



Neutral Citation Number: [2024] EWHC 59 (Fam)

Case No: FA-2022-000165

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17th January 2024

Before :

MRS JUSTICE ARBUTHNOT

Re T (A CHILD)(s9(6) Children Act 1989 orders: Exceptional Circumstances: Parental Alienation)

Ms Scotland *pro bono* for the Applicant
Michael D Jones KC and Mr Kelly *pro bono* for the Respondent

Hearing date: 7th and 8th December 2023
Draft judgment sent on 18th December 2023

JUDGMENT

Mrs Justice Arbuthnot:**Introduction**

1. I am writing this judgment in the expectation that, at some point, it will be seen by the two children it concerns, S and T. I have tried to summarise the decisions made in earlier proceedings, so they will have an unbiased and objective account of what happened in court as they were growing up.

Application and issues

2. The issue for this court is whether it is in T's best interests for contact to continue in the current form between him and the respondent father. T is now aged 15. He has a sister, S who will be 18 soon. There is no suggestion that the contact arrangements should continue in her case. She has stopped seeing her father and that will not change.
3. If I decide contact is to continue, there is a separate issue about whether it should continue beyond T's 16th birthday up to the age of 18 or whether in accordance with section 9(6) of the Children Act 1989 the order should have no effect from that date. The mother argues that no order for contact should be made based on T's wishes and feelings and that contact should stop now whilst the father contends that it is in T's best interests that an order be made to last until he is aged 18.
4. Miss Warren is the guardian in the case. She recognised that it was a finely balanced case with a number of complexities, but her recommendation was that contact should continue until T was aged 16.
5. In my judgment the mother has spent at least ten years persuading first S and now T that she was a victim of abuse and that the father is a violent abusive man. This is

untrue. Where we have reached in December 2023, is that S is about to be 18 and does not want to see her father and T no doubt influenced not only by S but by older half-siblings, says he feels the same.

6. As well as this judgment which may not be seen by the children for a number of years, I will also be writing a letter to each of them which I will ask the guardian to ensure that they read.
7. Before I turn to the background of this case, I would like to thank the counsel in this case who are all appearing *pro bono*. Having counsel appear has made this hearing more focussed, efficient, and fair. Counsel on both sides have been very helpful in a case with a long history and a complex background.
8. This matter has come to me because I allowed an appeal against a Circuit Judge's order made on 6th June 2022 who decided that it was an exceptional case, and that contact should continue until the children were aged 18.
9. I discharged the Judge's orders and on 26th October 2022 I ordered that T should have contact with his father on alternate weekends and alternate Thursdays, four days each at Christmas and Easter and 14 days in the summer. There was also to be two days in each half term which, if possible, were to be added to one of T's weekends with his father. Apart from the provision for two weeks in the summer, my order was a return to an order made by Mrs Justice Parker in 2018.
10. I ordered Cafcass to produce a section 7 report. Miss Warren has very kindly assisted and she was present too when I met the children in July 2023.

11. In the meanwhile, Ms B made applications to discharge orders on the advice of Cafcass who filed a section 16A harm letter and for a section 91(14) order. The parties are agreed today that I should make such an order. I do that until T is aged 18 in 2026.
12. These parties have been in proceedings off and on for ten years. In earlier proceedings judges have made findings against the mother and to a much more limited extent against the father. Judges have found that the mother has undermined the relationship between the father and the children throughout their childhood. Very limited findings were made against the father.

Background

13. The mother was born in the Country A and after meeting the father on the internet moved to England in March 2005 with her two older children. S was born in December 2005. The parties married in April 2006 and T was born in 2008. In 2009 the father adopted the mother's two older daughters.
14. The marriage ended in 2012 when the two oldest daughters were aged 15 and 13 and S and T were aged seven and four respectively. By 2013 the parents were involved in family proceedings. By 2014 the two older girls had ceased all contact with the father and as I understand it, he has not had any contact with them since. The older children have no contact with their birth father either.

Proceedings

15. There have been lengthy Court proceedings at every level of court and over 70 hearings involving over 26 judges between 2013 and 2022. I have set out below some of the findings made by the judges as it informs me when I come to consider the future progress of T' contact and what is in his best interests.

16. As well as a great number of hearings over the years there have been seven CAFCASS section 7 reports (the most recent dated 7th February 2023), three local authority reports (in 2017 and 2018), a report from the children's guardian after they were joined and three local authority section 37 reports (in 2017). There was an initial child protection conference, and the family was given support under child in need measures.
17. I do not have a complete set of judgments so some of the quotations below and the findings in earlier cases are to be found in later judgments. From the earliest moment, father's contact with the children was problematic.

District Judge Hollow

18. From the mother's bundle, it is clear from the orders that the earliest proceedings started in May 2013. There was a contact dispute and District Judge Hollow conducted a hearing on 18th December 2013. The Judge had accepted a recommendation of weekly contact which the mother resisted on the basis that the children did not want it. When the father wanted to send Christmas presents by a delivery service to the children the mother said that the children did not want to receive any from the father. The two younger children would have been about five and seven years of age at the time.

District Judge Taylor

19. In financial remedy proceedings District Judge Taylor gave judgment in November 2014. He found that Ms B had been dishonest in that she had forged documents and had seriously misled the court. The forgery of documents was proved by expert evidence. The mother tried to appeal the District Judge's decisions and failed. I will come to more detail about this, below.

