

Case No: ZW18P00962

IN THE FAMILY COURT AT WEST LONDON
(sitting at Barnet)

The Family Court at Barnet
St Mary's Court, Regent's Park Road,
London, N3 1BQ

Date: 31 July 2019

Before:

HIS HONOUR JUDGE WILLANS

Between:

M (a father)

Applicant

- and -

P (a mother)

Respondent

The applicant as a litigant in person
Mr De Burgos (instructed by **Direct Access Counsel**) for the **Respondent**

Hearing dates: 15-17 July 2019

JUDGMENT

His Honour Judge Willans:

Introduction

1. This judgment is made in private law proceedings under the Children Act 1989. I intend to refer to the applicant as **M (or ‘the father’)** and to the respondent as **P (or ‘the mother’)**. They have one child who I will refer to as **X (or “the child”)**. I intend no discourtesy by this usage. M seeks a child arrangements order with respect to X whilst P opposes any direct contact between X and M. Both parties have made allegations against the other and these require determination before the question of child arrangements can be further considered. This judgment follows a fact-finding hearing at which I heard evidence for the purpose of resolving the parties’ factual disputes. I base my conclusions on the evidence I have received which comprises:
 - i) the papers in the final hearing bundle (modestly supplemented by additional pages during the hearing);
 - ii) the live evidence of M and P;
 - iii) the submissions made at the conclusion of the hearing, and;
 - iv) the contents of two (2) DVD interviews conducted by the Metropolitan Police with M and P in late 2013/ early 2014.
2. The hearing was listed for three days although the first day was utilised on outstanding case management issues and permitting the parties to consider the DVD interviews. I heard evidence from M for about ½ a Court day; from P for about a full Court day and then submissions. I reserved judgment.

Law

3. On the first day of the hearing I outlined the relevant legal principles that would apply in this case which I summarise as follows:
 - i) It is for each party to prove each allegation they make. This is done by establishing the event as more likely to have happened than not. This civil burden of proof applies to all allegations whatever the seriousness. It is not for a party to disprove an allegation raised against them.
 - ii) All evidence and particularly that of M and P is important.
 - iii) I remind myself of the *Lucas* direction.
 - iv) I remind myself as to the limited benefit that witness demeanor brings to a Court assessing evidence. Demeanor in the witness box may be a marker of many things quite aside from honesty and credibility and is far less relevant than the detail of the evidence given. It is the actual

evidence which permits consideration of consistency and credibility when assessing the truth of an allegation.

- v) This case has engaged special measures (which I comment upon later). A screen was used to assist P, and M was required to provide his questions of P in advance for my consideration (for me to put to P). It should not be thought that any of this indicated the Court prejudging the truth of the allegations in dispute. The measures were used to enable a fair hearing and to allow both parties to give their best evidence. I entered the hearing with an open mind as to the mutual allegations.
- vi) I am mindful of Practice Direction 12J (Children Act 1989). The pre-hearing management of the final hearing has positively sought to implement the principles found within that Practice Direction. However the Practice Direction has no bearing on the actual resolution of the allegations in dispute.

The Allegations

- 4. Both M and P make allegations against the other.
- 5. P alleges she was the victim of domestic violence including verbal, aggressive and violent behaviour on the part of M. This conduct endured for much if not all the relationship with focus had on the period 2008-2013. In allegations 1, 2, 3 and 5 she identifies 7 discrete incidents of abuse. P indicates X '*has witnessed multiple incidents of verbal and physical attacks towards me*'. In allegation 6, P alleges she was raped by M in November 2013 and in allegation 7 she alleges X was abducted by M in December of the same year. In allegation 4 she alleges M was an alcoholic/drug user in the period 2010-14 (although I understand her case to be of more generalised use throughout the long relationship) and this impacted on X when she was in his care. The balance of allegations 8-14 relate to the period post relationship with it being alleged that both inappropriate and excessive indirect contact was had with X by M and his family following the parties separation [8]; false reports were made to social services and other state agencies about P with a consequential impact on P and X [9 and 12]; abusive social messaging / communications were sent to P by M and by his new partner (K) [10]; X was wrongly approached by M and his parents and encouraged to get into their car / have contact with them [13 and 14]; and that, consequently X has been negatively affected by this behaviour [11].
- 6. M denies the allegations and contends P has been motivated by malice towards him and K, and that this has led to her oppositional approach to contact. In allegation 1 and 2 he alleges implacable hostility on the part of P and the use of coercive control through the control of contact between him and X. In allegation 3 he contends there have been numerous breaches of the existing Court order and in allegation 7 he contends this behaviour has '*potentially caused [X] to be*

a victim of parental alienation...'. In allegation 4 he suggests M is a cocaine user and has struggled with an addiction to cocaine. In allegation 6 he contends she has neglected X. In allegation 5 he alleges P has harassed him and his family, a particular complaint of a malicious report to NSPCC is raised in an un-numbered allegation at the end of the schedule.

7. I have considered the case management directions in this case and it would appear the parties have not been constrained as to the number of allegations they were entitled to make against the other.

Background

8. The parties met and formed a relationship in their 'teens'. Their relationship subsequently led to a significant period of marriage (c.15 years). It is agreed the relationship ended at the latest by October 2013 with divorce in 2014. X was born in 2005 and is aged 14 at the date of this judgment. X has always lived with P, but also with M when the adult relationship endured and subsequently pursuant to a child arrangements order made by consent in 2012 (subsequently discharged in 2014). M has some criminal convictions relating to driving matters. However, more materially his convictions include in 2010 an offence of harassment of P and criminal damage to her car and in 2012 aggravated taking of P's vehicle without her consent (the aggravation being the vehicle caused damage to other vehicles after being taken). Both M and P (and M's partner) have received harassment notices. I accept this is not evidence of actual harassment but is intended to be an indication to each of them that a third party (in this case M, P or related individuals) consider their conduct harassing in nature. Subsequent to their relationship M has formed a new relationship with K. He married her in 2016 and they have a young child together. Although the detail is lacking the evidence suggested P has also formed relationships with other men post separation.
9. I have considered the parties competing historical accounts of their relationship. In particular I note the account given by M at paragraphs 1-5 of his preliminary witness statement¹ and by P at paragraphs 2-4 and 18 of her second witness statement and at paragraphs 3-13 of her statement (April 2014). I have also borne in mind what each of them say in their police interviews. My reading of M's statement is that the relationship foundered in 2008 due to P's infidelity and he left the home; he formed a relationship with his future wife in 2009 and moved in with her in 2014. In the interim period he shared his time between his new home; his new partner's home and occasions when he stayed at P's home although his relationship with P did not resuscitate despite P's pressure and encouragement for the same. He tells me he struggled with the breakdown of the relationship and the consequences of the same and explains his convictions

¹ Page references cannot be given as the final hearing (prepared by M as a litigant in person) was non-rule compliant having no pagination

in 2010 and 2012 (which post-date the relationship on his case) in the light of this. He agrees he placed too much reliance on alcohol during this period as a coping mechanism but denies cocaine use then or at any time. He contends P sought to control his relationship with his new partner during this period causing him to hide the continuation of the relationship for fear of losing contact with X. However this continuing relationship was a flashpoint in the relationship between M and P. In short he times the ending of the relationship to 2008. I note in particular some discord with his police interview in which he appears more open to a resumption of the relationship in the months prior to the rape allegation and at a time when he suggests he had ended his relationship with K.

