Neutral Citation Number: [2022] EWFC 118

Case No: FD15F00053

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/10/2022

Before :

MR JUSTICE MOSTYN

- -

Between :

Catherine de Renée	**Applicant**
- and -	
Jason Galbraith-Marten	**Respondent**

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- -

Nicholas Wilkinson (instructed by **Direct Access**) for the Respondent
The Applicant acted in person

Hearing dates: 4 October 2022

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Approved Judgment

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MR JUSTICE MOSTYN

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that in any official or news report or summary the child may not be named. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, in any such report the parties may be named.

Mr Justice Mostyn:

1. Before me are:

   a) the application by Jason Galbraith-Marten ("the father") issued on 18 October 2021 to extend an extended civil restraint order ("ECRO") made by me on 21 October 2019 ("the extension application"), and

   b) the application by Catherine de Renée ("the mother"), dated 28 July 2022, for permission pursuant to the ECRO to issue an application under Schedule 1 to the Children Act 1989 ("Schedule 1") for financial provision for the parties' daughter, A, who is now aged 15¾ ("the permission application").

2. There is a very lengthy history to this case. Proceedings between the parties began in Australia in March 2009, when A was merely 15 months old. Furious litigation has continued ever since, both in Australia and England. The background facts and events up to July 2016 are described with typical clarity by Cobb J in his judgment *MG v FG (Schedule 1: Application to strike out; Estoppel; Legal Costs Funding)* [2016] EWHC 1964 (Fam). At that time the father was living in England; while the mother and A were in Australia.

3. In his 2016 judgment Cobb J recorded that by then there had been extensive litigation both in Australia and in England. In Australia there had been:

   a) a divorce;

   b) financial remedy proceedings resolved by the parties entering into binding agreements;

   c) an application by the father for parental responsibility and contact;

   d) applications by the mother to vary the agreements, alternatively to set them aside, on the grounds of duress, fraud, unconscionable conduct and non-disclosure.

   The latter applications by the mother had generated swathes of written material from her, most of which was ruled to be inadmissible. Ultimately, Federal Magistrate Scarlett, sitting in Sydney, dismissed the mother's applications.

4. In England, the mother had made an application for permission under Part III of the Matrimonial and Family Proceedings Act 1984, which was refused and unsuccessfully appealed. Undeterred by that rebuff, in April 2016 the mother made her second application under Schedule 1 and applied for legal costs funding. (The mother's first Schedule 1 application had been made on 1 August 2011 and dismissed by consent a week later). In his judgment Cobb J, with some hesitation, held that he did not have power to strike out the mother's Schedule 1 claim but nonetheless refused to made a legal costs funding order. The mother's application for permission to appeal was dismissed by King LJ and certified as being totally without merit.

5. In 2017 the mother and A relocated to England. Following her arrival the mother made extremely serious allegations to the police against the father of rape and sexual abuse. In the absence of contact to A, the father made an application for a child arrangements order in February 2018. In her evidence filed in response the mother gain accused the

father of attempted murder, threats to kill, rape and fraud. A fact-finding hearing was ordered.

6. Meanwhile, on 21 June 2018 the mother's Schedule 1 application came on for trial before District Judge Aitken. Inexplicably, the mother did not attend. The court decided to proceed in the absence of the mother.

7. The mother's claim was for annual periodical payments for A of £92,000. This included school fees. It is unclear whether the mother's written evidence averred that there had been an understanding between her and the father that A would be privately educated. The father himself had not been privately educated. In contrast, the mother had been to a private school in Queensland.

8. In her judgment District Judge Aitken held:

> "127. She appears to have spent large amounts on private schooling for A in Australia although there was no provision in the 2009 agreements for any payment to be made by the father. It is the father's evidence that he would never have chosen private schooling for A , his two other children attend state schools and he could not afford private school fees for three children on his income. I accept this evidence.
>
> …
>
> 142. Capitalised education fund. Private education is not affordable in this case. The father's two other children attend state school and I accept his evidence that he never intended any of his children to be privately educated"

9. The court awarded child maintenance in such an amount as when added to any CMS calculation reached £1,315 per month. The father has paid this amount punctually for the last 4 years.

10. The mother sought to appeal, but permission to appeal was refused by Judge Everall on 10 January 2019.

11. Meanwhile, on 20 December 2019 the mother made her third Schedule 1 application, coupled with an application to re-open the Part III proceedings.