His Honour Judge Yelton – May 2014

20. The next findings of note were made by His Honour Judge Yelton in Children Act proceedings involving T' older half-siblings. HH Judge Yelton's decision was given on 7th May 2014 and a judgment given on 15th May 2014. The mother had made allegations of domestic abuse which were found not to be true. I set out some lengthy quotations below because they also include observations about the father.
21. On 7th May 2014 Judge Yelton said that he did not believe the mother when she said the father had been physically abusive towards her and had forced her to marry him. He described that the relationship between the two was "always difficult" as the father was "rigid in his thinking". At one point the Judge said that between selling one house and buying another in 2012, the mother reported herself as homeless. He said that was extraordinary behaviour and dishonest. They were never homeless.
22. There were three incidents in particular described by the Judge. One where the mother was "stupid to get out of the car" and the father "was callous in leaving her there". The Judge said the father was "pig-headed and awkward and that led to the temporary separation". The second was where the father picked up a knife and said the mother may as well stab him. The Judge said it was dramatic scene and the father was not being sensible. There was an allegation that the mother made of the father assaulting her on 4th May 2013 when they were arguing. This went to the criminal court and the father was found not guilty. Judge Yelton too found the assault did not happen.
23. In relation to another allegation made by the mother, the Judge described "an awful lot of retrospective thinking on behalf of the mother and altering the past to suit her version of events". The father was described as unbending and rigid in his thought.

24. I noted that it was at the mother's insistence that the two older children were made to give evidence. They did not like their father. The father admitted honestly that there was truth in their eldest sibling's evidence that he had singled her out and verbally abused her on one occasion. He said it was because she would not grow up at the same speed as the younger of the two older siblings. The Judge remarked that to that extent the father was abusive towards her as he had no understanding of how a child grows up.
25. Judge Yelton remarked on the difference in personalities between the mother and father which had led to the complaints they made against each other. More importantly perhaps, he found "the mother has profoundly influenced the children against the father" and she had obstructed contact.
26. In his judgment of 14th May 2014, he said that the mother had told the CAFCASS officer that she believed that Mr H had a longstanding psychological condition which was undiagnosed and untreated.
27. The Judge said that the mother had been making false or unproven allegations against the father. He said that the reason the children would be disturbed about contact being imposed was that "they had been listening to their mother's propaganda against the father, which he had found largely unjustified". The Judge's conclusion was that there was no reason why the children should not see their father.

His Honour Judge Yelton – November 2014

28. There was a further judgment of HH Judge Yelton of 20th November 2014. He found that contact had not taken place because "...it is abundantly clear as it has been throughout that the mother is attempting to obstruct contact to the Respondent [father]".

The mother said there was to be no contact “for no reason... this hearing has been brought about by the mother’s intransigent behaviour with the contact centre”. Penal notices were attached to all the contact orders made. I noted that far from accepting any of the findings made by the Judge, on 23rd June 2015 the mother tried to persuade Judge Yelton to recuse himself.

Mrs Justice Parker - 27th May 2016

29. On 7th May 2015 the mother had made an application to relocate with the children to Country B whilst the father had made an application for the two younger children to live with him. Contact had broken down. The mother wanted contact to be terminated because she said the children were suffering from anxiety and depression. She relied on the same domestic abuse she had alleged in front of Judge Yelton which he found had not taken place. She did not mention Judge Yelton’s previous findings in her application (paragraph 39).
30. The final hearing started in December 2015 and lasted eight days. The children were represented by Cafcass as a Rule 16(4) guardian and had counsel whilst the parents were litigants in person. This gave the Judge the opportunity to see the sort of people the parents were.
31. Mrs Justice Parker in her judgment of 27th May 2016, said that after the many days that she had been able to observe the parties in the proceedings in front of her, “nothing has caused me to have any doubt about the correctness of the evaluation of either Judge Yelton or Judge Taylor in respect of the parties’ character, the outcome of the hearings, and their forensic presentations.” (paragraph 31).

32. Mrs Justice Parker quoted parts of DJ Taylor’s judgment: he had remarked on the “passion and the fury” on both sides. In relation to the mother Judge Taylor had said that she was a “very able and determined lady, her command of English is excellent, if accented... her use of grammar and “correct” English might well put many of us born in this country to shame. He found her very “money orientated, driven and ambitious”. Judge Taylor divided the assets in a way the mother did not appreciate and she tried unsuccessfully to appeal his decision.
33. Ms B attempted to say DJ Taylor was biased against her and even said that the District Judge’s illness at the time of the hearing led to him coming to mistaken conclusions. Ms B’s reinterpretation of past court hearings was perhaps shown in this small example: she tried to say that the District Judge had prevented her from cross examining the expert. In fact, the mother had refused to ask the expert questions.
34. Mrs Justice Parker said that District Judge Taylor’s examination of the evidence was “meticulous, detailed, careful and measured”. His decisions that the mother had been dishonest and had attempted to mislead the court were “substantiated and carefully reasoned”. Parker J said she had no reason to doubt his findings.
35. Mrs Justice Parker found the mother to be manipulative. She was manipulative in the way she presented the matter to court. Her statements were misleading. She was selective in the evidence she relied on by selecting the sentences which supported her and ignored others where the Judges had criticised her.
36. Mrs Justice Parker in a carefully thought through judgment found that the mother had deliberately ensured that the children rejected their father. This had led S into refusing to communicate with her father during contact, and T too. Her influence also had led them into making allegations against him which were not true.

37. In her decision, Parker J explained that she was declining the mother's relocation application as she had not established it was in the children's best interests. The Judge said the mother's motivation was to consolidate on the separation from the father, she was deliberately obstructing contact and "influencing the children against their father and that this constituted emotional abuse".
38. In her written judgment of 27th May 2016, Mrs Justice Parker described the parents as both persistent whilst the mother was "barely able to accept my rulings, asked me repeatedly to revisit them and has repeatedly ignored them".
39. In her evidence the mother alleged that the father had been abusive and violent and had treated her as a virtual slave. She said the children did not want to see him and were terrified of him. The father said the mother had caused the children's antipathy towards him and wanted to take the children to Country B to put as much distance as possible between them and him and was motivated by "her hostility and resentment of him".
40. Mrs Justice Parker set out a history of what had been happening with contact since Judge Yelton's decisions in 2014. In March 2015, the children had said that "they were distressed by seeing their father but did not or could not give reasons" (paragraph 24).
41. The Court heard evidence from staff at the contact centre. A rather striking description was given of the first contact by a contact worker. The mother had "stood outside the contact centre crying. She would not let the children go. She stood in the porch saying in the presence of the children that she and the children did not want to be there, but there was an order, if she did not abide by it she might go to prison". The witness said this happened on every occasion (paragraph 52). Inappropriate behaviour continued as on 27th June and 11th July 2015 the mother refused to leave the contact centre when she dropped the children off.

