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**IN THE FAMILY COURT SITTING AT OXFORD**

**IN THE MATTER OF THE CHILDREN ACT 1989 AND IN THE MATTER OF  
[ADAM] AND [ZAYN]**

Neutral Citation Number: [2024] EWFC 267 (B)  
Case no.: OX20P00523

Date: 19 September 2024

Before: HHJ Vincent

**Between:**

**A father**

**Applicant**

**and**

**A mother**

**First respondent**

**and**

**[ZAYN]**

**(through his children's guardian, LC)**

**Second respondent**

**and**

**[ADAM]**

**Third respondent**

The applicant father did not appear at the final hearing and was not represented  
Jacqueline McIntosh, instructed by Brethertons, solicitors for the respondent mother  
Victoria Haberfield, instructed by NYAS, for [Zayn], through his NYAS caseworker LC  
James Nottage, instructed by Duncan Lewis, solicitors for [Adam]

Hearing dates: 10, 11 and 19 September 2024

**Approved Judgment**

## Short judgment

1. [Adam] and [Zayn] are brothers. The Court has already ordered that [Adam] should live with his dad and [Zayn] should live with his mum.
2. At the final hearing, I had to decide what the arrangements should be for [Adam] and [Zayn] to spend time with each other, and what contact they should have with the parent they don't live with.

## [Adam] and his mum

3. [Adam] does not want to see his mother. She loves him and she would love to have the chance to spend time with him. But she respects his wishes not to see her. I have not made an order for direct contact between [Adam] and his mother.

## [Zayn] and his dad

4. [Zayn] does not want to see his dad, but he would like to exchange cards and gifts for birthdays and Eid. [Zayn]'s dad does not want to make [Zayn] see him if he doesn't want to, but so the situation is clear, I have made an order that [Zayn]'s dad will not take him away from his mum. I have ordered that [Zayn] and his dad can send each other cards and gifts for birthdays and Eid.

## [Adam] and [Zayn]

5. After their parents split up in 2019, [Adam] and [Zayn] lived with their mum. They saw their dad at weekends and in the holidays.
6. In May 2020 [Adam] went to live with his dad. [Adam] said his mum had hurt him and he didn't want to live with her anymore. [Zayn] was confused because he had never seen his mum hurt [Adam]. [Zayn] was worried that their dad had kidnapped [Adam]. He worried about whether [Adam] was ok, and he worried that his dad was going to take him to live in London too.
7. [Adam] tried his best to reassure [Zayn] that he was safe and happy with his dad. But at the same time [Adam] and their dad kept saying bad things

about their mum. [Zayn] was very confused. He knew he was safe with his mum, and she loved him, and that she is a great mum. But his brother and dad were telling him she was bad.

8. [Zayn] didn't like them saying bad things about his mum. He got more and more worried that his dad and [Adam] wanted to take him away from her.
9. [Adam] is certain that his mum is bad and that his dad is good.
10. [Adam] says he wants [Zayn] to tell the truth. But [Zayn] thinks this means [Adam] wants [Zayn] to say bad things about their mum, or to say that he wants to go and live in London. [Zayn] does not want to say bad things about his mum and he does not want to go and live in London.
11. [Zayn] loves [Adam] and wants to see him and spend time with him. But all the time [Zayn] is with [Adam], he worries about what [Adam] might say to him about the mum and dad situation. These worries were getting really bad. [Zayn]'s teachers were worried about him.
12. In April 2023, [Zayn]'s dad didn't bring him back to his mum's house after [Adam], [Zayn] and their dad had spent the day together. The police were called. In a short video clip [Zayn] did say that he wanted to go and live in London with his brother and dad, and he would not be scared and he thought he could do it. But afterwards, he said to his mum and to his teacher that he did not mean that, and he wants to stay living with his mum. After that time, [Zayn] became very worried that his dad was going to take him to live in London.
13. [Zayn] misses his brother a lot. It is understandable that sometimes he says he wants to live with his brother, because then he would get to see him every day. At the same time [Zayn] would be very unhappy if he was not living with his mum. [Adam] has said that it is their mum's fault that they have not seen each other. Sometimes [Zayn] has felt [Adam] blames him too. This makes [Zayn] upset. [Zayn] still worries his father may try and take him away.
14. [Adam] and his father think that [Zayn] does not need to be worried.

15. But the trouble is that [Zayn] does worry about all these things. Telling him he has no reason to worry and that it is his mum's fault, or telling him that he needs to 'tell the truth', will not make his worries go away.
16. These are the reasons that I have ordered that the time [Zayn] spends with [Adam] must be supervised. If they are spending time together face to face or on a video call, there needs to be someone there. That person can help [Adam] by showing him the things he says which sometimes upset [Zayn]. They can help [Zayn] to manage his feelings and can stop the call if he is getting upset. The person can make sure the time the boys spend together is relaxed and happy.
17. [Adam] and [Zayn] can also send each other cards, letters or gifts, but their mum will look at them before she gives them to [Zayn], to make sure they do not say things that may make him upset or worried.

### Travelling abroad

18. [Adam] is nearly fifteen and wants to travel and go on holidays. He does not want to go and live in another country. His home is in London. But he should be allowed to travel and see the world.
19. The order I have made allows his dad to take him abroad for up to a month without needing permission from [Adam]'s mother or the Court. This is the same for the mother and [Zayn]. She too can take him on holiday for up to a month without needing permission from his father or the Court.
20. However, because the parents both have parental responsibility for their sons, it is expected that they tell the other parent where they are planning to go, flight details and dates of travel.

### Name change

21. [Adam] asked the court to change his name. I thought about this carefully, but I have decided to refuse permission. I will explain why.
22. [Adam] has a very strong wish to change his name, because he believes his mother to be a bad person. He has said this a lot of times. However, it is not a proved fact that the mother has hurt [Adam]. [Adam] says his

mother is the one who stopped contact with [Zayn], but this is not true. It was the court's decision that the contact should be supervised. [Adam] did not accept that condition.