12. Those applications came before me on 21 October 2019. The father attended in person. The mother did not attend. After hearing the father, I gave a judgment in which I explained that the mother's applications were duplicative and would be struck out as abuses of the court's process. I made the ECRO of my own volition, with an expiration date of 21 October 2021.

13. The fact-finding hearing took place before Judge Oliver. The mother did not attend. The father was represented by counsel. A had been granted party status. She had a NYAS guardian, and was also represented by counsel. NYAS had notified the local authority of their concerns about the upbringing of A, and two social workers from the local authority were present in court when judgment was read out on 6 November 2019.

14. Judge Oliver dealt comprehensively with the 27 allegations made by the mother against the father recorded in a Scott schedule. The allegations could scarcely have been more serious. They included allegations of aggravated rape, grievous bodily harm, attempted murder, aggravated fraud, threats to sexually abuse the child, attacks on the mother's cat, and threats to kill. 26 out of those 27 allegations were found not only to be "not proved" but "fabricated by the mother."[1] The court thus found in these numerous respects that the mother had been deliberately untruthful when making accusations of the utmost seriousness.

15. The mother applied for permission to appeal this judgment; that was refused by Sir Jonathan Cohen on 20 January 2020, and the application was certified as being totally without merit.

16. Unsurprisingly, following Judge Oliver's judgment the local authority commenced care proceedings. The mother told me that she regarded this as having been maliciously incited by the father, when it is obvious that the steps were taken as a result of NYAS performing its professional duty and notifying the local authority of its concern. Ultimately the father confirmed that he did not seek to pursue A's removal from the mother and on 20 August 2021 the local authority was given permission to withdraw its application.

17. Meanwhile the mother applied to Judge Oliver that he recuse himself from trying the final hearing listed for 17 December 2020. That application was refused on 11 December 2020. The final hearing was then adjourned. The mother applied for permission to appeal the recusal refusal; that was refused on 20 January 2021 by King LJ.

18. On 18 February 2021 the mother applied to reopen the fact-finding judgment. Judge Oliver refused to permit her to do so on 9 April 2021. The mother applied to the Court of Appeal for permission, but on 6 September 2021 withdrew her appeal against the fact-finding judgment. This step by the mother is highly significant. She thereby accepted that the findings made against her were true and correct. Yet, before me, the she dramatically denounced the entire child arrangements application made by the father as malicious, threatening and unprecedented.

19. On 18 October 2021 the father issued his extension application. On 28 July 2022 the mother filed her application for permission to issue her fourth Schedule 1 application.

The father's extension application

20. The sole criterion for determining an application for an extension of a civil restraint order is appropriateness: see FPR PD 4B para 3.10 and 4.10 which state that the court may extend an extended or general CRO for a further two years on each occasion "if it considers it appropriate to do so"

21. The father argues that it is strongly foreseeable, if the ECRO is not extended, that the mother will resume with zeal her issue of meritless applications against him. He cites

[1] Allegation 19 pleaded that the father had been arrested. This was admitted by him, and his arrest was duly noted by the court, as was his release without charge.

the content current application for permission made by the mother as an example of what he would be likely to face if there were no extension.

22. The mother opposes the father's extension application on two grounds. First, she believes that if the order is extended it will in some indirect way undermine the validity of her own permission application. Second, she complains that my previous order was weaponised by the father, and indeed by Judge Oliver. She says that she has been assailed repeatedly by its terms to demonstrate her vexatious nature; she says she has in effect been stigmatised by it.

23. To be clear, the existence of a civil restraint order does not mean that every application for permission made by a litigant subject to such an order is to be regarded as prima facie unreasonable. On the contrary, each application for permission must be judged fairly and individually on its own merits. In *Nowak v The Nursing and Midwifery Council and Guy's and St Thomas' NHS Foundation Trust* [2013] EWHC 1932 (QB) Leggatt J held at [59]:

> "It is important to note that a civil restraint order does not prohibit access to the courts. It merely requires a person who has repeatedly made wholly unmeritorious claims or applications to have any new claim or application which falls within the scope of the order reviewed by a judge at the outset to determine whether it should be permitted to proceed. The purpose of a civil restraint order is simply to protect the court's process from abuse, and not to shut out claims or applications which are properly arguable."