42. The staff observed that the mother was not sufficiently supportive of contact, she did not tell the children to leave her “with any conviction”. Furthermore, she was not “co-operative” with the centre and she had called police three times. The mother had alleged also that a manager had grabbed T causing him to be almost strangled and that a volunteer had lied. One of the contact centre workers was so concerned about the mother’s attitude and conduct that she got in touch with social services about the children’s wellbeing.
43. The report from the contact centre was that T’ contact with his father was by and large positive whilst S’s was not. The Judge set out what S was doing: in late 2014, she tried to get T away from their father on two occasions, but he refused. In 2015, S was influencing T as she was upset that T was playing with their father during contact. A contact worker had the impression that S was reporting back to her mother if T enjoyed himself. It also appeared that S might have been recording what was happening during contact.
44. In comparison to the mother’s attitude, the father was reported to have behaved appropriately save for once when he asked S to reconsider her approach to him on the grounds that she ran the risk of “being psychologically disturbed in the future if she persisted in her opposition”.
45. Although the mother’s reaction to the contact workers’ evidence was to assert that they were not impartial and that they were lying and biased, the Judge found them to be professional and their evidence to be “accurate and truthful”.
46. Mrs Justice Parker rejected the mother’s allegations that the father had bribed a contact worker’s husband (paragraph 84) and that T had been nearly strangled by one of the managers at the contact centre.

47. Parker J set out her views of the parents from paragraph 64 onwards. The mother was “highly intelligent”. She was “quick thinking, adroit and skilled in assessing the mindset of others”. She had excellent English and hardly needed an interpreter. The mother had taken a “deliberate decision not to be represented”, one of the reasons was “to present herself as the underdog because her language difficulties disadvantage her”. She wanted to present the case “to her own agenda” and “... she presents herself as a simple naïve woman but this is not the reality...” she was “very persistent in expressing her point of view both in court and in email exchanges. She simply will not give up”. The mother wrote “constant emails. I also found her adept at presenting herself as a victim, and sometimes she would depart from her assertive mode, and present herself as sad and vulnerable” (paragraph 67).
48. Parker J made an interesting observation at paragraphs 68 and 69:
- “68. The mother stated throughout that she was terrified of the father and that she could not be in the same room as him. She will not let him have her email address (this has caused a number of difficulties in out of court communication).
69. There was however no sense of fear in how she responded to him in the court room. She cross-examined him with alacrity and sometimes with apparent enjoyment and an air of triumph. She put a number of complaints to him particularly about the finances with verve. At times during her cross-examination of him, as of him of her, there was a strong sense that the court was experiencing a rerun of many protracted arguments between them. I agree with Judge Yelton’s assessment that this couple have profoundly different outlooks”. That seemed to me to be an understatement.
49. Later this further analysis of the mother: “she is not prepared to listen to those she does not agree with. She will not take advice, and that is because she does not wish to. When

crossed she is obdurate, and her response to disagreement is to attack, and to make false allegations as to the motivations and behaviour of others” (paragraph 70).

50. The mother was manipulative in the way she had presented the case to the court. Parker J said her “applications and statements are selective and misleading. She refers to the comments as to the father’s rigidity but not to those about her”. She “mischaracterised court rulings and ignored those she does not like”. The mother’s offer of contact was “disingenuous” (paragraph 71).
51. Parker J reported that the mother had misrepresented the proceedings before Judge Taylor in 2014 in which the findings of forgery and dishonesty were made. The Judge pointed out that the mother resented Judge Taylor’s order and wished to revisit it. The Judge was faced with the mother’s evidence which contrasted with that given by a number of independent people “who had no reason to lie”.
52. She gave another description of the mother at paragraph 73: “I find that the mother has little empathy for others and is inward-looking and self-directed, when her own feelings and interests are engaged, whatever her supporters may say as to her generosity in other contexts”. Parker J received the overwhelming impression that the mother’s feelings towards the father were those of “anger and resentment and a wish to beleaguer and hurt” (paragraph 75).
53. Parker J said the father was “forthright, abrupt, spontaneous and uninhibited, sometimes abrasively so, in a way that most might find rude, or at the least inappropriate”. The Judge had spoken to him about this, but he had not modified his behaviour. She said that there was “a naivety and immaturity about him, and a lack of social skills. I do not think he has much understanding of how he appears to others” and “he was highly and vociferously critical of her behaviour in relation to the children...” and he “made it

clear that his view was that he and she ought to be able to communicate calmly as adults, and her restrictions on contact with him were wholly unnecessary”.

54. Parker J described both parents as courteous to her but very pre-occupied with their own points of view, they interrupted her and others. She said that they “each gave as good as they got with regard to the other” (paragraph 78). Parker J said that she had examined the father’s evidence with care and found he was realistic and objective about the present problems, that he cared for their children “deeply (and why should he not, whatever the mother may say)” and is genuinely and understandably sorrowful about their estrangement” (paragraph 80).
55. Two stories set out in Parker J’s judgment were poignant and, in my judgment, showed the behaviour of the mother in a bad light. The father had given a toy dinosaur as a present to T which he loved. The mother had told a witness later that the toy had been thrown away. On another occasion the father provided S with birthday cakes. The mother refused to take them saying that “she only accepts things from ‘nice people’”.
56. The Judge noted the mother had told lies. One example was the mother’s untrue suggestion that if she moved with the children to Country B the father had family there and could see the children (paragraph 103).
57. The Judge accepted that the mother had not done all she could to support contact and in fact was negative about it. Mrs Justice Parker noted that the mother referred to the father as Mr H and so did T who copied his mother. The mother had been encouraging the children’s clinging behaviour. The children when asked could not express by way of convincing account why they did not want to see their father. Significantly perhaps, in contact neither child appeared to be frightened of the father.