10. In contrast P contends the relationship initially ended in 2008 at her demand due to M's conduct. However in the following period the relationship was rekindled and had an on/off sense for some period thereafter. It survived an initial discovery of the relationship with K and after M indicated he would be faithful but then ended when M left her for K in early 2011. On my reading of the statement evidence P suggests a '*brief reconciliation*' in August 2013 however my sense from her live evidence was of a longer period of reconciliation albeit on/off and I note she gives a period of relationship resumption from February to October 2013 in her earlier statement. In short P does not agree the clear relationship demarcation lines suggested by M but does agree the relationship was not continuing throughout the period.
11. The parties do though agree that there were Children Act proceedings in 2012 and although I do not have the final order it seems the parties agreed a form of shared care order in respect of X (albeit my sense is that this was of X spending alternate weekends with her father rather than half her time with him ~ I might be wrong about this but it would have no bearing on this judgment).
12. The rape allegation relates to 2 November 2013. I will of course return to this later in this judgment. In December 2013 there was a confrontation at X's school and it was in the fallout of this incident that M raised her allegation of rape. Police investigations followed and both parties were interviewed. Ultimately the police determined no further action should be taken on the allegation. This (December 2013) was the last occasion of direct contact between M and X (save I think for a meeting at her school in June 2018). Children Act proceedings followed and ended with an order dated 21 May 2014 under which M effectively withdraw from the proceedings; the existing 2012 order was discharged; X was to live with her mother, and contact between her father and X was to proceed on an indirect basis. In the period that has followed it is clear there have been a number of problematic communications on social media; allegations have been raised with child care agencies, and; indirect contact between M and X has largely ended. As noted above harassment notices have been raised against M, P and K. These proceedings commenced in August 2018. I have had regard to section 3 of the bundle which includes all relevant case management orders.

The hearing

13. The process of fact finding is rarely an easy task. Occasionally the Court is able to identify either one or other of the parties as wholly unreliable and it can be of immense assistance if the Court has available independent or real evidence which helps in choosing between the oppositional accounts. However more often than not the Court is faced by the task of deciding between two entirely opposed witnesses recounting events which took place entirely within the private sphere and without the knowledge of any third person. The Court is very aware that relationships can be warm and supportive but can equally be controlling and coercive. It is well known that the image presented to the outside world by partners to a relationship may be significantly different to the reality of their real day-to-day life when removed from the view of the outside world. The very nature of a controlling relationship is of the imbalance in power control in a relationship. In such circumstances a victim of coercion may appear objectively happy and settled in a relationship when this is far from the truth. Victims can take on a sense of themselves as being in the wrong and in extreme circumstances can come to view themselves as to blame and therefore needing of change. However, the Court is equally astute to ensure that such a situation is not wrongly applied to an otherwise ordinary relationship as a form of payback or control on the part of a wounded ex-partner. Coercive relationships often hide the reality of what is happening but it is entirely possible for false allegations to be made and the notion of coercion to be wrongly attributed to a relationship for malicious reasons.
14. This has not been an easy assessment to undertake. It has been made more difficult by the passage of time with many of the keys disputes dating back to the early part of this decade. Further this is a classic case in which independent evidence is lacking and in which there is only limited supporting evidence with respect to each of the allegations. In major part the assessment amounts to a consideration of the diametrically opposed positions taken by each of M and P. The difficulty is further compounded by the essential consistency of each of the parties in respect of the major points of disputes. Neither made material concessions in the hearing and each maintained their position. Objectively each was robust and consistent in what they said albeit there were areas of contradiction and concerns around credibility which I draw upon to assist me in my decision making. But this was not a case in which either party ended their evidence fundamentally undermined as to the account they gave. The decision making process is therefore bound to be a balanced one.
15. The hearing engaged special measures:
 - i) Prior to my involvement in the case a colleague judge gave special measure directions including the manner in which each party would attend Court so as to avoid direct contact. These provisions worked well

and I received no complaint from either party. These were sensible and helpful provisions.

- ii) A further direction was given for the opportunity for P to give live evidence via live link (video link) and to attend the hearing remotely. This ultimately failed due to the prohibitive costs for P in facilitating such a measure. At a pre-trial hearing I considered this point with P alone and I ultimately organised for her to attend the first two days of the hearing by a link utilising a remote Court building. I required P to clarify her intentions in such regard prior to the hearing. For reasons I do not know I received no response and P attended the final hearing with counsel. I am little doubt this made the hearing far more effective both as to management and as to my ability to measure the evidence I received. Having heard all the evidence I do not consider P's evidence suffered by her physical attendance.
- iii) I separately directed the use of a screen in court and gave related directions such that P at no point had physical sight of M during the hearing (or indeed on entering or leaving the court room). I consider this worked well and M fully complied with these requirements. I also allowed breaks at the request of P.
- iv) A special measure which I consider worked less successfully was the requirement for M to draft his questions in advance of the hearing and for me to put the questions to P. M fully complied with this direction and in closing commented that he felt his questions had been fully put. I remain less comfortable with the role I was required to assume. In my assessment the forensic process suffered in requiring me to put M's case. I am not best placed to robustly challenge a witness as to their case so as to be fair to the party putting the questions (who in the case was subject to very serious allegations) whilst not overstepping the mark and appearing to enter the arena of litigation myself (with the appearance of an advocate for either party). Whilst I did my best I am left with grave reservations as to the resulting quality of evidence received. What this means in reality is that it is possible that there will be cases where the restriction on ability to effectively challenge will leave a case poorly put with the result that an allegation is found proven when it should not have been found to be proven or conversely is not proven when it should have been. It should not be forgotten that the consequences for family relationships may as a result be profound with life changing consequences. I appreciate this is a topic of political interest. Ultimately those who advocate for fairness to both parties in such a scenario as this should focus their attention not on the court arena ~ which does its best in difficult circumstances to remedy an issue not of its making ~ but on

the political and financial decision making which lies at the heart of the problem.

Analysis of the evidence and findings

16. I identify allegations using the reference numbers in the respective schedules of allegations attaching the letter 'M' or 'P' to identify the relevant party.