24. I therefore reject the mother's first ground of defence.

25. I turn to her second ground. I note that on 6 November 2019 Judge Oliver described my original ECRO thus:

> "It is one of the most powerful civil restraint orders I have ever seen"

and on 24 March 2022 thus:

> "This type of order is far stronger than a section 91(14) Children Act order and one of the most powerful orders I have ever seen."

In fact, my order was expressed using the standard order language. There was nothing remarkable or exceptional about it.

26. I am satisfied that it would be appropriate to extend the ECRO to 13 October 2024. I accept the father's submissions. The ECRO has been extended on an interim basis to this hearing. There is no doubt that the court has power under the terms of PD 4A paras 3.10 and 4.10 to order the extension to commence on the date of the decision. It is appropriate for the extension to run for the full two-year period as I am satisfied that the father needs the maximum protection from prospective unmeritorious claims by the mother which I believe are likely to be made having regard to:

a) the background facts which led to the grant of the original ECRO;

b) the findings made by Judge Oliver (which the mother is to be treated as having accepted when she withdrew her appeal against them);

c) the nature and terms of the mother's written material that she has placed before the court in support of her permission application; and

d) the content of her oral submissions which were made to me with great articulacy but which were extremely emotional and melodramatic, such that they were neither reasonable nor accurate.

27. I reassure the mother that my decision to extend the ECRO will have no impact whatsoever on my decision on her permission application, to which I now turn.

The mother's permission application

28. The mother's permission application sets out the financial relief she will seek if she were given unconditional permission to issue her fourth Schedule 1 application. She will seek a school fees order, capitalised by payment of a lump sum, and a variation of the general maintenance order. Specifically, she will seek an increase in the periodical payments for A from £1,315 to £4,350 per month backdated to April 2020, giving rise to arrears of £88,000. In addition she will seek lump sums totalling £230,000 to finance A's private education for four years and to discharge certain debts. She will therefore seek a total capital payment of £318,000, primarily intended to meet the cost of private education for A for four years.

29. The mother's statements in support of her application are unfortunate litanies of invective. The same allegations are recycled. Thus, in the 3-page summary statement which I ordered the partes to file she stridently alleged in language both melodramatic and self-righteous, that the father was guilty of :

a) Non-disclosure for the last 14 years (paras 1, 3, 4, 10, 13)

b) Making an "unprecedented and threatening" application for contact (para 5)

c) Inciting care proceedings (para 8)

d) Withholding maintenance after the ECRO was made (a new and false allegation)

e) Using the ECRO to unjustly prevent her from issuing an application for a non-molestation order in response (para 9)

f) Unabated wholesale denigration of her as a mother and litigant (para 10)

g) Abuse of the ECRO privilege to engage in "slander and damming prejudice" against her character…so as "to indulge his unscrupulous financial agenda" (para 12)

h) A "16 year-long wholesale denigration of her as a wife and mother" (para 13).

All of these allegations were untrue, and all had been found to be untrue on previous occasions.

Expert evidence adduced by the mother

30. The mother bolstered her application by filing, without permission and in direct breach of my directions order, on 22 September 2022 a further 25 page statement which included a forensic report by Sid Harding of SRH Forensics LLP. The mother is a highly seasoned litigant-in-person and I have no doubt was well aware that her tactic of filing a further witness statement in breach of my order exhibiting an expert's report for which permission had not been obtained, was completely illicit. The mother strongly asserted that she was unaware of the statutory rule. I pointed out that if you Google "expert evidence in children proceedings" the very first thing that appears is a statement of the statutory rule.

31. I make the following observations about this report and its filing:

a) The filing of the report was in breach of section 13(1) of the Children and Families Act 2014 which provides that:

> "A person may not without the permission of the court instruct a person to provide expert evidence for use in children proceedings."

b) Subsection (2) provides that:

> "Where in contravention of subsection (1) a person is instructed to provide expert evidence, evidence resulting from the instructions is inadmissible in children proceedings unless the court rules that it is admissible."

With considerable hesitation I agreed to read the report as I did not want the mother to think that I had shut my eyes to anything that she wished to adduce. However, I place no weight on the contents of the report not only because of its filing in blatant breach of the law, but also because of the following matters.

c) The report does not comply with the obligation of the author to be impartial (*Vernon v Bosley (No 1)* [1996] EWCA Civ 1310). Nor does it make the necessary declarations confirming that the expert has complied with his/her duties. FPR 25.14(2) provides that:

> "at the end of an experts report there must be a statement that the expert understands and has complied with the expert's duty to the court".