58. Although S seemed to want to cry when the contact workers were looking at her, Parker J at paragraph 109 said she was more than satisfied that T positively wanted to see and did enjoy seeing his father. The Judge was satisfied that the children knew what the mother expected of them. S had accepted the briefing whilst T had not.
59. The guardian was quoted in the judgment of 27th May 2016. Both children had said they wanted to go to Country B and that their father was mean. The guardian described them as “embroiled in a battle”, she said “the parents had lost sight of the children’s interests”. The guardian said it was important that the court listen to S’s views who was then aged 9 and a half. The guardian said that T was not of an age where he could be influenced and manipulated. He had used the word bribe to describe a present given to him by the father. The implication was that the word came from his mother.
60. Parker J said that the father had been “groundlessly demonised” by the mother’s witnesses (paragraph 163). The mother had made new allegations of harassment and stalking, and Mrs Justice Parker described these as nonsense in the way that Judge Yelton had (paragraph 171). She also agreed with Judge Yelton’s description of the “retrospective thinking” by the mother and her “altering the past to suit her own version of events”.
61. In her overall findings on contact, Parker J was satisfied that the “mother is responsible for the difficulties which emerged in contact”, she said all the findings she made were established to the highest possible standards, beyond any doubt.
62. What the children repeated was “mainly a repeat of the mother’s case”. S was of an age and had a personality “to be manipulated by her mother” and had been. S was expected by her mother to police T. Contrary to her arguments the mother had not been

discriminated against because of her background from Country A. The mother's obstruction of contact had been there since the beginning.

63. Parker J found that the mother had "persuaded the children to reject the father and the contact visits, more successfully in the case of S than T" (paragraph 181). She found that the mother told T to run away from his father. Despite that T' contact was very good. The mother's behaviour in respect of contact was selfish and self-serving in the extreme "and emotionally abusive" (paragraph 186).
64. In terms of the relocation, Parker J had read the evidence in the financial remedy proceedings. There was no mention of moving to Country B. The mother had tried to distort the proceedings by relying on the permission she was given to appeal but not on the rejection of the appeal.
65. In the financial remedy proceedings, the mother had wanted a home in Ely to be transferred to her and when Judge Taylor did not do so she was "deeply aggrieved by the decision and still is". The mother believed that by sheering "the relationship between the father and children this may help her with the finances" (paragraph 192).
66. Parker J found that the mother's relocation plan was a reaction to the outcome of the financial proceedings (paragraph 209) and the dismissal of her appeal against the financial remedy proceedings. Her offer of contact for the father was "an empty promise". The children's expressed wishes and feelings are as a result of "abusive pressure and are not a reason to stop contact".
67. The Judge's final summary is at paragraph 213: the mother had deliberately influenced the children into rejecting the father. And had led S and now T to refuse to communicate with him on contact and into making allegations which were not true.

This was significant harm. The mother had made allegations against him of domestic abuse and violence and of harassment and stalking, which were false. Mrs Justice Parker said too that the attitude of the two older daughters was likely to have influenced the two younger children.

68. The court was to consider whether an alternative caring regime would enable children to keep in touch with both parents.

Mrs Justice Parker – 2nd September 2016

69. In her judgment of this date, Mrs Justice Parker recorded that the mother had been extremely unhappy about her decision not to allow the family's relocation to Country B. She had appealed Parker J's decision which was dismissed by the Court of Appeal.
70. Significantly an assessment had been carried out by a psychologist Mr Spooner who found the father to be a decent man. Ms B was dissatisfied with the report. The long and short of it, was that the Judge was so concerned that the mother' might remove the children from the jurisdiction in breach of the order that she ordered that the passports be delivered to the Tipstaff. As Parker J made clear, this was not the father's doing but the Judge's decision based on the risks.

Mrs Justice Parker – 2nd March 2018

71. The next judgment given by Mrs Justice Parker was one dated 2nd March 2018. It was to consider whether the children should move into the care of the father. The hearing had been adjourned from 24th January 2018.
72. The Judge explained that she had been trying to get contact going since 2016 and set out her findings of 2016. She summarised them: "I made strong findings (but rightly

strong, in my view) that what has gone wrong with these children is very largely down to the mother's influence and the influences the children are subjected to in the mother's household, where frankly there is a strong anti-father feeling shared by the children's two elder half-siblings. As I said at the time, however, although both parents are intelligent, I regard the mother as being of particularly high intellectual ability and I also, although I may not have used these precise words, found her to be both manipulative and devious when it comes to getting her own way. I found the father to be rather naive in his presentation, perhaps even crass in his presentation, with a much less sophisticated approach than that of the mother. He was found by Mr Darren Spooner (a psychologist) and Judge Yelton to be basically a decent man, and that I agree with, but he is not subtle nor particularly insightful when it comes to dealings with others. That seems to me relevant to Judge Yelton's findings. However, I found the mother's allegations of domestic abuse and harassment, completely and utterly overblown and unbelievable”.

73. Mrs Justice Parker continued with a description of S's contact with her father. She was unreceptive, cold, distant, and snivelled (this was a description given by a contact worker), she used that word because her teariness was not distress arising from actual events. S had no understanding of how much she was being influenced in her views by others. The Judge said that “these children know perfectly well what their mother's attitude to their father is whether or not it may be founded to some degree, although exaggerated, on aspects of his personality”.
74. The Judge considered that the only defect in the mother's care was her attitude to and the undermining of the children's contact with the father. Meanwhile the father lacked sensitivity and had not dealt with them appropriately where they were in the middle of

intense conflict. The Judge accepted that some of his reactions were based on hurt and justified grievance at the situation “had been distinctly unhelpful”. She gave an example of an “not child-focussed action”.