17. P3 and P5: Criminal convictions

These allegations relate to the two occasions on which M was convicted of criminal offences (following a guilty plea on each occasion). There is no foundation for going behind the conviction. To avoid doubt the offences relate to:

a) In March 2010 harassing P by making multiple telephone calls and causing criminal damage to P's car by scratching it. M fully accepts this behaviour and told me he was ashamed of his conduct which arose out of the end of the parties relationship and his deep frustration as how things were progressing between them.

b) In April 2012 M took P's car without her consent and drove it whilst under the influence of alcohol. At the time he was was not entitled to drive a car resulting from a previous conviction for drink driving. In the course of driving the car he brought it into collision with other vehicles causing damage which made the offence an aggravated one

18. These findings are important. They demonstrate M to be an individual who has suffered from poor impulse control and has struggled in his management of his relationship with P. Further it also highlights a period when he was plainly struggling to regulate his relationship with alcohol. He accepts that he was turning to alcohol as a coping mechanism. For the avoidance of doubt although M suggests he had permission to use the car (see second conviction) I reject this as it runs contrary to his guilty pleas and further and in any event the nature of the consent he suggested was the fact of the keys being thrown in his face.

19. There is a related allegation that M subsequently threatened P that he would 'tell people' she had consented to him using the car if she did not agree to his terms as to seeing X. I am in little doubt the parties would have communicated on the subject of P's purported consent to him using the car as I sense this is a matter raised by M historically. But I am not persuaded this was linked to the resolution of the Court process in 2012. By that time M had pleaded guilty and so it would have been of limited force to have sought to question the detail of the conviction. Further although I do not have the Court documents from 2012; I note that within her statement for the 2014 proceedings (paragraph 8) P gives a significantly different account of the rationale for agreeing the 2012 Order

which has nothing to do with the threat raised above. I do not find this aspect proven. It was not a matter of live evidence before me.

I therefore find P3 and P5 proven as per the criminal convictions

20. P4: Alcoholism

The allegation is of M being an alcoholic or having been an alcoholic/user of illegal drugs during the period 2010-14. It is alleged that during periods of alcohol abuse M would have care of the child and leave her alone causing her significant emotional upset. My sense of the evidence is that P believes M is still misusing drink and drugs and I will reflect on the allegation in its fullest chronological sense.

21. I am in no doubt M was struggling with his alcohol usage in the period around 2010-12 at least. On his own admission he had a problematic relationship with alcohol at this time. Whether he has a dependency on alcohol or not is less clear and perhaps is not itself the relevant point. However on the evidence before me I have no basis for concluding M continues to have a problem with alcohol or is indeed an alcoholic. There is within the bundle limited ‘snap shot’ alcohol tests that indicate no raised level of alcohol in his system. There is also evidence of his successful engagement with a form of alcohol support group in 2012. This documentation suggests situational abuse of alcohol rather than alcohol dependency. I bear in mind P has had no direct contact with M since 2013 and I take account of the evidence of his new relationship, which appears to be functioning positively, and child. There is no police disclosure; further call outs or convictions. There are no recent social agency references (aside from those touching on the parents dispute subject to this judgment). I can find no evidential basis upon which to extend concern as to alcohol/substance use post-relationship. Were the events of 2010-13 to have been more contemporaneous then it may have been permissible to have ‘joined the dots’ however the gap of some 6 years is a significant gap in time and absent evidence to fill the gap I am not willing to assume a continued difficulty.

22. As to illicit substances the evidence in this regard is from P alone. I will in due course turn to the counter allegation made against P in this regard and will consider this point at the same time.

I find M did have a problematic relationship with alcohol around the time the parties were separating (during the period 2008-2012). I do not find proven the allegation of alcoholism or of it being a continuing issue post-2013.

23. P6: Rape

This is the most serious allegation. It is alleged that having finally broken up in October 2013 M attended her home on a Saturday night early in the next month when X was in bed. P allowed him into the home and he told he accepted he had a problem with alcohol. She felt this was a breakthrough and wanted to help him but then became concerned when he tried to have physical contact with her. She told him to leave and she went to the downstairs toilet believing he had left the home. She then went to her bedroom toilet upstairs and on leaving the toilet found M in her bedroom where he forced her onto the bed with his hand over her mouth before raping her. During the event she blacked out waking in the morning to find M in bed with her and X entering the room. She then told M to leave (which he did). The complaint was subsequently made to the police following a dispute at X's school following M and K attending a nativity play in December 2013. M denies any rape or sexual contact at this time. He acknowledged there would have been occasions around this point in time when he would have stayed at the property albeit sleeping in a separate room. He fundamentally disputed the allegation.

24. I have viewed the police interviews undertaken with each party, considered their live evidence and read a handwritten account of what X said when spoken to by the police. I have considered the papers in the hearing bundle. There is no independent evidence to assist me in this regard. The police process was undoubtedly restricted by a lack of forensic evidence. As P explained she had disposed of a 'nightie' torn during the assault; cleaned the sheets and delayed reporting the assault for about 6 weeks; a period during which she had unrelated sexual intercourse; further she confirmed no contemporaneous report to any third party; there were no physical injuries documented to support the allegation. It is suggested X supports the allegation in confirming M's presence at the property contrary to his case. Having considered the evidence I do not find X's account to the police assists in any material regard. P argued that X's reference to her father being at the home was probative of his presence on the night in question. Whilst X does give an account of her father staying over this is not itself controversial and the timing of the last visit is unclear. When asked as to the last time he stayed over she replied:

"Can't remember...a month ago before all this at school"

I do not consider this ties the last visit to the 2 November 2013 when it is clear the parties were in contact less than 1 week before this at around the time of the anniversary.

25. From M's perspective whilst he spent some time in interview indicating the potential for exculpatory evidence of his location none has been provided to me. He suggested work records or bank statements might place him elsewhere. I have seen no such records. From P's perspective whilst she gives an account of

reporting the assault to a psychotherapist; attending a gynaecologist (although not reporting the assault) and visiting a sexual health clinic she has provided me with no supporting evidence for any of these attendances.