No such statement was appended to Mr Harding's report.

d) Mr Harding appears to have been shown documents which had been disclosed in earlier proceedings by the husband to the wife, without the court's permission. Such disclosure would be a contempt of court by both the discloser and the recipient of the documents.

e) Mr Harding put forward his opinions based on the most flimsy of materials, without seeking the husband's contribution or clarifications. This failure to seek any clarifications from the husband is egregious, and flies in the face of the most

elementary rule governing an expert. It is basic, if you are going to put forward an expert's report, that it must be objective. And objectivity requires, where there are lacunae, that clarification is sought from the other party before going into print. This obligation applies just as fully to an application where permission is needed as to one where it is not.

f) In the absence of up-to-date and reliable evidence from the husband, Mr Harding's conclusions are largely conjectural. His was a highly partial exercise.

g) I am surprised that Mr Harding, holding himself out as a partner in a firm that focuses on forensic accounting, should be apparently entirely oblivious of the legal obligations that attach to people who hold themselves out as experts in court proceedings. It is not as if proceedings under Schedule 1 are some remote and obscure outlier. They are definitely mainstream and I find it very difficult to accept that Mr Harding was unaware that the permission of the court was needed to instruct him in such proceedings.

32. My conclusion is that the process by which this report was produced was so flawed, and the material on which it is based so limited and conjectural, that it would be entirely wrong for me to place any weight on it whatsoever.

School fees

33. I address first the mother's proposed application that the father should pay for A's private education.

34. A herself has never hitherto been educated privately. Until about a year ago she was attending one of the best state schools in London namely the Grey Coat Hospital school in Westminster. Yet, the mother withdrew her from that school and since has been home-educating A. The local authority considers that the mother is not complying with the law and has commenced proceedings for a School Attendance Order under the Education Act 1996, although those proceedings have recently been placed on hold while further investigations of the quality of the home education provided by the mother are undertaken.

35. The mother adduced no evidence as to what enquiries or steps she has taken to secure state secondary education for A. Some of the best state schools in the country are nearby. In addition to the Grey Coat Hospital school there are within the Royal Borough the Holland Park School and the Cardinal Vaughan School. The reason that the mother has produced no such evidence is that she has not approached any state school. Her position now is that they are anathema to her and she will only contemplate private education.

36. The day after the hearing, the mother wrote to my clerk asking for permission to file a further statement. She said:

> "I am writing to seek permission from the Court to file short (no more than 2 pages) statement with evidence to rebut factually incorrect closing submissions and arguments that were made by counsel for Mr Galbraith-Marten at the hearing .

> I regret that when I had the opportunity to correct such inaccuracies, my struggle to overcome my anxiety and stress towards the end of the hearing, interfered with my short term memory/ recall and my ability to "hold my nerve" and respond promptly to those inaccuracies. To my frustration, just five minutes later as I left the Queens Building, I immediately remembered."

37. I granted the mother permission. The statement was filed on 7 October 2022. In it she stated:

> "During A's tenure as a student of Greycoat School ("GCH"), A's cognitive, linguistic and social disposition (that she clearly possessed excellent proficiency and strength in) were falsely denigrated, in what was a blatant move by RBKC to try and sabotage A's "Gillick" competent status and suppress the weight of her own independent feelings and (maternally aligned) views in the proceedings. The GCH senior staff who assisted RBKC in this, betrayed A's educational interests in the process. Following the collapse of RBKC's case against me, I resolved to continue supporting A's attendance at GCH, hoping that relations with GCH would improve now that the court proceedings were over. However, by the end of 2021, A was desperately unhappy to continue attending the school and begged me to let her home school until I was able to secure a private school place for her. After much careful consideration, I agreed."

38. Prior to the commencement of the hearing before me on 4 October 2022 there had been no evidence filed showing an understanding between the parents that A should be educated privately. The father himself was not educated privately and his other children aged 13 and 9 are not educated privately. But in her oral submissions to me the mother stated that about 10 years ago the father wrote an email in which he accepted the principle of a private education at secondary level. That was the first time in this huge and extensive litigation that such a stance on the part of the father had ever been alleged. This email was not produced with the mother's additional statement of 7 October 2022 which I allowed her to file after the hearing concluded (see above). However on 12 October 2022, after this judgment had been largely written and the day before the scheduled hand-down, the mother wrote to my clerk stating that she had found two emails and asked for permission to file them. With reluctance I allowed her to do so and I gave permission to the father to file a statement in response on 14 October 2022.