23. The court needs to make decisions on the basis of proved facts, not just because one person has a strong feeling.
24. [Adam]'s second name is the same as [Zayn]'s second name. Allowing the name change would separate the boys further, as they would have different names. That could be harmful to them both.
25. [Adam]'s name on his birth certificate is [name A]. His name was changed by the French authorities to [name B]. The court has not seen the paperwork that shows how that change was made.
26. [Adam]'s father's birth name was not [name C]. There is no statement or other evidence to tell me how he chose [name C].
27. I do not think it is a good idea to change [Adam]'s name when I have not seen the documents which show how [Adam]'s name was changed from [name A] to [name B]. I do not think it is a good idea to choose [name C] as a new name when I have not been given information to tell me how [Adam]'s father came to choose this name, and what it means for the family.
28. If I changed the name now, without having the full information, I would worry that [Adam] may have difficulties travelling in the future, or applying for a passport in his new name.

## Conclusion

29. [Adam] and [Zayn] love each other. They miss each other and they want to see each other. They can see each other, but they do need help from a grown-up to supervise the time they spend together.
30. I hope that now the family case has finished in court, [Adam] and [Zayn]'s parents will be able to support the boys to spend time with each other, supervised by a grown up.
31. If that works well, it may be that after some time, [Zayn] and [Adam] won't need to have a supervisor there. But that can only happen if [Adam] is ready to take the first step.

32.I wish them both the best for the future.

HHJ Joanna Vincent  
Family Court, Oxford  
19 September 2024

## Long judgment

1. The parents have two sons; [Adam], who will be fifteen [next month], and [Zayn], who will be ten just a few weeks later.
2. The mother was born in France and is a French citizen. She has [country name redacted] heritage. The father reports that he was born in [country A], but the mother has been given to understand that he was born in {country B}, which is where members of his extended family live. The parents met in this country and both children were born in England.
3. The parents separated in the summer of 2019. Upon separation the children were living with their mother in Oxford, and spending time regularly with their father, who had moved to London.
4. In May 2020 the father kept [Adam] with him after contact. [Adam] has remained living with his father ever since.
5. Contact between the [Adam] and his mother and [Zayn] and his father then ceased. There were some sessions of contact between the boys, supervised by a family friend, but these stopped in September of that year. During the course of proceedings, contact started up again, moving from virtual, to a contact centre, and then unsupervised. There was a time when [Adam] was staying some weekends with his mother and [Zayn] some weekends with his father. However, over time, the situation for this family has deteriorated. [Adam] does not see his mother. [Zayn] does not see his father. The boys have not seen each other at all since February 2024.
6. The father issued his application in the family court on 7 September 2020. This final hearing comes a week after their fourth anniversary. On any view the proceedings have taken far too long, and manifestly, have achieved little. The father has chosen not to participate in the final hearing. [Adam] remains vehemently opposed to seeing his mother, speaks of her in only the most vitriolic terms, and wishes to have nothing to do with her.
7. [Zayn] has not seen his father since April 2023. [Zayn] has consistently expressed fear and anxiety at the thought of spending time with his father.
8. Both boys miss each other enormously. [Zayn] asks after his brother every day, and is sad and unhappy not to be seeing him. At the same time, he has continuously presented as being intimidated and stressed by the interactions they have had, causing him to suffer emotionally.

9. Court orders were made for [Zayn]'s contact with both his father and his brother to be supervised, but neither the father nor [Adam] have been willing to engage with contact on those terms.
10. In trying to understand how we have arrived at this position, I have set out at some length the events following separation, and the history of the family court proceedings. That includes notes of what the parents or the boys have been reported to have said at different times. It may well be that the parties do not accept that those particular words were used, or they may say that the person speaking them was not being truthful. I have not investigated every matter in dispute, but nonetheless, do consider it helpful to set out the history as it appears from all the evidence I have heard and read, acknowledging that many of the matters in dispute have not been the subject of cross-examination in court.
11. In 2017 the police made a referral to social services, as they had received a report that the father had perpetrated abuse against the mother, including making the children watch him hit the mother. The police did not apparently take any further action to investigate these allegations, and nor did social services, as they understood the parents to have separated. However, the parents did resume their relationship thereafter, and only separated finally in September 2019.
12. In May 2020, when [Adam] stayed with his father, there was a further referral to social services, as a result of an anonymous call made to them reporting that the mother had lifted [Adam] up by the collar of his t-shirt, and on another occasion earlier in the week, had grabbed him by the arm.
13. In July 2020 the mother reported to the police that she had been receiving constant abusive and harassing messages from [Adam], but she believed them in fact to have come from his father's number. She had received around 1200 messages and constant calls, saying that [Adam] hated her, and that he wished she would die or disappear as it would make his life better.
14. The father's application for a child arrangements order was issued on 7 September 2020. The mother cross-applied on 21 September 2020.
15. [Adam] had two very brief interactions with his mother in October 2020, each lasting no more than a minute or so, but mostly continued to receive messages from him saying things like *'you will never see me'*, *'don't send the link'*, and *'I will never speak to you.'*
16. In October 2020 District Judge Rana made directions for section 7 reports to be filed. Contact was to take place by Zoom three times a week and once a week in person, to be supervised.