26. There are however certain aspects of the case which do in my judgment assist in determining the allegation:

a) In police interview M comments as to having received an anniversary card from P shortly before the alleged event. A copy of this in my bundle. It is phrased in warm terms and is celebrating 15 years. It is dated 24 October and reads:

“Dearest [M]...We made it! I just wanted to say you are and always have been everything to me. I love you...[P]XXX P.s 15 years X ”

I do not consider this to be material evidence as to the truth of the allegation itself. It is entirely possible for this card to have been sent and for the rape to have occurred shortly afterwards. However, it does touch on credibility issues. In the course of her evidence P initially timed the ‘final’ separation of the parties to very early October 2013 and her evidence at that point was inconsistent with sending such a card. It is not lost on me this timing was in response to questions which were geared to suggesting X might be confused as to whether she was remembering her father attending in October or November 2013. P sought to suggest that X would be able to distinguish between these dates given the gap in time between a visit in early October at the latest and November and so was clearly remembering a visit in November 2013. When the card was raised P sought to suggest it was not contemporaneous to the allegations and was a card from an earlier period in time with the 15 years reference having some relationship to the commencement of their relationship but not marriage. In essence she sought to suggest that M had sought to falsely rely on a previous anniversary card to fortify his case. This suggestion fell apart quickly and P had to concede the dating of the card and the mention of 15 years meant it was a contemporaneous document to October 2013. I was left with the clear sense that P was tailoring her evidence to make her case more attractive rather than giving a simple honest account in response to the questions raised. My sense was her immediate response was to seek to distance the card sensing it might undermine her case.

b) There were other aspects of her evidence which touch on her credibility which I did not find equally applicable in the case of M as follows:

i) P exhibited a tendency to accuse M of forging or fabricating documents which supported his case. Having considered the evidence a number of these allegations quickly fell away as being plainly incorrect. I did not find any evidence of forgery/fabrication.

- ii) P additionally had a tendency to seek to fill gaps in the evidence by suggesting she would be able to provide a supporting document given the chance and notwithstanding the fact that the case had been set down to consider all the relevant evidence at a hearing in which a court bundle contained the relevant documents. By way of example when it was pointed out she had not provided any evidential support for a contemporaneous complaint of rape to her psychotherapist she told me she could obtain this evidence if required. A difficulty with this was that P had in any event told the police when interviewed that she had not in fact reported the assault to anyone.
 - iii) P's case was at times contradictory/inconsistent. In her police evidence she indicated M had threatened a 'hit' on an ex-boyfriend but when questioned during the hearing she denied having ever made such an allegation. I struggle to see how P would forget such an allegation (if it had been made) and I am left considering this was window dressing reported to the police to improve her allegation.
 - iv) A further area of confusion related to the presence or not of a panic alarm in the home with a link to the police. When questioned by me P appeared to suggest there was no such alarm until after the 'rape'. However, in her allegations (P1) she recounts an alarm being fitted in 2012 '*which would result in immediate attendance by the police if I used it*'. When this was pointed out her answers in clarification appeared confused and were not easy to follow. The point was as to whether there was a panic alarm in the house in November 2013 that would have permitted the immediate attendance of the police. Ultimately her response was to say she did not mention this alarm as it had been fitted at the expense of her father (not by the police) despite it having equal and immediate access to the police. It was difficult to see how this diminished its relevance in November 2013.
- c) Moving on there are some important communications contemporaneous to the allegation which bear consideration. These are fully detailed within a police report following M's release post police interview. He was accompanied to his home and his mobile phone was viewed. Bearing in mind the allegation is dated to 2 November 2013 the following messages between P and M are relevant:
- i) Messages on 2 November 2013 between M and P (the content is not relevant) which appear to keep the other aware of their movements and suggest a plan to meet. Whilst this would support attendance at the home it would support it in a very different context of a pre-arranged plan for meeting rather than the account given by P.
 - ii) Messages from P/M on 9-22 November 2013:

9 November 2013

P: *"I do want to talk to you and thanks for offering I do care X" 13.42hrs; M:* *"OK, Monday or Wednesday good?" 13.43hrs*

11 November 2013

P: *"Yes Monday is, not sure what happened there your phone went dead. X" 11.30hrs; M:* *"I'm in [z]. Got my phone sorted once and for all, Are you around? X" 11.40hrs*

14 November 2013

P: *"Hey I'm in a meeting so will call when I come out. She should be Ok with no shoes though? X" 15.15 hrs*

22 November 2013

M: *"What do you want. This is verging on harassment" 10.34hrs; P:* *"Can you call for" 10.40hrs; M:* *"why" 10.41hrs; P:* *"Because. X" 10.41hrs; P:* *"I need you. X" 10.42 hrs; M:* *"What do you want" "Why do you always do this. You are unstable and need to sort yourself out" 11.13hrs; P:* *"Hiya what's wrong? X" 11.20hrs; M:* *"Leave me alone" 11.30hrs; "That's 35 missed calls if it goes to 40 I'll call the police" 11.31hrs; P:* *"I'm sorry I thought you wanted to talk. X" 11.33hrs; "can you call when you are free" 11.44hrs; "Is there anything you have to say? X" 12.03hrs; "So when's good for you? X" 12.33hrs; "Can you call me please. X" 12.46 hrs; "Please can you call me. X" 13.13hrs*

This messaging sits uncomfortably with the allegation under consideration. Whilst I appreciate the point made by P as to the potential for a coercive relationship creating behaviour patterns that appear surprising when viewed objectively this remains problematic on the facts of the case. P's case is as to a post-relationship violent assault upon her without premeditation and without any basis for suggested blurred lines around consent. In this context I find it unlikely one would then find the line of dialogue identified above. This was not improper contact within a continuing relationship where one might observe a continuing dialogue. Rather P on her case had been highly traumatised by the incident and reported the same to her psychotherapist. In this context I struggle to reconcile the messages set out above. P told me her messages were in the context of wanting to discuss what happened between them. I struggle to interpret the messages in such a context. They certainly hold no explicit or implicit hint in such regard.

27. I have considered the allegation with care and on balance do not find it proven having regard to the following features:
 - a) There is no independent forensic or other evidence despite the suggestion that such exists and might be placed before the Court

- b) I have concerns as to the credibility of P as set out above and as expressed below when I turn to various of the other matters under consideration
- c) Ultimately the determination comes down to weighing what each party has said both to the police and before this Court
- d) I have regard to the delay in reporting the matter and whilst I have regard to the reasons why delay may occur on the facts of this case I cannot escape the likely association between the report being made and the dispute that arose in December 2013. Elsewhere in this judgment I comment as to motivations but I simply observe at this point that there is available significant messaging content which undermines the suggestion that P viewed M as an active risk but rather in contrast considered K relationship with M to be the dominant motivating factor underlying her report
- e) I find M's account to be more consistent with the surrounding information and on balance I prefer his account over that of P
- f) I consider the messaging substantially undermines P account and is as close to an independent account of the actual mindsets of the parties prior to police involvement. It runs contrary to P as a victim of a violent assault and is far more consistent with M's case as to there being no assault
- g) Elsewhere in this judgment I comment on the May 2018 messaging. I find this equally difficult to reconcile with the truth of this allegation.

I do not find the allegation proven.