39. The emails are dated 19 January 2011 and 18 March 2011, that is when A was just three years old.

40. In the first the father writes to the mother:

> "I am not in a position to contribute any more to your and A's support at the moment. I think we should look at this again when A starts school proper and when the level of maintenance I pay reduces."

In the second he writes to the mother's Australian solicitor:

> "I write in reference to your recent letter. The only email exchange I have had with Katie about payment for educational fees is attached, below. Your letter was the first I had heard of the Kambala school or that Katie was in fact asking me to commit to payment of school fees for the next 12 years or so at a cost of up to around $30,000. As you may imagine your letter therefore came as quite a surprise.
>
> It is also not entirely clear what I am being asked to pay for… the email from Katie requested payment of $4000 to cover current costs. The schedule attached to your letter lists far greater costs. I do not know when these are meant to start. As indicated in my email to Katie I am not in a position to pay anything in addition to the maintenance payments I currently make. Only when the payments reduce around A's fifth birthday do I anticipate being in a position to contribute towards school fees. At that point in time I would want to be much more involved in the decision about which school is appropriate for her and what a fair level of contribution might be. In the circumstances I am certainly not willing to enter into any new binding arrangements. As for the suggestion that you will commence proceedings in the UK, I will clearly have to take advice about this when I return home."

41. In his statement in response the father stated:

> "2. At the hearing before Mr. Justice Mostyn on 4 October 2022, Ms. De Renee indicated that she had an email from me in which I agreed to pay for private school fees for A. As is clear from the two emails she has now disclosed, that is not the case. I have never agreed to pay for private school fees. I merely indicated, over a decade ago and when A had just turned three years old, that I would be willing to discuss the issue at some point in the (then) future. I also made it clear in the same email that I would want to be involved in any decision about which school would be appropriate for A. As the court is aware, I have not been.
>
> 3. The emails also need to be seen in context. To the best of my recollection, whilst I was in Australia to visit A in March 2011, Ms. De Renee asked me, out of the blue, to attend an appointment with her solicitor, Mr. Michael Conley … Ms. De Renee wanted me to meet Mr. Conley to agree an amendment to the Binding Financial Agreement we had entered into in relation to child support. I subsequently (and whilst still in Australia) received a letter from Mr. Conley explaining the purpose of the appointment and attaching a schedule of school fees for the Kambala School (a Church of England school).

> 4. I felt completely ambushed by this. I wrote the email in a state of some confusion as to why I was being asked to pay for school fees. Whilst I have always taken the view that I would not want any child of mine attending private school in the UK, I had little understanding of the Australian education system and knew nothing about the State's provision of education. I did not know whether it was normal or usual for children to attend private school. Furthermore, I was trying not to be unnecessarily difficult or obstructive, as the primary purpose of my visit was to spend time with A and I did not want to jeopardise that.
>
> 5. I declined to agree to a variation of the Binding Child Support Agreement to cover school fees. It was as a result of this that Ms. De Renee made it clear to me she was not willing to facilitate me having further contact with A. For example, she refused to allow me to telephone A when I returned to the UK and refused to allow me to have any face-to-face contact with A when I next visited Australia in March 2012. It was because she took this stance that I commenced proceedings in Australia on 22 September 2011 for parenting orders, the equivalent of a Child Arrangements Order. This is the application that led to the order of Judge Scarlett dated 19 October 2012."

42. The mother has written to my clerk in response disputing the father's statement, in particular para 5, and stating that she has yet further documents to prove its falsity. She has been told by my clerk that I am not going to accept any further documents. A line has to be drawn. However, I have disregarded the contents of para 5 apart from the first sentence. They have no bearing on my decision.