17. Contacts between [Zayn] and [Adam] were taking place three times a week by video link. Between May and September 2020, the boys saw each other about ten times at the home of family friends in Oxford. There was lots that was positive about the video contacts, but also [Zayn] was often reported as being distressed and confused and needing reassurance, because of the things that were being said to him about his mother, and about him moving to London. [the mother] alleged that the contacts were being controlled by the father. The father said it was the mother who was controlling them.
18. Oxfordshire County Council had carried out a children and family assessment over the summer, which was at the time of the national lockdown due to the coronavirus. On 25 September 2020 it produced a detailed report for the Court, which was then expanded and updated into a formal section 7 report dated 20 January 2021. A section 7 report was also prepared by the London Borough of [X], as that is where [Adam] was living.
19. By January 2021 [Adam] was saying that his happiness was 10/10 when he was with his dad, dad's girlfriend and brother, and 0/10 being with his mother, who he said he did not miss at all. He said that his mother would hit him, pinch him and hit him on his hands with a wooden stick, causing pain at a level of 9/10 (very painful that makes him cry). He could not recall when he last got hit by his mother but said it was a long time ago. He said this happened to both him and [Zayn], but he could not recall when this happened. He told the social worker his mother was cruel, did not allow him to see friends, shouted and 'did bad stuff'.
20. The father's reported account to the reporting social workers was that the mother would not harm her children, and that he had not seen her physically chastise the children in his presence. He said [Adam] sometimes told him he got a tap on the hand from his mother. This issue apart, [Adam]'s complaints were echoed and reinforced by the father, who also supplied a long list of criticisms of the parenting he said the boys had received from their mother.
21. The main concern of the reporter from London Borough of [X] was the ability of the parents to co-parent together and that the children were being involved in adult disputes. The reporter recommended that [Adam] stay living with his father and [Zayn] with his mother.
22. This was also a significant concern of the reporter from Oxfordshire, who also recommended that the children remain living with the parent they were currently with. However, she did express some other significant concerns, in particular:
  - (i) [Adam]'s presentation throughout the summer. Apart from the alarming messages he had been sending to his mother, and what he had been communicating to [Zayn], the reporter noted that [Adam] was sad all the time

and struggling to sleep. He and his father said this was a result of his mother's treatment of him. The mother was of the view that it was his father's influence;

- (ii) [Zayn]'s increasing stress and anxiety. The video calls were said to be becoming a source of great distress to [Zayn], lasting for three or four hours at a time, invariably ending in the children fighting about their mother, [Adam] was noted to have been taunting [Zayn] and saying that their mother was an 'evil devil';
- (iii) The allegations of domestic abuse, controlling and intimidating behaviour throughout the relationship, and if true, the potential impact on each of the children.

23. At a hearing on 3 March 2021 before District Judge Devlin, the court adjourned the mother's application for a guardian to be appointed. The mother was directed to file a schedule of allegations, and the father to respond to it, so that the Court could consider whether a fact-finding hearing was required.

24. The next hearing was to be listed before District Judge Devlin on the first available date after four weeks, but I have not seen an order from that hearing.

25. A letter from [Zayn]'s school dated 4 May 2021 (he had started in year 1 in September 2020) expressed concern *'by the impact of the long zoom calls [Zayn] has with his brother. The court order states these are 3 times a week and can be up for up to 2 hours long and can go on until 8pm'*. Concern was expressed that all these calls took place on school nights, that [Zayn] was very tired the next day, and that he was suffering emotional abuse, because his brother was saying derogatory things about his mother. The school felt it was inappropriate for [Zayn], at only six years old, to be responsible for bringing the calls to an end if he felt uncomfortable, and suggested the calls be supervised.

26. At a hearing on 2 September 2021 before HHJ Lloyd-Jones it was recorded that the children had indeed been joined as parties to proceedings at the previous hearing, and NYAS appointed as the children's guardian, but a guardian had not yet been appointed. The hearing was adjourned. In the meantime, a direction for the children to continue to see each other in a contact centre every fortnight was made.

27. It appears that there was a hearing on 14 October 2021 before District Judge Devlin, but again I have not seen the order. It would appear that a decision was made not to have a separate fact-finding hearing. The parties were directed to file statements and a final hearing was to be listed. It seems that NYAS had yet to appoint a guardian.

28. The next hearing was on 23 December 2021, again before District Judge Devlin. The final hearing that had been listed in February 2022 was vacated, and the time for filing statements re-timetabled. The recital to the order says this was to accommodate the father's solicitor at the time, who was acting pro bono and was not able to attend the final hearing on the date given. Directions were also made in respect of an application the father had issued for permission to take [Adam] out of the jurisdiction to [country names redacted], and on a separate trip to [country name redacted] in January 2022, when he was attending a work conference and wished to take [Adam] with him. NYAS was still not represented at the hearing.
29. The next hearing was on 31 March 2022 before District Judge Devlin. SM, NYAS caseworker had been appointed to represent the children, and he was represented at the hearing. Directions were made for the children to continue to have contact with each other twice a month at a contact centre, for SM to prepare an initial analysis document, to be supplemented by an addendum report following observation of a direct contact session between the children in May half term.
30. At a hearing on 5 May 2022, once more before District Judge Devlin, the Court recorded a measure of agreement. This was largely informed by SM's report, dated 29 April 2022.
31. [Adam] had expressed clearly and unequivocally that he did not want to see or spend any time with his mother. He called her [mother's first name], not mum, and he said that she *'had caused a lot of trouble for me in keeping me from seeing my brother'*. [Zayn] was desperate to see his brother, and like [Adam], was very sad that they were apart. [Zayn] did not know anything about the court proceedings, but did have a clear sense that it was his father who had 'kidnapped' [Adam]. In contact the boys were observed to talk fondly of life before the parents separated and shared happy memories of places they had been to together. SM made a clear recommendation that contact between the boys should take place, and should not be supervised or within the confines of a contact centre.
32. SM did not consider there was any basis for the Court to investigate the mother's allegations of abuse against the father, nor the father's allegations that [Adam] had been subject to 'abusive treatment' by his mother. SM felt the father was showing signs that he could work co-operatively with the mother. SM saw that [Adam] was not engaging with his mother and was blaming her for the difficulties he was having in not seeing [Zayn], but SM did not consider that to be the case. He found her to be helpful and understanding throughout.
33. Orders were made providing that [Adam] should live with his father and [Zayn] should live with his mother, with questions relating to arrangements for the children to spend time with the other parent and with each other still to be resolved.