28. P1 and 2: Domestic Violence

In reaching conclusions in this regard I have regard to:

- a) My findings elsewhere within this judgment
- b) The dating of the events
- c) The paucity of solid corroborative evidence
- d) My concerns as to credibility expressed elsewhere within this judgment

With this in mind

- i) I am not persuaded as to the assault in 1995. Given this was 24 years ago (when the parties were barely adults) I question what weight it would independently carry absent more recent findings. In any event the supporting evidence is poor and I am not persuaded on balance as to the assault. I bear in mind the fact of a 'supporting letter' but I give this very little weight given the letter is not in the form of a witness statement and

the individual did not attend Court to be tested. In the light of the passage of time I consider it would be unfair to place weight on this letter.

- ii) I am however persuaded the relationship was surrounded by a number of verbal disputes and on occasion the police were called. The parties relationship was one of significant emotional interdependence (in this I agree with submissions of counsel for P) given the length of the relationship from their early teens. I am persuaded it is far from easy to delineate the timing of cessation of the relationship to a clear date in 2008. I prefer on balance the evidence of P as to continuing on/off quality thereafter although I accept M's evidence (with which I believe P fundamentally agrees) as to there having been significant periods when he was out of the relationship and in a new relationship with K. However, I find both parties have struggled at times when they have been on their own and reflecting on the failure of their relationship. There is clear evidence of M's emotional dysregulation when he found P was in a new relationship. Equally I am persuaded P struggled to manage her emotions during periods of estrangement when reflecting on M's new family life with K. I suspect their mutual relationship with X has complicated the picture. This judgment will however not benefit from any attempt to reach finely tuned conclusions in such regard. I do accept the allegation of verbal disputes with the police being called. It is likely X would to some extent have been aware of the disputes and it is likely this would have been emotionally damaging for her at some level. I do not place sole responsibility on M. I have considered the police evidence in such regard and note it speaks of verbal disputes.
- iii) I am not persuaded on balance as to physical violence between the parties. The evidence is poor in such regard and I cannot ignore my conclusions on credibility elsewhere in this judgment. There is little if any independent corroborative support for the same.
- iv) I am not persuaded as to the allegations of M self harming during this period. Again the evidence is limited and does not meet the legal threshold. I prefer the evidence of M in this regard.
- v) As noted above I am satisfied X will have witnessed or experienced to some extent the verbal disagreements between her parents together with the heightened emotions. I accept this is likely to have had an effect upon her. In her police interview although the notes are not as clear as one would hope she comments as to both her parents actions in such regard.
- vi) As to the allegation P2 in particular I accept this was an instance of verbal conflict at the home. I am though not satisfied as to the allegation of property damage given the police report to the contrary. I also note the report does not support the allegation of alcohol as a feature or of there having been a physical assault.

In summary I find proven verbal disagreements and on occasion verbal abuse. I do not discriminate between M and P in making this finding. I accept X will have become aware of this and been harmed as a result.

30. P7: The Nativity Play December 2013

It is alleged M attended X's school and abducted her. It is said to have been reported to P by the school and it is said X was extremely distressed. In contrast M contends this was an agreed attendance at school for a Christmas play and that issues only arose when P became aware he would be attending with K. I prefer M's accounts. I do so with particular regard to the messaging witnessed by the police (see above). On 3 December 2013 M is seen to message P including the following:

"...I took time to book you a seat at the nativity on the 10th at 6pm. Can you let me know if you'll be there thanks." and "If you've got the courtesy to let me know if you are coming to the nativity with the ticket I've arranged can you at least let [X] know of (sic) you're coming or not..."

These messages albeit not explicit do indicate/suggest M was attending the nativity. This sits uncomfortably with the notion of abduction. Certainly it indicates P would have been aware of M's attendance.

31. I have read the audio call record from 12 December 2013. I appreciate P complains she was not aware of this recording being undertaken but I accept on balance the recording arose in the context of M calling from work on a line which is regulated and recorded as a result of his then business. On balance having considered the various recordings it is clear they are not staged for the benefit of M's case but rather suggest natural conversation between the parties. In any event the original recording has been available and there is no suggestion the transcript is anything other than correct. In this particular recording the parents discuss the events of that evening and there is no mention of abduction. Rather the focus is on the suggested scene caused by the presence of K at the event. I consider it likely if there had been an abduction that this would have been referred to within the conversation.

32. It does appear clear X was effected by the subsequent argument that played out at the school and the associated attendance of the police (see her interview with the police). This is hardly surprising. Given my finding above it would be unfair to be critical of the father in this regard.

I do not find the allegation of abduction proven.

33. P8: Excessive cards to X

I do not find this allegation proven. I have not been shown any of the suggested cards evidencing the excessive nature of the communication. I am simply told

they were sent. This in the context of a counter allegation of not permitting X to see communications sent. I judge it impossible to disentangle these points and will return to this below. I understand it is said some of the content of letters was inappropriate but I have not been shown a single letter with suggested inappropriate content. I am told these were given to the police but I fail to understand why they continue to hold the letters when there is not ongoing investigation. On the evidence provided the threshold is not met.

I do not find this allegation proven.

34. P9 and 12: False allegations

I do not find this allegation proven and can deal with the point in short order.

- a) As to the suggestion M alleged that X was locked in the house, despite seeking for this to be identified I have not been shown this report. M denies such a report. Ultimately as I understand it P tells me that this is what she was told by the police and cannot confirm whether the allegation was in fact made. In the absence of documentary support (which I would expect to see) the allegation is not proven.
- b) As to the forged passport allegation: whilst the parties disagree as to the detail the case at its highest is as follows. Prior to November 2013 M signed a letter confirming his consent to P changing X's surname to match P's. Following 2014 in reliance on the signed letter P took steps to change X's name and sought a passport relying on the same document. The difficulty with this process is that in between the two events there was a Court Order which specifically indicated: "*The Mother agrees that she...will not attempt to change the name [X] is known by*". The Order had the normal form of wording prohibiting a change of name without consent/Court Order. There is no suggestion of any further communication between the parties to sanction any name change. In this context P plainly had no justification for relying upon a pre-existing consent (however it was obtained). To seek a passport in reliance on the same was plainly wrongful and I struggle to understand the basis upon which she can raise complaint against M. I appreciate M wholly denies having given consent and challenges the authenticity of the letter. In my judgment nothing turns on this further point.
- c) As to the reports to social services the difficulty for P is that a number of third party individuals (ranging from her hairdresser's mother to a swimming coach) separately raised contemporaneous supporting allegations. There is no basis for suggesting M orchestrated these reports. Given this feature it is difficult to criticise M (who was not having direct contact with X and could not have contact with P) from expressing concern.

On balance whilst I accept these events have happened I do not find they justify a finding of misconduct against M as is suggested by inclusion within a schedule of findings.