75. The Judge outlined the father’s difficult behaviour towards some professionals including in a meeting with social services where it had to be terminated because of his rudeness and she accepted that on occasions he caused some discomfort.
76. The Judge said that she was very concerned by the mother’s approach that day. She had asked the Judge to make no orders as to contact on the basis that the “matter must be dealt with on the ground on a week-by-week basis and that the children’s social and family activities must come first”. The Judge said that was a stride towards a position where no contact would take place.
77. The Judge concluded by leaving the children in the care of their mother but making a contact order. She thought it necessary to attach a penal notice to it. The Judge refused the mother’s suggestion that the father not be permitted to make any decision about the children such as where they should go to school and their medical treatment etc. The Judge also refused permission to the mother for the children’s names to be changed to double barrelled ones. The mother had refused to say which name she would use.
78. The matter next came to the local court in 2022 and from there to me on appeal. I allowed the appeal, gave directions and listed the case for a final hearing on 7th December 2023.

Evidence and observations

79. The parties provided statements and I had a report from the guardian, Miss Warren. I did not hear from the parents but I had read their many statements and considered their bundles. Miss Warren was the only witness I heard from.

The mother

80. The most recent statement provided by the mother starts with this: “I have consistently and continuously encouraged and nurtured a positive relationship between the children, now young adults, and their father”. The next paragraphs follow in the same vein setting out how much she has strived over the years to support the contact the children had with their father.

81. What struck me in particular was that there was a complete failure on the mother’s part to accept any of the findings made by a number of different judges. She refers to the decisions of the various judges and the psychologist Mr Spooner and says that none of them had the complete bundle of material and a full understanding of the situation. This was not the case, the mother was wrong about this.

82. Most of her statement was about what a ‘good’ mother she was and how she was brought up with high standards. At one point she says the following: “Upholding principles of truthfulness, honesty, kindness, integrity and generosity has been a consistent part of my life, even throughout the court proceedings”.

83. In her statement she then said the following: “Understanding court proceedings has been immensely challenging, and I may not fully comprehend all the intricacies”. A few lines further on she said: “As a mother of four involuntarily residing in a foreign country amidst extremely challenging circumstances, enduring significant distress,

trauma and pain, my children truly reflect my character. They are exceptional individuals – highly intelligent, polite, kind, and considerate”.

84. I had no doubt that the mother after ten years in proceedings, fully understood the concept of ensuring the children had contact with a perfectly ordinary, at times insensitive and embarrassing but loving father.
85. In the mother’s statement there is no sign of reflection or of self-knowledge. She does not see what she is really like. What was clear to me is that she will never change. She remains bitter about the father and has had and is having her revenge on him, whether it was because, motivated by money, she deeply regrets the decisions made in the financial remedy proceedings or for any other reason, she is determined to ensure that the father has no relationship with their children.
86. One example of the fractured relationship between the father and the rest of the family was where in the statement the mother said that T had been accepted into rowing training in September 2023. She said “He spends time with peers of his age, coached by an award-winning team, without the presence of either parent. This hobby holds the potential to positively impact his future education and contribute to his overall well-being. With training sessions twice a week and on weekends, he currently misses training every other week due to attending the contact, which limits his availability for participation in races. However, I am remaining positive”.
87. This was a sad moment, when it became clear that the father had no idea that T had started rowing. The mother had not told the father and neither had T. It was a classic example of cutting off your nose to spite your face. The mother above was blaming the father for T missing the training. In fact, it was entirely the mother and T’ fault for not telling the father that T was doing this.

88. If either of them had told the father, he could have ensured that T did not miss training or racing when in his care. He could have dropped him at the rowing or picked him up afterwards.
89. The dysfunctionality of the relationship and obsessiveness of the mother's attitude to the father I find was shown in the hearing by the following: she was asked for the name and place of the rowing club to enable the father to drop T off there. She refused to give the name of the club. This was not a woman who was supporting contact and encouraging her children, this was the mother who had been described by Mrs Justice Parker as motivated by: "anger and resentment and a wish to beleaguer and hurt".
90. Included in the large number of documents sent to the court by the mother were two letters from a psychologist. This was in response to a report of a Mr Spooner in 2016.
91. Darren Spooner a Clinical Psychologist was a BA (Hons) MClinPsych, AFBPsS, Chartered Member of the British Psychological Society and a HCPS-Registered Practitioner Psychologist. On 9th August 2016 he had completed a lengthy report. To complete the report, he had not only interviewed the mother and the father but also had considered the documents set out in his Appendix A. These included judgments, Cafcass reports, statements of witnesses and a number of statements of the mother and the father including a 41-page document provided by Ms B where she set out what she considered were the errors and flaws in Parker J's judgment of 2016.
92. Ms B told Mr Spooner that she had not wanted S and T as she didn't want to be a single parent again but that the father insisted she did not terminate the pregnancies. Mr Spooner described Ms B's narrative as having "drama and theatricality". His opinion of Ms B was at his paragraph 63 onwards. Her personality was characterised by maladaptive traits of the Narcissistic, and to a lesser extent Histrionic personality

disorders. He said these traits of hers were at the heart of what he said was emotional abuse of the children and her “pathological behaviours towards Mr H and the Court”.

93. Mr Spooner explained the essential feature of the Narcissistic personality: a pervasive pattern of grandiosity, a lack of empathy, a belief in their superiority, a difficulty in accepting criticism or responsibility for mistakes, an inflated sense of themselves which would often preclude self-awareness of weakness of inadequacy” and ”sometimes they believe they know better than others”. Mr Spooner said that all the professionals bar one had experienced Ms B in these terms.
94. Mr Spooner assessed Mr H. He said that all Mr H wanted was to have relationships with his children “and why wouldn’t he”. He said that “Mr H has been seen to be combative, adversarial, stubborn, single-minded, rigid and possibly immature” this “comes as no surprise at all, but I would like to make it clear that there are reactions to these dreadful circumstances and not manifestations of psychopathology in my opinion”. Then “Mr H is a normal, decent bloke who loves his Children” and “there is nothing in his presentation, documented history or psychological profile that is consistent with Mrs H’s raft of unproven allegations about him”. There was no reason why he should not have a normal relationship with his children.
95. Ms B had provided two letters from Dr Valerie Phipps, a Consultant Clinical Psychologist and Expert Witness, a Master of Philosophy of the University of London, a Master of Arts in Childcare Practice and Law and a Doctor in Clinical Psychology from Christchurch University, Canterbury. She was an Associate Fellow of the British Psychological Society, a member of the BABCP, the EMDR UK and Ireland and the ACAMH. She was based in Sheffield and had 35 years of experience. Her assessments

were conducted over Zoom and she was not provided with Mr Spooner's report nor any of the judgments in the earlier proceedings.