43. The mother's proposal now to launch A into private education at the father's expense is untenable. Her application for permission in this respect is unarguable and should be refused for the following reasons.

a) As the emails produced by the mother make clear, there has never been an agreement, plan or understanding between the parents that A should be educated privately. The emails show that the mother wanted such an agreement, but they make equally clear that one was never reached.

b) There has already been a finding in this case on 21 June 2018 by District Judge Aitken that private education was inappropriate in this case. While such a finding does not constitute res judicata, because circumstances inevitably have changed with the passage of time, I do not consider that a departure from the status quo set by that judge is justified.

c) I am satisfied that the proposal would be contrary to A's interests. It would represent a form of education which is unknown to her. In my judgment it would be in her best interests for her to attend a state secondary school. I cannot accept that the local authority or the staff at Grey Coat Hospital school conspired to sabotage A's educational interests. Equally, I think it unlikely A herself has independently formed the uninfluenced view that she would not be happy until she left that excellent state

school and was placed in a private school, a position which coincidentally exactly reflected the views of her mother.

d) Even if the father now has the means to pay for private education for A it would in my judgment not only be contrary to her interests but fundamentally unjust were he to be ordered to do so. As stated above, the father himself was not educated privately and his other children aged 13 and 9 are not educated privately. The mother has emphasised to me repeatedly that the father was deprived of parental responsibility in Australia (but not here) and that accordingly, in her opinion, hers is the only parental voice that should be heard on the question of education. The father should have no say or other input, according to her, other than to pay. In my judgment to force him to do so would be a gross injustice which I am not prepared to contemplate.

General maintenance

44. When the parties divorced the assets were divided so that the mother received about 40% of their value. The father has been regularly paying maintenance as ordered. However, the mother argues that the present rate of general maintenance of £1,315 per month is too low. She relies on my own decision in *CB v KB* [2019] EWFC 78 at [49] where I stated that when the CMS exigible taxable income ceiling of £156,000 is surpassed, then, as a guideline, the statutory formula should be applied to the surplus up to £650,000. I remain of the view that it is a useful guideline for most cases.

45. For the reasons stated above I place no weight on Mr Harding's assertion that the father's earning capacity is now "some £600,000". There is no evidence of the present level of the father's income. In June 2018 District Judge Aitken found his gross taxable income to be £185,000, inclusive of dividends from Assurety Ltd. He is now a silk of 8 years' standing practising from an elite set of chambers. He is a leader in the field of employment and equality law. I would be surprised if his gross taxable income (including dividends) was less than £350,000. At that level, applying the guideline, his liability for child maintenance would be £2,361 per month. I have to say, notwithstanding the oppressive nature of the mother's conduct towards the father, that the present level of general maintenance strikes me as too low.

46. In my judgment the mother's proposed application to vary the general maintenance is arguable, and permission should be granted to bring it. I do not consider that she should be given permission to claim backdating earlier than the date of her application (22 July 2022) or to claim a lump sum to cover historic debts. These elements of her claim are not arguable, in my judgment.

Conclusion

47. For the reasons given above:

a) I extend the ECRO to 18 October 2024.

b) I refuse the mother permission to bring a school fees application or a lump sum application.

c) I grant the mother permission to bring a variation application for an increase in the general maintenance (presently set at £1,315 per month), and to claim backdating to 28 July 2022 (but not earlier).

48. I make the following directions:

a) The mother is exempted from filing a Form A; she is deemed to have done so.

b) No later that 16:00 on 4 November 2022 the parties are to exchange Forms E2 together with the prescribed documents. In addition to the prescribed documents the father must produce under paragraph 6 of the Form E2 his most recent practice accounts, and the most recent full accounts of Assurety Ltd. The Forms E2 and the prescribed documents are to be prepared as PDFs and shall be exchanged electronically.

c) No further disclosure may be sought. If either party considers that the disclosure given by the other party's Form E2 and the prescribed documents is insufficient for me to be able to determine the variation application fairly, then that party shall set out in no more than 200 words, within seven days' of service on him/her of the other party's disclosure, the further disclosure that is sought. I will then deal with that application without a hearing as box work.

d) This being a fast-track application, no FDR is mandated, and I confirm that one shall not take place.

e) The application is to be fixed to be heard by me with a time estimate of one hour on the first available date after 5 December 2022. The hearing shall be on written evidence and oral submissions. There shall be no oral evidence. The electronic bundle shall comprise only this judgment, the order giving effect to this judgment, the two Forms E2 and any further disclosure authorised by me.

Costs

49. The father has succeeded on his application. The mother has had a partial success on hers. Accordingly, in my judgment the appropriate order is no order as to costs on both applications.