35. P13 and 14: Approaching X

M accepts breaching the 2014 Court Order by approaching X at school on 11 June 2018. He suggests X was happy to see him and the meeting was an entirely happy one. He attaches a copy of a photo taken with X at this time. He does not fully engage with the allegations that his parents have approached X but comments as to their wish to have a relationship with X; their respective state of health and the obstruction of contact.

I do make a limited finding in this regard. I accept M has approached X on the identified occasion. This was in breach of a Court Order. I consider it likely there have been additional occasions when the paternal family have sought to have contact when they have felt obstructed in their efforts to see X. I have seen an email chain between P and the grandparents which indicates difficulties were arising with respect to contact. I cannot however find that M encouraged or directed the grandparents to act in this manner. I do not find there was anything fundamentally improper in their contact on such occasions although I recognise the potential for further dispute and disagreement arising out of the efforts at 'self-help'. In my assessment this has limited relevance for the fact finding determination.

I make a limited finding as set out above.

36. P10: Abusive messaging from M and his partner

I intend to return to this below when considering a counter allegation.

See paragraph 42-3 below.

37. P11: Impact on X's emotional wellbeing

I simply do not have reliable evidence to found this allegation. There is a real likelihood that X has suffered emotional harm as a result of the prevailing situation. It seems likely this issue can only and should only be evaluated within the disposal stage when I obtain independent evidence through the likely instruction of CAFCASS. For the time being I acknowledge the likelihood of harm without attributing particular responsibility for the same.

38. M4: P is a cocaine user

As with the counter allegations there is a historic element to this allegation. M alleges P was using cocaine in the period up to their separation and he has received concerning reports which lead him to believe she was still struggling

with such use in around 2016/17. P's account in such regard has moved somewhat. In her statement evidence she informed me that prior to meeting M she had never used cocaine. I appreciate that would have been when she was aged around 13. She then says that he introduced her to cocaine and that she "*tried it and used it infrequently*". In her live evidence I understood her to accept she had used cocaine frequently in the last four years of their relationship (i.e. 2010-2013) and that she had used it once since their separation. This was in my judgment a significant change in evidence. However she was clear she had not used it since separation save for this isolated occasion and denied having a continuing problem with such use. I bear in mind the counter allegation against M in respect of which I have deferred my assessment. As I understand M he denies ever having used cocaine.

39. Having considered the evidence I do not accept P's case in this regard concerning her own usage and in reaching my conclusions have particular regard to the following matters:
- a) I am concerned as to the manner in which her case developed in this regard from infrequent to frequent use. Her evidence was inconsistent and I had the sense it developed as the previous case was unmaintainable.
 - b) I cannot disregard the fact that apparently unrelated individuals (the swimming coach / a concerned parent at swimming / the ex-nanny / P's hairdressers mother) were separately raising concerns about P's self reported cocaine use in around early 2017. All of this is documented within social service reports found within the hearing bundle. P could not explain why an individual associated with X's swimming team or her own hairdressers mother would each separately raise such concerns with social services. Separately an ex-childminder raised similar concern. I appreciate P explained why she might have a reason to make such a report although this does not demonstrate she was improperly motivated. I find it most unlikely there would be a series of unrelated but equally mistaken reports. It is far more likely the report have a consistency flowing from the reality of affairs.
 - c) I was struck by the fact that P underwent testing in 2016 and 2017 for drug use. I was not persuaded this was to counter the reports which had been made to social services. I formed the view it was a likely part of a process of work undertaken to meet her own difficulties in such regard. For the avoidance of doubt such reports were not court ordered and there was no court process at this time.
 - d) Allied with this were P's diary entries relating to attending meetings which seemed at face value to be associated with 'cocaine anonymous'. I did not find P's explanation in such regard persuasive. I was not persuaded the reference 'CA' meant Christian Aid when the detail of the meeting clearly

tied in with a regular cocaine anonymous meeting at the relevant location. I was equally unimpressed by the suggestion that the diary had been doctored by M given the accepted correct detail found in relation to other diary entries.

- e) Further there is a personal note in which P appears to explicitly reference the plan she has for avoiding drug use. P suggests M has forged this document. Having regard to the weight of evidence I found this suggestion most unlikely and reject it. It can be seen to be located in an online 'icloud' account linked to the diary entries. Given my rejection of the suggestion of forgery the only remaining explanation is of P detailing her own efforts to avoid drug usage.
 - f) Whilst it is difficult on the evidence to reach clear conclusions as to P's engagements with therapists/clinicians at this time it does seem likely on balance that these matters are all related.
40. However the timeline in such regard ends in 2017 and there is no evidence before me to suggest ongoing usage through to 2019.
41. Turning to M the evidence is less clear as to his usage. I was not impressed by the manner in which P developed her evidence in the witness box suggesting that M had supplied drugs including to her family members. On the evidence before me I cannot make such a finding. There certainly is no evidence upon which I could safely conclude any usage since 2013.

I find the allegation of a drug issue relating to P proven to at least early 2017. I do not find the allegation proven with respect to M.

42. M5/P10: Harassment

Sadly within the evidence there is objective support for the contentions made by each party against the other. It is clear M and K feel wronged by what has happened and have posted on twitter commentary negative about P. However it is equally clear that P directly and indirectly through a third party has posted abusive and insulting messages about M and K. Consideration of these messages at times shows what amounts to a highly negative and wholly immature conversation. In considering these points I am in no doubt P was fully conscious of what was being posted by a man (PK) who she referred to as having befriended in the local pub and who appears to have an intimate knowledge of the dispute between M and P (as to drug use and financial non-support amongst other matters). Ultimately no-one comes out of this process in a positive light. Separately each of M and P have raised complaint with the police about the others communications. Having seen all the information I can see the difficulty the police would have had in distinguishing culpability between these adults. Having made the observations above it is difficult to place the balance of

responsibility on the shoulders of M or P. In my judgment they are each open to criticism. I can see no purpose in fully detailing this unpleasant and immature correspondence within this judgment, however the same can be found at divider 7 of the hearing bundle.

43. A separate point worthy of consideration is M's complaint as to an email chain received by him in May 2018. At this point in time P received some medical information relating to a significant health concern. I accept her case that this was weighing on her mind but I reject her suggestion that the consequent communications were so effected by her medical treatment at the time as to be capable of being disregarded. Having read the communication there is no evidence of incoherence in thought as to suggest she was not in her right mind when communicating. Rather the messaging appears clear and focused. The messaging sits uncomfortably with the allegations in this case and suggests P has been more motivated by the nature and manner of the relationship break-up than by the quality of their relationship itself. Even allowing for her emotional state it is a chain of communication difficult to reconcile with her overarching case. Although it is not possible to cite the full conversation which continues for several pages there is mention of the unwillingness to accept K in the life of X and the need for M to make a financial contribution.
44. I am conscious a range of further allegations of harassment have been made. I see no purpose in attempting to resolve each of these points given my finding above. Further there is an allegation of a false report being made to social services in respect of M and K's son. I cannot locate clear evidence to establish this was made or likely to have been made by P. Ultimately it would have no effect on the overall understanding of this judgment.