34. In the meantime, the order provided for [Adam] to have contact with [Zayn] and his mother every other Sunday in Oxford, and in the intervening weekend for [Zayn] to have contact with [Adam] and his father on Sundays in London between 10.00 a.m. and 5.00 p.m. The boys were to have virtual contact once a week.
35. It was agreed that the father could travel to [country X] with [Adam], but otherwise a prohibited steps order was put in place preventing him from travelling abroad with [Adam]. SM was to update his report and a further hearing was to be listed.
36. On 5 August 2022 the Court listed a final hearing with a time estimate of three days, at which the following issues were to be resolved:
- Contact between the siblings and their parents;
  - Travel to both Hague and non-Hague convention countries;
  - [Adam]'s wish to be known by a different surname;
  - Who should hold passports for the children.
37. Because the father had applied for travel to non-Hague Convention countries, the case was re-allocated to a Circuit Judge and listed for a final hearing on 7, 8 and 9 November 2022.
38. HHJ Moradifar saw the parties at pre-trial review when he adjourned the final hearing, but retained 9 November 2022 for a directions appointment. SM had raised the issue of whether [Adam] should be separately represented, as [Adam] had expressed the view that he lacked confidence in NYAS to represent his wishes and feelings adequately and wished to be separately represented.
39. In October 2022, Dr P from CAMHS, who was working with [Zayn], raised concerns about the impact that contact with his brother and father was having on [Zayn].
40. At the hearing on 9 November 2022 arrangements for alternate weekend contact to take place in Oxford were made. It was agreed that the father could travel with [Adam] to [country name redacted] where the father was due to have medical treatment. The father had asked the mother if [Adam] could stay with her, and she had willingly agreed, but [Adam] had refused to go, so the plan was for him to travel with his father. Partly in response to the concerns from CAMHS, and from his own investigations, SM recommended that contact for [Zayn] needed to go at a slower pace. It was reduced to fortnightly in Oxford, for a maximum of six hours with each parent, and the video calls reduced to 45 minutes.
41. The matter was then listed before me for a final hearing on 25, 26 and 27 January 2023, and for pre-trial review on 16 January 2023.

42. On 16 January 2023 the father brought [Adam] to the Court building with him. I did not consider it appropriate for [Adam] to come into the Courtroom. At that time, contact was progressing well, and the parties together invited me to adjourn the final hearing and to list a shorter hearing to review contact and consider making final orders by agreement at that point. In the event that [Adam] sought to be separately represented in the proceedings, I invited his solicitor to make a formal application.
43. Unfortunately, around that time SM went on long-term sick leave, before having to retire unexpectedly on 24 March 2023. It was unclear when a replacement could be appointed.
44. At a hearing on 30 March 2023 HHJ Lloyd-Jones directed that [Adam] could be separately represented.
45. By then contact had progressed to a pattern whereby it was taking place in Oxford every other weekend. On one day the father was spending time with [Zayn] and [Adam], on the other, [Adam] was spending time with [Zayn] and his mother. It was agreed that [Adam] could travel on his own to Oxford and stay the night with his mother. Video calls were continuing once a week.
46. The father reported no issues with the contacts between him, [Zayn] and [Adam]. The mother said the contacts with her, [Adam] and [Zayn] were going pretty well, there was a bit of normal sibling arguing. Sometimes [Adam] did not want to speak to her in contacts, but generally he was talking to her, particularly when sharing his interest in cars. They had been having some discussions about going to France in the summer and visiting Monaco.
47. However, she reported that [Zayn] was very anxious in the days leading up to contact with his father. [Zayn]'s school continued to be very concerned *'about [Zayn] and the negative emotional impact meeting with his father has on him.'* In an email to the mother's solicitor, the safeguarding lead reported the following:

*'he feels very angry – when he talks to his brother, his dad is telling him bad things to say about his mother.*

*His dad tells him that his mother is the devil, and she is evil.*

*His dad tells him that his mother used to hit both him and his brother.*

*He doesn't want to see his dad and wishes his dad lived in another country.*

*He is scared of his dad. he just wants to do nice things with his mum. Dad makes him do things he doesn't want to do.*

*On his last visit last weekend – dad left him at his friend's house, [Zayn] didn't know the man and was just left watching TV for most of the day. The TV programme he watched sounds very unsuitable for his age.*

*On this contact visit, [Zayn] said that dad took him back very late – later than he should have it was dark – [Zayn] was worried and dad said I don't care if your mum is waiting*

*[Zayn] says that his dad isn't nice to him*

*[Zayn] is withdrawn in school and when he talks about how unhappy he is he talks with a stammer.*

*[Zayn] has displayed other symptoms of stress, stomach problems, sickness and diarrhoea – Dr P of CAMHS is of the opinion is that [Zayn]'s emotional state is impacted by contact with his brother and father and is affecting his health.'*

48. On 2 April 2023 an incident happened at handover. The police were called. [Zayn] and the mother have a very different account of what happened compared to [Adam] and his father. This incident is the subject of findings I make later. At school the next day [Zayn] is reported as having told his teacher that his father was dead. His teacher spoke with him and clarified this was not the case, but [Zayn] is reported to have told his teacher that his dad had, *'locked him and his brother in his car and refused to allow them to leave and for [Zayn] to go home with his mum. [Zayn] said he was on the back seat and was crying. His mum had to phone the police. [Zayn] said the police spoke to his dad and he let him out of the car and was allowed to go home with his mum. [Zayn] has said he feels really scared and expressed that he doesn't want to spend time with his dad.'*
49. [Adam] and his father have reported that this was not the case at all. On their behalf it is said that [Zayn] expressed clearly to them that his mother was slapping him and hurting him and that he wanted to move to London with them.
50. This date marks a significant backwards step in the arrangements for the children to spend time with each parent and with each other.
51. On 24 April 2023 at the pre-trial review, there was still no NYAS caseworker, which put the final hearing (listed for 22, 23 and 24 May 2023) in jeopardy, as it was unlikely that a final analysis from NYAS could be filed. The need for [Zayn]'s views to be represented to the Court was pressing because there had very recently been a further difficult handover, following which [Zayn] had presented as distressed and emotional, leading to his school once again expressing concern for his emotional wellbeing.
52. The father and [Adam] were adamant that [Zayn] was saying something very different to them, that contacts were relaxed and joyful, and that the boys very much enjoyed time together.
53. On the first day of the final hearing on 22 May 2023, LC had only just been appointed as the NYAS caseworker. She had not been able to file a final analysis in the time available, so the final hearing could not be effective. She had however met with

[Zayn] and done some direct work with him, and a detailed position statement was filed on her behalf. She was very concerned by [Zayn]'s level of anxiety about contact with his father and brother. She had carried out the 'three island exercise' with him. [Zayn] put himself, his mother, his imaginary friend, toys and a Ferrari car on the 'Forever island'. The 'island of Sometimes' has a bridge and a gate to which [Zayn] was given the key. [Zayn] put [Adam] there, and said he would open the gate every day for [Adam] to come over for a bit. The 'island of Far Far Away' was at a distance from [Zayn]'s island, with shark-infested waters between them. [Zayn] placed his father on this island, but then drew in additional security, machine guns and lasers around it. He then asked if he could draw two further islands where the weapons and bullets could be stored. LC considered [Zayn]'s choices to represent his feelings of insecurity and a lack of safety around his contact and relationship with his father.

