028. The reservation of future applications to myself is without time limit but parametered only by my being available to hear the application.

100. The final aspect of the orders sought was in relation to the application for a lump sum. Pursuant to paragraph 1(2)(c) of Schedule 1 to the Children Act 1989 the mother can apply to the court for 'an order requiring either or both parents of the child to pay to the applicant for the benefit of the child such lump sum as may be so specified.'

101. M's case is that she seeks to utilise the sum available from the sale of the former matrimonial home. She is a single parent on whom the full cost of raising L has now fallen without any hope of securing maintenance from F. F asserts that he has medical issues, is being controlled in his movements and has already had the benefit of significant sums from what was the family business. In addition the former matrimonial home suffered a reduction in value by reason of the lack of occupation and the fire damage. This has had a knock-on effect upon the proceeds of sale.

The very fact of a sale was a matter arranged by F in December 2021, when freezing orders were already in place in respect of the property and which therefore was in breach of the same.

102. There is one source of funds as between the parents and if it is released to F, the legal owner still, then there is every possibility that he will transfer those sums out of the jurisdiction and away from M and L forever.

103. To capture all of the apparent available finances would appear to be a harsh decision for F, denuding him of monies to which he would otherwise expect a significant if not the whole share. However F had the benefit of a loan in the sum of £50,000 taken out in 2020 against the business which has never been repaid and also directly received a sum of £19,000 upon its sale. Accordingly F has had £69,000 from the business which supported the family and in which M worked. M has had the benefit of £5,000 from the proceeds of sale which stemmed from the need to travel outwith the jurisdiction by reason of F's continuing contempt in 2022. Although M had indicated a willingness to repay that sum if so required by the making of a single lump sum order both she and F are freed from such concerns and in due course L can be made aware of the significant financial contribution which F has made to his welfare.

104. Accordingly I make an order that the sum of £75,000 or such lesser sum as is the current sum available from the proceeds of sale is paid to M as a lump sum for the benefit of L. To make such an order also avoids any question of matters being set up as a trust, an arrangement F was clear he did not support. It is far better that M is put in a position whereby she can apply those funds for L's benefit directly. By so doing F can have it placed on record in the event that circumstances change and he is in a position to make maintenance payments of the contribution he has already made.

105. Upon payment of that sum to M and her receipt of the same the freezing orders against F's bank accounts made in 2021 shall be discharged and he will be in a position to utilise such sums therein for his own purposes.

Conclusion

106. Despite all that has occurred to him since 2020 I am confident that L will now enjoy a period of stability and a settled life in the care of M. It is to be hoped that significant change can be made by F in his outlook towards the needs of his son so as to enable him to put forward realistic, safe and practical arrangements by which he can renew his relationship with L in due course and before too much time has elapsed. F must understand that significant change will be required and clear insight into where matters went so wrong if he wishes to move matters forward from this current state. Assuming such reflection can be undertaken and change mind F will then need to make an application to vary the current orders, certainly the Child Arrangements (spend time with) order. If and when it is made it will be made to myself alone pending further directions.

107. That is my judgment.

1.3.24