96. The first document was a letter dated 21st June 2022 which suggested that S and T were suffering emotional harm. Dr Phipps interviewed both children. T told her that he was not happy seeing his father and now he had to see him until he was 18. He told Dr Phipps that his father was angry at everything and argued with everyone. Everyone would stare at them even in the shops because of his behaviour.
97. T gave an example of his father walking behind him very slowly and then lecturing him for not walking beside him. He said that he felt very distressed all the time, "my gut aches and my heart feels weird and my chest aches when I have to see him I dread it". Also "he blames me all the time for everything even difficulties in his marriage and he's always saying nasty things about mum". "It even effects my relationship with friends, I'm more shy and find it harder to be with people". "I keep getting very scared that something will happen, and everything will collapse, and I spend my time trying to survive when I'm with him so that I can get home and relax. If I have to see him, I want it reduced, I don't want to be forced to see him". He said he had his email address given to him by the mother and could contact him whenever he wants. T also blamed the father for ruining his holidays as he has to see him in the middle and he said he thought he had done that "on purpose".
98. He said in an ideal world he wanted contact to stop entirely. He dreaded seeing him and it affected him for hours afterwards, it effected his friendships, studies etc. He said it was hard to cope.
99. S when interviewed said her father scared her. She lived in dread of what he might do and mentioned the recording she had made of him "speaking about mum saying really

bad things”. She gave the example of him walking in the middle of the street in front of cars which were honking at him.

100. Dr Phipps had administered two standardised measures to see in a more objective way whether they were suffering from any clinical symptoms of anxiety or depression. T and S were both displaying some significant psychological distress at having contact with him. T had “mildly elevated anxiety and moderately elevated symptoms of depression”. S had anxiety and depression within the average range which was lower than the symptoms she had described to the psychologist. Dr Phipps said that was because S did not want to be labelled as suffering from anxiety etc as it might affect her career opportunities.
101. The second document was a letter dated 30th October 2023 from Dr Phipps. What was striking about Dr Phipps letter was that it was based entirely on what she had been told by the mother. She had assessed her because the mother had told Dr Phipps that it had been suggested she may have a disorder and narcissism was mentioned.
102. Dr Phipps undertook a full Psychological Assessment. She said there was “absolutely no evidence” that the mother was narcissistic “although you did present with a number of Psychological Sequelae in relation to your experiences whilst living with Mr H”. Her mood was low at the time of the assessment and her anxiety was high. Ms B had told the psychologist that her symptoms were much worse as the court process was making her “relive past memories that were very painful”. She had also told Dr Phipps, that “as a Foreigner you found it very hard to understand the complexities and the content of what was actually being said in Court which distressed you further”.
103. Dr Phipps recommended practice direction 3AA and ended her letter with this sentence: “Both of these papers highlight how women who felt that they have experienced very

difficult events within their marriage can often feel that the perpetrator of these events uses the Court arena to continue with the abuse albeit emotional and to continue to control their ex-partner”.

104. I noted that Dr Phipps had not been provided with any of the judgments and nor with Mr Spooner’s report. I suspect her assessment would have been more nuanced and more valuable had she been made aware of the facts found by the court in the earlier proceedings. She was not an instructed expert, and I did not consider she was objective when she had been fed only a part of the story. I could give no weight to her assessment of the mother. Having said that I find she did reflect what S and T’ had told her their wishes and feelings were.

The father

105. The father had provided a statement too. He explained that his attempts to have contact with the older girls he adopted had failed. So far as presents he had sent the S and T, they had been returned. He had seen toys he had given to T and a bicycle given to an older adopted child sold on eBay.
106. Mr H explained that he had decided to go to court to maintain contact with his children. Mr H said that S had aligned more closely with her mother (a fact found by Mrs Justice Parker) and tried to parentify T when they were staying with their father. Mr H said S must have been told by her mother that the order ran out at the age of 16 because she stopped seeing him then. He did not know that this was the law.
107. In his statement, he said it was imperative that he continue to have a relationship with the children until they were 18. The mother was cut off from her father, brother and her first husband and he wanted S and T to have as normal a life as possible. He said

that one day the children would realise what had gone on in their lives and the way that they had been manipulated and lied to by one of their parents. He said he would be available to them whenever they needed his support. The father said T felt he could not speak freely about his life.

108. The father said he would like to remain in T' life to help and guide him. If there was no order, he said their relationship would end. If the order were to finish at 18, and he was still living with his mother, their relationship would finish then but he would still have had his father in his life for another two years. Poignantly, the father set out he would like to teach his son to drive, which was something he did with his own father.

The guardian

109. Miss Warren had carefully considered the issues; she had spoken to the parents and the two young people. She had read the judgments, Ms B's chronology, the reports of Mr Spooner and Dr Phipps and the recording that S had made of the father. She summarised the parents' position succinctly: their positions remained "entirely polarised". Ms B denied ever alienating the children from their father. She "strongly" denied the courts' findings. Mr H continued to assert that she continued to alienate the children from him.
110. Miss Warren conducted a child impact analysis. S explained she had not seen him since her 16th birthday when her opinion could be heard. She had told her mother she did not want to go on seeing him and her mother was "reassuring". Her father would tell her that it was all her mother's fault whilst her mother never spoke about him negatively. S described her childhood at contact centres etc as a "lost childhood". Now the contact had stopped she felt "free" and "less controlled".