54. LC's view at that stage was that the case could not properly be resolved without a psychological assessment of the family. On the first day of the final hearing on 22 May 2023 I acceded to the application for expert assessment and adjourned the final hearing yet again.
55. Unfortunately the case was not progressed in the way hoped. Neither the father nor [Adam] agreed to participate in the instruction of the expert, nor to attend any sessions with them. Since 27 May 2023, the children had not been having consistent contact with one another. [Zayn] was not seeing his father at all, the father stating that he would not attend contact with him unless it was unsupervised. I directed that [Zayn]'s in person contact with [Adam] should also be supervised, and he too did not wish for this condition to be in place, so chose not to have contact with his younger brother. The Monday evening Zoom calls continued, although not quite as regularly as before.
56. The father, who until then had been represented at all hearings except the one on 16 January 2023, sought permission to appeal my decisions, but he filed it in the wrong Court, and the appeal was not considered until 11 April 2024 (permission to appeal dismissed). Eventually I discharged the instruction of the psychologist because there was little point in a global assessment of the family where only two out of four of them were willing to participate. It is unfortunate that the court has not had the benefit of this professional expert assessment which was determined to be necessary to help the court and all parties resolve the difficult issues in this case.
57. HHJ Tolson KC saw the parties on 10 July 2023 to hear an application by the father for permission to travel to [country names redacted]. The application was refused.
58. Concerns about the impact of contact on [Zayn] were increasing in November 2023. [Adam] had written to the school asking to come and meet with [Zayn] in person. [Zayn] was becoming very distressed and was feeling pressurised by [Adam] trying to make arrangements directly with him for meeting up, with offers of presents. [Zayn]

was reported to be feeling blamed by [Adam] for not seeing him. [Adam] had been looking at [Zayn]'s school website with him. [Zayn] was becoming increasingly anxious that his father and brother may turn up in Oxford without warning. [Zayn] was upset by some negative comments [Adam] made to him, teasing him about his haircut. Out of character, [Adam] did not turn up to two virtual contacts in December, which made [Zayn] very worried about what had happened to him.

59. At a hearing before me on 5 February 2024, [Adam] had emailed his solicitors that morning, informing them he did not wish them to act for him anymore. His solicitors had not had a chance to take proper instructions, so very little could be achieved. Following the recommendation of LC, I did however make an order that indirect contact should be changed to a different time of day and be supervised by a third party. [Adam] has not participated in any contact with [Zayn] since that time. In discussion with the NYAS caseworker following the hearing, [Adam] did not accept that he had said anything to upset [Zayn], and said he had recorded all sessions of the video calls.
60. In February 2024 there was a multi-agency professionals' meeting for [Zayn]. He was described as, *'anxious and unhappy, he worries about his brother's safety and about his calls with his brother'*.
61. The next hearing was on 14 May 2024. [Adam] had instructed his new solicitors Duncan Lewis. I discharged the direction for the psychologist, and provided for final evidence to be filed.
62. At a hearing on 28 August 2024 it was clear that the parties remained in dispute about the arrangements for the children to spend time with the other parent and with each other, whether or not the prohibited steps order should remain in place, and the question of [Adam]'s surname, which he first raised in May 2022. No party sought permission for [Adam] to attend the final hearing or give evidence.
63. The final hearing took place on 10 and 11 September 2024.
64. At around 9.00 a.m. on the first day of the hearing, the father sent an email to the Court expressing his dissatisfaction with the court process and indicating that he intended to withdraw his application.
65. Rule 29.4 of the Family Procedure Rules 2010 provides that an application may only be withdrawn with the permission of the Court. His application is concerned with the upbringing of his children and so their welfare is my paramount consideration. I must consider whether there is an advantage to the children in allowing the father to withdraw his application.



66. The father's initial application was for a child arrangements order providing for both children to live with him, or else for [Zayn] to spend significant time with him. The Court resolved the question of where each of the children will live back in May 2022. If he were withdrawing his application, then I would understand the father to be saying that he no longer seeks an order for [Zayn] to spend time with him. However, from reading the rest of his email, which is a lengthy defence of his own position and makes a number of allegations against the mother, NYAS and the court, it would seem clear that the father's position is not that he does not think that there are issues that the Court needs to litigate, but that he does not have confidence that his case will succeed.
67. The question of the arrangements for each of the children to spend time with one another and with the other parent remains a live issue before the Court, because it is the subject of the father's initial application, and also the mother's cross-application for a child arrangements order.
68. The Court also has before it the mother's application for a prohibited steps order and [Adam]'s application (agreed by all parties deemed to be made in May 2022) for a change of surname.
69. The father remains a respondent to these applications. He has been well aware of the issues in the case, filed statements in evidence, and has attended all previous hearings, including the most recent pre-trial review hearing. That he has chosen not to participate in the final hearing is a matter for him. From the lengthy chronology I have set out, it is clear that the issues in the case need to be resolved. It would unquestionably be to the detriment of both children not to proceed with the final hearing and to resolve the issues that have been before the Court for so long.
70. For all these reasons, to the extent that it needs to be determined, I am not satisfied that it is appropriate to give permission to the father to withdraw his application at this very late stage of the proceedings.