I find there has been inappropriate communications of a harassing nature sent by both parties to the other.

45. M3: breach of the 2014 Order

The essence of this allegation is that P has not kept to the agreement set down within the 2014 Order in that she has obstructed indirect correspondence between X and her father. Separately it is alleged grandparental contact has been obstructed; P has fettered M's ability to exercise PR, and; P has changed X's surname without consent. P's response is as to the excessive and inappropriate nature of the communications sent and is based upon the impact on the child of conduct. As set out within this judgment she complains of the paternal family taking inappropriate action in seeking unauthorised contact.

46. I intend to focus on the issue of M's indirect contact in respect of which there is the best evidence. As I have noted above I have not been shown any of the suggested excessive or inappropriate correspondence said to have been sent by M. Elsewhere I have rejected this allegation. In contrast there is within the

papers documents which appear to support the father's case as to his contact being obstructed. I note the following:

- a) One of the inappropriate tweets sent by P (see above) is a photograph of a toilet bowl in which letters can be seen to have been placed within the bowl. Attached to the photograph is a caption saying: "*sometimes the shit gets so big it won't flush*". The clear inference accepted by the mother was of her sending a picture which purported to show her flushing the indirect contact down the toilet. In fact P told me she was ashamed of this juvenile behaviour and in fact the letters in the photograph were not contact letters.
- b) M has provided copy contact letters which he says were returned to him in a torn state. The bundle enclosure indicates the tear lines on a letter which has been reconstructed like a jigsaw puzzle. The father says this is what was sent back to him. The mother denies ever tearing up a letter or sending it back in such a state.
- c) A tweet from PK which attaches a photograph which I interpret as being of torn correspondence and which has the caption: "*More utter shite from 2 complete fucking loonies. Get a life you sad prick/bitch*".

Having regard to the above points I am persuaded on balance that P has obstructed indirect contact between M and X. On balance I am confident she has failed to properly pass to X letters sent by M. On occasion I am satisfied she has torn up letters and caused them to be sent back to M to make the point to him as to what she was doing. I am satisfied she has brought PK into this process through the posting of the tweet noted above.

47. As to the other points it is plain, indeed I think accepted, that there have been school and home moves without notification and that there has been a change of name contrary to an existing Court Order (see the issues surrounding the passport finding above). I make no findings as to the impact on the grandparents at this time.
48. I pause to resolve a factual dispute raised between the parties. P suggested M had been informed of a plan to educate X at a particular school following an '11 plus' / entrance examination. She alleges M then obstructed X attending the school. M responded with documentary proof of X being refused the place due to failing the entrance examination. In response P then suggested there was a further school to which the allegation related. I was not shown any documents relating to this further school. On the information provided I preferred M's account although it is not an item in the schedules.

My essential finding is that P has significantly obstructed the authorised route of indirect contact between M and X and has failed to pay proper

respect to the requirement for consultation/notification arising out of shared parental responsibility.

49. M6: Neglect

The schedule raises two aspects to this complaint. The first is related to the various reports to social services as to P's presentation; cocaine usage and the impact on X of the same. The second aspect relates to the use of a 'au pair' whilst P was '*claiming to be a stay at home mother*'. I received no meaningful evidence on the second aspect of this complaint and consider it cannot amount to neglect of the child. It is in all reality (taken at its highest) a permissible decision taken by a primary carer. The Court has no role in overseeing such decision making.

50. The first aspect of the complaint is a concern that the issues around drug usage will have been such as to lead to neglectful care of X. It seems to me this is a difficult argument to establish. Whilst I have found proven the allegation of drug usage this does not evidence neglect. It is entirely possible for a parent to have a problem with drugs and to provide care below their best whilst at the same time not being neglectful (i.e. good enough). I also bear in mind that whereas I have weighed in the balance the unlikelihood of unrelated but similar reports being essentially false this is not the same as accepting in full the detail of each report. It is entirely possible that, for instance, the swimming pool concern was justified and based on actual difficulties but was not factually correct in all regards. It is important to have in mind that although I consider the resulting social service investigation was of a 'light touch' quality it did not reach a finding of neglect.

51. Having heard the evidence the best example to consider would be the occasion when X was reported by the swimming coach to be concerned/distressed as to her mother's whereabouts. Having read the reports I am satisfied this was a wholly genuine report. But does it evidence actual neglect as alleged? On balance I am not persuaded. I have reached this conclusion as the available evidence is limited; I have not received a direct account from X (whether now or taken independently from her during the investigation); I bear in mind P's counter case of being in the house albeit in a room in which X did not expect her to be and so wrongly feared she was out of the house, and whilst I am somewhat doubtful as to this explanation I cannot dismiss it out of hand. However, most importantly I must ask myself whether this amounts to neglect in any event. X was around 12 years of age and her mother was home by about 9pm on any case. Whilst it seems clear X became upset I am not persuaded the essential ingredients are such as to prove a case of neglect.

I do not find this allegation proven.

52. M1/M7: Implacable hostility / use of contact as a controlling mechanism & parental alienation

Having now considered much of the evidence and counter allegations I can deal with this point in a relatively summarised form. There is good evidence upon which to found the allegation that P has permitted her feelings about K and about the relationship between M / K to influence her approach to contact. The incident at the Nativity in December 2013 is a clear example of the same as is my finding as to the resultant false allegation against M. However, it is also clear this has lingered as an issue for P in the years that followed as is evidenced by the references to K in the emails/messaging from May 2018.

53. It is appropriate to note that whereas I might understand why P would be negatively inclined to K, as being the person who M left her for, there is no evidence before me to suggest that K either poses a risk to X or would not have her best interests at heart. Within the bundle there is some evidence demonstrating contact between X and K and whilst I caution myself against drawing too many conclusions from snapshot evidence it is also appropriate to remind myself as to the absence of objective or independent evidence suggesting K is in any way a problematic individual. The evidence further supports the contention that P has allowed her emotions to lead her to insisting the removal of K as being a precondition for contact. On balance I prefer M's evidence in this regard supported as it is by P's messaging and observations in audio recording.

54. I am not though persuaded that X is the victim of parental alienation. I approach the suggestion that such a concept is a form of 'syndrome' (PAS) with appropriate caution. I note the quite recent observations of the President of the Family Division in such regard. However, I do not discount the existence of a concept under which a parent actively engages in a pattern of behaviour geared towards turning a child against the other parent. Viewed from this perspective my sense is not so much of P actively pursuing this as a course but rather of her being unable to control her emotions with the consequent risk that the same will arise. Furthermore the evidence does not in fact establish what X's current feelings are. Within his evidence M contends X has expressed the wish to see him. If this is correct then it leaves real doubt as to the impact of her mother's feelings upon her. It seems to me this must be a subject better understood following further investigation.