111. T was concerned about how what he said would be conveyed to his father. His father had previously shouted at him for what he had said to professionals and would say that his views were taken from the mother. Miss Warren and T agreed she would summarise his views. T said his mother did not talk about the father but would tell him to have a nice time. He said he wanted his time with his father either stopped or reduced.
112. Miss Warren observed T and his father on their Thursday contact. He watched television and when they walked the dog he walked ahead of his father whilst the latter spoke to Miss Warren. During the whole 90 minutes that Miss Warren was there T sat with his coat on and did not initiate any conversation with the father.
113. Miss Warren had spoken to the headteacher of his school. T was a lovely boy, he was studious, was doing well and had a good group of friends. He was not displaying any behaviour in school which was concerning. Miss Warren considered that it could be a haven for him.
114. The headteacher said the school was very aware of the acrimonious relationship between the parents and unlike a number of other separated parents had had to put in place entirely separate arrangements for the mother and the father.
115. The conclusion of Miss Warren's report was that S and T's feelings could not be considered away from the courts' findings. S and T did not see themselves as being alienated from the father by the mother. They saw their wishes and feelings as entirely their own, based on the father's behaviour towards them and the mother over the years. Miss Warren pointed out that their feelings were entrenched.

116. Miss Warren pointed out that the recording made by S of the father showed him angry and frustrated at the mother. She said it was unfortunate that the father allowed his feelings to show in front of S.
117. In terms of T, Miss Warren set out the options. If the court stopped all contact with his father, he would lose this relationship. T was not at risk of significant harm in his father's care. She said that the father loved T very much and she was concerned what the impact might be on T' identity and future relationships if it was severed. She recommended that contact continue up to his 16th birthday.
118. Miss Warren was firm about the continuation of the order up to T' 18th birthday. She found it very difficult to see what the benefit to T would be. She said it would be difficult to compel him to attend contact after the age of 16. He might stop contact, but he may not as his relationship with the father was not like S's.
119. Miss Warren recommended that I should meet the children as that is what they wanted. She was present when I met first S and then T in July 2023. A note of this meeting was given to the parties. They were able to give me their views. They seemed bright, articulate, well-mannered young people. They both expressed to me their views that they did not want to continue having contact with their father.
120. Both S and T gave me the same example of the father's behaviour, that of him walking down the middle of the street with the cars honking behind him. I encouraged them to write me a letter before the hearing in December. They both did so and in their letters repeated what they had told me.
121. T said that he was frightened by his father and that he said rude things about people. He also said that it was stressful particularly as he was doing GCSEs and he was taking

him away from his friendship group. I noted that T did not mention his rowing. I did not see the point of that at all.

Discussion

122. I approached this case from the perspective of the findings of fact made by three judges in at least six judgments after hearing evidence given by a range of professional witnesses. The mother attempted to appeal every judgment that was given. She was unsuccessful. Those facts form the basis for the conclusions about the mother I set out below.
123. The mother has said that the Judges concerned had not seen all the papers. She will no doubt say the same about this judgment. Her approach is that all the Judges are mistaken in reaching the conclusions they have. From all I have seen and read, they were not mistaken. They were able to observe the mother and father sometimes for days in the court room when they were litigants in person. The evidence put before each Judge was challenged appropriately by the mother and the father.
124. The mother has been found to be dishonest, she is highly intelligent and has manipulated these young people since they were young children into believing the lie that she was a victim of the abuse of a violent partner.
125. The mother relies on a number of courses she had attended to show that she has changed and that she is a 'good' mother. Like Mrs Justice Parker I find that she is a 'good' mother in that she has provided the children with high moral standards, a good education and support to ensure they develop into working adults.

126. Despite the courses the mother has taken, there were a few examples in the proceedings in front of me which in my judgment showed that nothing had changed since the last set of proceedings ending in 2018 in front of Mrs Justice Parker.
127. First, as the mother herself set out in her statement, she does not accept any of the findings made by the Judges I have set out above. They are all wrong or did not have the papers.
128. Second, there were other echoes of her approach which was set out in the earlier judgments. Over the months and even when she was represented the mother has bombarded my clerk with emails, of complaints, demands and more papers in an attempt to undermine the earlier judgments made about her.
129. It was clear from what she is reported to have said to Dr Phipps and her insistence on a screen in court that she persists with her pretence that she is a victim of abuse. She is not. I have set out the findings above by a number of judges about the sort of person she is.
130. I noted that not only has she ensured that her two older children are estranged from the father who adopted them but also that the older two girls are estranged from their own birth father. I noted too that the mother became estranged from her own father, the maternal grandfather. It is one of my concerns that S in particular, will repeat history with her own family, if she has one, in due course.
131. Another of her behaviours which is one she repeats is her pretence that she needs an interpreter. Her written English is perfect, it is faultless. Over the many emails she has sent to the court when she was not represented, I have been struck by how well written

they are. She has been living in this country for 18 years and as I understand it, she works using the English language.

132. When I raised with T the question of the language spoken at home, he looked amazed before he said English. He does not speak more than a few words of the mother's native language. Finally, I watched the mother's use of the interpreter in the hearing, she was hardly needed at all. My conclusion was that the mother uses the interpreter and the screen to build up an impression of vulnerability and of being a victim when she is not either. This repeats an observation made by Mrs Justice Parker.
133. As to the relationship between the parents, there is none. There were two examples during these proceedings which showed this. First, the refusal of the mother to accept a bundle for the final hearing provided by Mr Kelly for the father. The mother did not trust Mr Kelly to have done the right thing. The mother sent a replacement bundle which consisted of a lot of material which was designed to re-argue and undermine the fact-finding decisions made by earlier Judges.
134. The second piece of evidence involved S. S had recorded her father being abusive about her mother. This must have been before she was 16 when she stopped contact. It was as the father was driving and S was in the passenger seat. She covertly recorded him.
135. The father called the mother a "fucking woman" and goes on to say, "does she care about you kids – No; Has she ever cared? No...all she cares about is her effing self". This is clearly completely inappropriate language and upsetting for S who has a very close relationship with her mother.