## The law

71. The law is set out at section 1 of the Children Act 1989. The children's welfare is the court's paramount consideration. The court's welfare assessment must be informed by an analysis of the factors in the welfare checklist under s.1(3).
72. Section 1(2) provides that any delay in determining a question with respect to the upbringing of a child is likely to prejudice the welfare of that child.
73. Section 1(2A) provides a presumption in favour of both parents being involved in a child's life unless that is proved to be contrary to the child's welfare. That involvement need not be equal and may be direct or indirect (s.1(2B)).

## The evidence

74. I heard evidence from the mother and from LC, the NYAS caseworker, and submissions from their representatives, as well as from Mr Nottage, representing [Adam], who did not attend the final hearing.
75. I have reviewed all the evidence in the bundle, which includes audio and video recordings submitted by the father and the mother. I have considered a number of statements filed by the father and the mother, as well as the reports of LC, her predecessor SM, and from the local authorities that were working with the family back in 2020. I have seen the records from the earlier supervised contact sessions, documents disclosed by the police, some information from the children's respective educational settings, and a report from CAMHS about [Zayn]. Both children have written to me, and I have met with [Adam] twice during these proceedings.
76. The mother gave evidence calmly and clearly, and her recollections of events were consistent with what she has set out in the witness statements filed with the Court. It was clear that she loves both her sons beyond measure. She misses [Adam] and is desperately sad that she is not seeing him, and that she has no information about how he is doing, how he is spending his time, his education or his interests. She told me that [Zayn]'s daily distress at not seeing his brother is very hard to see, and that every single day he asks to see [Adam]. The night before the final hearing, an arrangement had been made finally for the boys to meet on Zoom, supported by their maternal grandfather. He speaks only French. [Adam], [Zayn] and their mother used to speak French together at home, but it would be understandable if [Adam] did not feel so confident to speak French any more. [Adam] had thought that LC was going to be available to supervise this contact, but she was not. [Adam] cancelled the contact. This was a great disappointment to [Zayn]. It is unfortunate that [Adam] was not able to appreciate this and to find a way to join the call even for a short time to say hello to his brother.
77. The mother did not seek to criticise either [Adam] or his father. Her focus was clearly on her sons' welfare. Over the years since the parties' separation, the mother has worked with the local authority, with [Zayn]'s school, with CAMHS and the NYAS caseworker. Every single report from every one of these professionals praises her as a kind, loving, caring mother who is patient, warm and affectionate to her children, has supported their education and interests outside school. A lot of generalised allegations have been made against her, but at no point in these proceedings has the father ever alleged that she has been physically abusive to either of her children. He did not say so in his application form, and did not put forward a schedule of allegations in response to the mother's schedule.

78. LC's evidence is contained in her final analysis, which contains a comprehensive overview of the issues, and a fair and balanced approach. In her conclusion, she says:

*'[Zayn] has consistently shared his desire to have a relationship with his brother. He gives [Zayn] increased confidence in himself. [Zayn] has reported (as has [the mother] who has overheard) that at times following the Court order that contact between him and his father should be supervised, his brother has blamed him for not seeing each other and said other things which [Zayn] has reported caused him to be sad and anxious. [Zayn] is desperate for a relationship with his brother, and the caseworker does not believe he would wish to create unnecessary worries which may then prevent that. Whether it is the underlying fear that [Zayn] has about his father and risk of being taken to London which is fuelling these, the emotions he has experienced following these discussions have felt real and caused him anxiety, which again has been witnessed by school and CAMHS. Unfortunately, we do not have the benefit of a psychological assessment which would have been able to provide greater clarity on the discrepancy in how [Zayn] shares information and what [Adam] and [the father] report.'*

79. LC does not recommend direct contact between [Zayn] and his father or his brother. She says that any video contact between [Zayn] and [Adam] must be supported by a person with an awareness of the issues. She weighs up carefully the benefits of contact for the brothers but also considers the significant concerns, shared by CAMHS and [Zayn]'s school, of the negative impact of contact upon [Zayn]. It has been noted that although [Zayn] has been very sad not to see his brother, and asks after him every day, his anxiety levels have been greatly reduced and he has been very much more settled since he has not been having contact. LC weighs in the balance the lack of alternative supervisors, [Adam]'s anger towards the current situation, and his position that he will not agree to any contact with his mother as supervisor. [Adam] has said he would be prepared to agree to a different person supervising contact. I have not been given any proposals as to who that supervisor might be. There would need to be a contract setting out expectations of behaviour, and an agreement about what information about the family proceedings might need to be shared.

80. In the meantime, LC recommends 'static' indirect contact, by which she means sending cards or emails. Again, these communications should in LC's view be supervised; her recommendation is that the mother screens all such communications before passing them to [Zayn].

81. Appended to her report is a letter from [Zayn] to me, in which he says that he is missing his brother and he would like to see him every weekend with his mum, just as happened before. [Zayn] is clear he does not want to go to London. He says he worries his brother 'may still say things to me that make me sad but it is better if mum is there'. For the same reasons he would like video calls to be supervised.

82. He says he does not feel comfortable when his dad is in the meeting, and he does not want contact with his dad, even if it was supervised. He does not want to write to him or have video calls, but he would like to exchange cards for birthdays and for Eid.
83. [Adam]’s wishes and feelings have been conveyed to me clearly by his barrister Mr Nottage, in letters he has written to the Court, and in two meetings we have had. [Adam] is highly articulate, clear of his own views, and he was not shy in telling me exactly what he thought. In these ways he comes across as confident and mature for his age. In other ways, he still sounds very much like the ten year old boy he was in 2020, who saw things very simply; his mother was a zero, and a devil, his father was a ten out of ten. [Adam] is very fixed on achieving what he considers to be his rights to live with his dad, his right to see his brother, to travel and to change his name. He has shown less ability to see things from other’s perspectives, particularly [Zayn]’s.