I do find P has demonstrated impacable hostility particularly to K and this has impacted on the course of the proceedings. I find this has impacted upon the ability of X to have a normal relationship with her father. I am at this time not persuaded this amounts to parental alienation.

55. I have now dealt with all the allegations. Before turning to the next steps to be taken I feel it would be helpful to provide an overview of my assessment of this

case. I hope this assists the further conduct of the case and the work of any other professionals called upon to assist the Court in matters of disposal:

- a) This case should be viewed in the light of the lengthy relationship between the parents which commenced when they were early teenagers and ended more than two decades later. My assessment of the evidence suggested this led the parents to be emotionally entangled to a high degree and this has contributed significantly to the problems that have arisen as the relationship began to fall apart.
- b) I have made no findings as to respective responsibility for the breakdown of the relationship. I recognise each blames the other for the breakdown. I am not satisfied the cause was physical DV on the part of M but I accept there were likely to have been a number of verbally aggressive confrontations, some of which would have been undoubtedly experienced by X.
- c) In the fall-out of the relationship M struggled to cope and was overusing alcohol. The consequences were negative. Evidence of this is found in the two convictions but I am in little doubt it has contributed to the disagreement and problems reported by the parties.
- d) However I am also of the view that P struggled with separation and found it difficult to accept M had found a new relationship. Her position was not assisted by her use of cocaine.
- e) Although the detail is unclear I am in little doubt the relationship had at times an on/off quality with reconciliations and fallouts. On balance I accept there may have been times when M falsely stated he was no longer with K (when he was) to ease the situation from his perspective. With hindsight this was not a sensible approach to take. I find P sought to gain control by using the leverage of contact with X against M.
- f) Ultimately and unsurprisingly the relationship could not be fully repaired and despite an attempt at reconciliation in 2013 it finally ended. Given the history it is likely this was surrounded by a high level of emotional upset. This was complicated by the resumption of relationship between M and K leading to the incident at school in December 2013. Flowing from this P wrongly alleged rape against M.
- g) Subsequently the fact of the allegations and the proceedings in 2014 have led to an estrangement between M and X. On the facts this should not have happened but there has now been a significant period without contact. During this period P has inappropriately sought to restrict and obstruct contact between M and X in part due to her ongoing hostility to K and her perception of the role she will play in contact should it resume.

- h) During this period the lack of contact has led to a most unhelpful level of antagonism to develop as evidenced by the inappropriate social messaging. This has had the effect of fortifying what are sadly the battlelines between the parties. One result has been to lead to unauthorised attempts at contact with X. In the context of the case this is perhaps unsurprising.
56. The case now needs to progress and consideration must be given to X's welfare needs and if and how contact can now be re-established with her father. I will require the assistance of CAFCASS in this regard and I am minded to request the appointment of a Guardian to represent X's interest. I sense from the hearing this may not be a controversial view but I should receive the parties positions before making such a decision.
57. Were I to take this step (appoint a Guardian) then I would need to fix a directions appointment for the parties/guardian to attend. This would likely be in about 3-6 weeks (depending on CAFCASS resources). The alternative would be a simple directions appointment for the parties to attend (but this would then run the risk of further delay if at that hearing a guardian was felt necessary). At this stage I am minded to give the following directions:
- a) The parties should identify any corrections/requests for clarification by 4pm on 7 August 2019 and should indicate their position as to the appointment of a guardian by the same date
 - b) I will then hand down the judgment at a non-attended hearing (t/e 5 minutes) on 12 August 2019. Please note it is not intended for either party or representative to attend this hearing. At the same time I will fix the next directions appointment (either with or without a guardian depending on the parties responses). The parties will be informed of that date by an order sent out shortly after 12 August 2019. Prior to the next attended hearing the parties will need to file position notes setting out any directions being sought at that hearing.
58. I have attached a short order adjourning the case to the handing down date.

Subsequently

59. I have now heard from both parties. Each proposes the appointment of a Children's Guardian and so it is my intention to liaise with the CAFCASS Service Manager in such regard prior to fixing a directions appointment. This will, unless otherwise notified, be a hearing at which X will also be party represented through her Guardian. There will be a consequential delay to the proceedings to permit the Guardian to understand the case and properly prepare for the future case management decisions.

60. I have received no corrections or requests for clarification from the mother or on her behalf.
61. I note some paragraph numbering errors crept into my judgment. I have corrected these.
62. The father has raised a number of points which I now turn to as follows:
 - a) He confirms he was not in fact seeking a finding re the NSPCC complaint (paragraph 44). I note his position but there is no need to amend my judgment in such regard given I made no finding.
 - b) He informs me my understanding as to the exact contact arrangements post 2012 is incorrect and that he enjoyed more extensive contact than I had recorded. Again I accept the Order is available and is a matter of record. But this point is mere background and does not effect my findings.
 - c) He seeks to correct my understanding of the 2014 Order as to contact proceeding thereafter on an indirect basis. He points out the order did make provision for agreed direct contact. I accept the same; it is a matter of record; but does not impact on my findings.
 - d) I have corrected a typographical error at paragraph 46
 - e) I am asked whether I intend to make a judgment on the 'impact on the grandparents'. Whilst I do not wish to minimise this issue I do not intend to make a finding. They are not parties and they did not give evidence. My focus at this time is on the parents interaction with the child's welfare. The point is not lost on me and may be relevant when one considers future issues.
 - f) I am asked whether I intend to make a finding of 'coercive control' and it is pointed out I have not dealt specifically with allegation M2. It is noted I have found the mother has utilised contact as a form of control/leverage. I consider my finding is sufficient in such regards. I am very conscious the language of 'coercive control' has entered the criminal landscape. I certainly did not intend my judgment to suggest behaviour akin to that falling within the criminal sphere. The control I referred to was simply misuse of a position of power.
 - g) I am asked to reconsider the position as to alienation. I do not intend to do so. I accept the father was not seeking a finding as to PAS but in any event my judgment is clear that there is a lack of clarity as to whether the child has in fact been alienated or is alienated from her father. On his evidence when last seen she was keen to see him. This must be viewed in the light of further work. The Guardian will no doubt be able to provide the Court with assistance in due course.

- h) I did not intend paragraph 63(b) in which I refer to “verbally aggressive confrontations” to be directed at the father alone.
- i) I do not intend to make any significant comment on the ‘suicide attempt’. The independent medical evidence available suggested this was not a genuine attempt to self-harm but rather an accidental overdose. The father had no direct evidence on the subject.
- k) I have accepted a limited number of typographical corrections.

His Honour Judge Willans

12 August 2019