136. The lead up to the abuse explains, but does not excuse, the father's use of inappropriately strong language. He starts by saying the "fucking woman" has stormed up to the school reception asking to see the headteacher saying that the children (S and T) were not going on the walk today if "he" is there helping to marshal. The mother was trying to stop the father marshal a school walk. That was all he was trying to do. The mother is shown in all her vengeful pettiness. The abuse from the father came from his obviously hurt feelings. The trouble is the father cannot contain his hurt and anger and when he says what he does he upsets the children. S believes her mother's stories, takes her side and makes her recording.
137. I have not heard from the parents themselves but there is no change in their relationship and never will be. These children who have chosen their mother's side in ignorance of what she is really like will not be in the middle of this dysfunctional relationship because they will not see their father without an order.
138. When it comes to continuing the order until T is 18, I was very grateful to both counsel who in their written and oral submissions have set out the law on the different approach to children under 16 and those aged over and under 18.
139. Section 9(6) of the Children Act 1989 reads as follows: "No court shall make a section 8 order which will end after the child has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional". A Child Arrangements Order will cease when a child reaches the age of 16 unless the circumstances are exceptional. The orders are aimed at the parents not the children.
140. The section has been considered in a number of cases. In particular, guidance appeared to link the making of an order to run after the child's 16th birthday to where a child has cognitive or learning difficulties and examples are to be found in the authorities where

a child was particularly immature and needed that protection. In one case it was suggested it would allow an order where a child had qualities that required additional protection. The word exceptional was to be given its natural meaning.

141. At all times I have had in mind what is in T' best interests. In his case, given his age and maturity, his wishes and feelings have very particular significance. I give them great weight. I accept however that his wishes and feelings have been formed by the mother's manipulative behaviour since he was a young child. I have no doubt too that he is influenced by his three older siblings. I do find that however his wishes and feelings have come about, that he does not want contact with his father to continue and if that is not possible for it to be reduced. At his age I must respect his wishes to the extent that is it in his best interests that I do so.
142. I must also consider his emotional needs. Although he does not recognise this currently, having another adult parent who cares for him deeply and has his best interests at heart, may be helpful in the years ahead as he finds his way in the world. His father could assist him with his emotional needs if only the mother gave him permission to like his father let alone love him. The father has no psychological problems, the only thing he has wanted is to see the children he loves but they have been manipulated into believing he harmed their mother and would harm them.
143. T said his father frightened him, but the only example given to me by both young people was the same one. The father walked down the centre of a street in Cambridge stopping the traffic and being honked at. I accept that the children at their ages would have found it excruciatingly embarrassing but to say that caused them harm is an exaggeration.
144. A description of the father was given by T to Dr Phipps. Essentially, the father is rude to people and critical of them. What was described by T matched Mrs Justice Parker's

description of the father as “spontaneous and uninhibited, sometimes abrasively so, in a way that most might find rude, or at the least inappropriate”. S’s recording echoes what T also said which is that the father was always saying nasty things about the mother. Unfortunately, the father lacks insight and is insensitive still. The father has not changed in the same way the mother has not.

145. Despite his failings, it has been found repeatedly by Judges that there is no reason why the father should not have contact with his children. It is undoubtedly the case that a father’s involvement with his children is something to be encouraged for all sorts of obvious reasons.
146. In terms of the future, I accept that this may well be an exceptional case and one where I might have ordered contact to continue until T was aged 18 but I take account of his views and cannot see how an order could be made to work from the age of 16 onwards. It would be futile to force him to continue and inappropriate of me not to recognise his wishes and feelings in that respect.
147. The more difficult question for me was whether to make no order as to contact as Miss Scotland urged me to do in accordance with T’ wishes and feelings. I am confident that if I made no order on the basis that making no order was better than making an order, then there would be no contact at all from now on between this father and their son. Miss Scotland’s submission that he could then choose to see his father when he wanted is exactly the argument deployed in relation to S who has not seen her father since her 16th birthday.
148. Having listened carefully to T’ views but balancing these with the thoughtful evidence of the guardian, the past findings of the mother’s manipulation of the children and the benefit to him of continuing to have a relationship with his father, I consider it is better

for T if I make an order for contact, this is in his best interests. The order will continue until his 16th birthday and not beyond.

149. When it comes to T' educational needs, I am conscious he is studying for his GCSEs, going to his father once a fortnight for a few hours in the evening when he sits watching the television with his coat on (or at least he did that on one occasion when the guardian visited) will not help his studying. The mid-week contact will stop but the other contact will continue as before.
150. It was childish of the mother and T not to tell the father about his rowing. It was petty of the mother to refuse to tell the court where T was doing this. This failure is nothing to do with something harmful happening to T but everything to do with the mother continuing to exclude the father from T' life and to hurt him intentionally.
151. I could see that the father was interested in what T was doing. It seemed to me that the father should be able to take T to the rowing or collect him (depending on the timing). He can drop him around the corner, so T is not embarrassed by his father. T may be surprised that many teenagers his age find their parents excruciatingly embarrassing, and he will not be alone with these feelings.
152. I am conscious that T' GCSEs will finish by the end of June 2024. T may well go celebrating with his friends on a holiday as many young people do. The father's summer contact is to take place before his 16th birthday and will be for two weeks. Sadly, despite the able submissions of Miss Scotland, I consider that will be the last contact T will have with his father for a number of years.
153. Bearing in mind the secrecy of the findings made by the courts about Ms B and Mr H, I will ask for submissions about why this judgment should not be published in an

unanonymised form now or more likely when T is aged 18. It is arguable that the proceedings need to be fully exposed to the public gaze.

154. As a general observation, this case is exceptional but not unique and is an example of how little the court, even the High Court, can do when a party, whether the mother or father is determined to cut the other out of their children's lives. I have no doubt this has been the mother's aim for many years and the court has been able to recognise her manipulation but has been powerless to ensure that the children have a balanced upbringing knowing both parents and both sides of the family. It is a source of frustration and regret.