## Findings

84. I am invited by the mother and the NYAS caseworker to make the following two findings in respect of the incident on 2 April 2023:
- (i) The father attempted to retain [Zayn] following contact in breach of the court order;
  - (ii) The father coerced [Zayn] into making a recording.
85. I have considered each piece of evidence in the context of the evidence as a whole. The father has in the end dealt with this incident very briefly in his final statement of evidence to the Court. He does not give any particulars of the events and says only that he considers the police evidence will show the truth of what happened. He chose not to come to Court to give oral evidence or to put questions to the mother to challenge her version of events.
86. I have reviewed the video and audio recordings he supplied and had regard to the police disclosure.
87. I am satisfied, to the standard of a balance of probabilities, that the father did attempt to retain [Zayn] following contact on 2 April 2023, and that this was in breach of the court order of 30 March 2023, which provided that contact was only to take place in Oxfordshire, and that neither parent was to retain their ‘non-resident’ child after the agreed period of contact.
88. The parents had agreed that [Zayn] was to be returned to the mother at 4.00 p.m.
89. The father kept [Zayn] in his car for forty-five minutes following the end of contact. When he spoke to the police he told them that [Zayn] had asked to come to London

with him and his brother. Following investigation, the police discovered the existence of the court order and arranged for [Zayn] to be returned to his mother's care.

90. I have listened to a twenty minute audio recording at the start of which [Zayn]'s voice can be heard very hesitatingly saying *'it is hurting so much – she almost erm – made me – she kept on'*. It is not clear what he is suggesting. His father asks [Zayn] to go on and say more, but at just that moment the police arrive, and he goes to speak with them. The two boys sit in the back of the car. [Zayn] does not say anything more about his mum, and he does not at any time say to [Adam] or the police that he wants to stay with his dad. [Adam] repeatedly reassures [Zayn] that the police are good people, that they are there to help and they can be trusted. [Zayn] is sometimes playful, taking his shoes off and giggling. The police officer comes to speak with them and explains that the court order is in place, and that is what they must stick to, and if [Zayn] wants a change, that is a conversation that will need to be had another day.
91. A short video clip also taken in the car that day shows [Zayn] speaking. He is speaking in an American accent, as if he is doing a voiceover for a commercial. He is smiling and animated as he says the words, but it does seem like a performance. His voice is different from the one you hear in the longer, natural conversation with his brother. He knows he is speaking to an audience, because he starts by saying to the viewer, *'hello!'* He goes on, *'today I am having a good day, and I really want to go to London with my brother and my dad. In their house! And I'm not afraid of anybody! I could do it! It's possible! It's possible! You can learn a language! You can do anything you want!'*
92. Once he was returned home to his mother, there is a significant body of evidence to suggest that he was not expressing his true feelings:
- (i) He spoke to her and told her that his father had made him say this to the camera while he recorded, but he did not want to;
  - (ii) At school the following morning he told his teacher that his father was dead. Then he said no his father had just gone away for a long time, and finally, in discussion, reported that his father had tried to take him to London and this was not what he wanted;
  - (iii) [Zayn] has subsequently reported separately to LC that his father made him say this to the camera.
93. Ultimately, I am not able to reach a conclusion whether [Zayn] was 'coerced' into making this recording. From the wealth of evidence in this case it is clear that [Zayn] has a complex set of feelings about spending time with his brother and with his father.

94. There is a substantial body of evidence to suggest that [Zayn] feels that [Adam] was kidnapped by their father, and this has instilled a deep level of fear in him. He fears for [Adam]’s safety and worries about him in his father’s care. He has also consistently expressed fears that he too may be ‘kidnapped’ and taken to London. He is fearful of being taken away from his mother’s care by his father. For many years he has listened to his father and brother say very negative things about his mother. He has only ever received loving care from her, is clear that he has never seen her be abusive towards [Adam], and he struggles to hear their different view. He is very frightened at the thought of his mother being hurt, or of being taken away from her.
95. At the same time, he loves his brother, looks to him for reassurance and for strength, and is desperate to spend time with him. The concerns around contact are well documented, but there is also evidence of many happy times where the boys have thoroughly enjoyed each other’s company. Similarly, there are some reports of [Zayn] enjoying the time he spends with his father, despite a very high level of anxiety before and afterwards.
96. [Zayn] has accepted [Adam]’s view that it is [Zayn]’s fault that they are not having contact, because [Zayn] has reported things that have led to the requirement for supervision. [Zayn] has really struggled with this. His own experiences have led him to know and understand that unless the contact is supervised, he will not feel safe. However, his understanding is that unless he agrees to contact being unsupervised, he will not get to spend time with his brother. He has said that even though he knows it will be really hard, he would be prepared to do this. He wants this for himself, but also for [Adam], because he knows that is what [Adam] wants.
97. Given this context, it is certainly possible that at the time he made the video, [Zayn] was trying to convince himself that he wanted to go to London with his brother, that he was not scared, and that it was something he could do.
98. I find that the father made the recording and I find that he did so for evidence-gathering purposes. On balance however, I am not able to find that [Zayn] was coerced into making it.
99. Given this complex picture, LC considered (and the Court agreed) that the expert report of a psychologist was necessary to gain a better understanding of [Zayn]’s situation, but that evidence has not been available. Notwithstanding she did not have the benefit of an expert report, LC has carried out a careful analysis of the situation, based on the evidence base she has. LC is absolutely clear that the harm to [Zayn] in having contact without supervision is too great, and outweighs the harm to him in not seeing his brother.

#### Child arrangements orders

100. I have had regard to all the circumstances and to each of the welfare checklist factors set out at section 1(3) of the Children Act 1989.

101. It is agreed that the current orders providing for [Adam] to live with his father and [Zayn] to live with his mother should remain in place. The professional assessments have found no issues with the day to day care provided by each of the parents to the child living with them, or their ability to meet the child's social and educational needs. The difficulties in this case come from the boys' involvement in the parental conflict.

#### Orders concerning [Adam] and his mother

102. Sadly, [Adam] does not wish to see his mother. I will not make any order requiring [Adam] to be made available to spend time with his mother. She has made it clear that she loves him and she would love beyond anything to see him and spend time with him, but she is not seeking an order that would go against his clearly expressed wishes.

103. As she has parental responsibility for [Adam], she is entitled to receive information about his education, if he travels abroad, about where he is, and about his health generally and any medical emergencies. It is his father's responsibility to provide this information to her, and the order shall make that clear.

#### Orders concerning [Zayn] and his father

104. The father is not seeking an order for [Zayn] to spend time with him. In any event, having regard to all the evidence, I find that face to face or video calls between [Zayn] and his father have caused [Zayn] significant emotional harm and the risk of that harm remains. Over the lifetime of these proceedings there have been exhaustive attempts to find a way to lessen the adverse emotional impact upon [Zayn]. The father has not been willing to accept the need for supervision. But in his letter to me, [Zayn] says that he would not feel safe seeing his father, even if contact were to be supervised.

105. The harm to him of not seeing his father is outweighed by the harm that he would suffer if direct contact would resume. For all these reasons the order in respect of [Zayn]'s contact with his father will be limited to the exchange of cards and gifts for birthdays and Eid.

106. The father may exercise his parental responsibility in order to obtain school reports so that he can know how [Zayn] is doing. The school should however be aware of the terms of the order from the Family Court.

107. In addition, the mother agrees to send to the father additional updates about [Zayn] twice a year, and will inform the father of any significant medical issues.

#### Orders concerning [Zayn] and [Adam]

108. [Zayn] and [Adam] love each other very much. They are both suffering as a result of not seeing the other.

109. I find that contact between [Zayn] and his brother needs to be supervised so that it is safe for [Zayn].

110. There is evidence to show that [Adam] is a loving, caring older brother, who reassures [Zayn], can be patient and kind, and enjoys spending time with him and making him laugh.

111. However, at the same time, [Zayn] has also found contact with his brother very difficult to manage, and at times has been very upset and then found it very hard to contain his emotions. He has been extremely worried and anxious before and after contact and this has affected his everyday life. [Zayn] has been upset by things [Adam] has said about their mother. [Adam] puts pressure on him to arrange to meet up, blames [Zayn] for them not seeing one another, and can sometimes say unkind things to him about his appearance. [Adam] has not always been consistent about attending contact and when he has not been there, [Zayn] has become extremely worried about whether he is ok.

112. These worries have been present for a long time, going back to 2020. It is not just the children's mother and LC who have been worried about the impact on [Zayn], but his teachers, his general practitioner, social workers and psychologists who have been working with him from CAMHS.

113. [Zayn] is aware that [Adam] does not think there is a need for supervision. [Zayn] feels [Adam] blames him for saying things to adults that have led to the decision being made that supervision is needed. [Zayn] should not feel responsible for this. The decision was mine. It was based on the information I had about [Zayn] from a large number of different sources.

114. [Zayn] has wrestled with the idea of having unsupervised contact, even though he knows he is likely to feel very anxious and worried about having contact without supervision, he has tried to convince himself he could do it. He is just so desperate to see his brother.

115. I find that [Zayn] is likely to suffer emotional harm if contact were not supervised. As has happened before, he would be very anxious about contact in the days leading up to it. He would be worried about whether [Adam] was going to come



to contact or not. If [Adam] didn't come, [Zayn] would be worried about whether [Adam] was ok. He would be worried that their father would come to contact. He would continue to be fearful of being taken away from his mother. He would be worried that information shared with his brother about his school or what activities he was doing, might be shared with his father and that could lead to his father coming to find him and take him away.

116. [Adam] does not recognise anything he has ever said to [Zayn] as being unkind or putting pressure on him. He says he has only ever told [Zayn] to tell the truth. However, [Adam]'s expectations of the 'truth' that he wants from [Zayn] is very different from [Zayn]'s view. [Zayn] is not able to tell the 'truth' that [Adam] wants to hear from him.
117. LC has weighed up the pros and cons of contact for [Zayn], considered all the ways that the risks might be minimised. In the end she has concluded that it would not be safe for [Zayn] for him to have contact unsupervised.
118. In February, [Adam] said that he would not be willing to have virtual contact with [Zayn] if it was to be supervised. Following a meeting with me in July, he said that he would consider having supervised contact if LC was the one to supervise it. While LC may supervise contact as part of her assessment, it is not her role to supervise contact on a regular basis, and in any event, she will no longer be [Zayn]'s guardian once these proceedings have come to an end.
119. The maternal grandfather cannot speak English so is not the right person to supervise virtual contact between the boys, because they are used to speaking to each other in English.
120. If [Adam] will not accept the mother as the supervisor, then at the moment there is no workable solution. It is hoped that the parents may be able to think of an alternative third party who can carry out this role.
121. I accept LC's recommendations and propose to make the following orders:
- (i) [Zayn] and [Adam] may exchange letters/cards/photographs, but all communication sent by [Adam] must be screened by [the mother] and only provided to [Zayn] if appropriate and will not cause distress;
  - (ii) There may be direct, telephone or video contact between [Zayn] and [Adam] only if supervised by an appropriate adult who is able to understand the children's common languages and intervene if required to ensure contact remains positive.

#### Prohibited steps order

122. The child arrangements orders providing that [Adam] lives with his father and [Zayn] with his mother will contain the following warnings:

**It is a criminal offence to take a child out of the United Kingdom without the consent of everybody with parental responsibility unless the court has given permission.**

**While a child arrangements order is in force in relation to a child nobody may:**

**a. cause the child to be known by a new surname**

**b. remove the child from the United Kingdom**

**without the written consent of every person with parental responsibility for the child or leave of the court.**

**However, this does not prevent the removal of the child from the United Kingdom by a person named in the child arrangements order as a person with whom the child is to live.**

123. So either party may take the child who lives with them abroad for a period of up to one month without needing permission of the other parent or the Court.

124. The mother's application for a prohibited steps order is made because she is worried that the father may take [Adam] out of the country and not return him.

125. [Adam] is a British citizen. He is about to be fifteen and has lived his whole life in this country. He is settled in London. He is not in mainstream school but attends education through a private tutoring arrangement. This is not an Ofsted regulated education provision, but the local authority's home schooling department is aware of the arrangement and satisfied it is appropriate for [Adam]. The father has lived in this country for many years and is also settled here, and is in full-time employment.

126. [Adam] is motivated to travel in Europe and beyond, to see more of the world. He has been to [country name redacted] with his father and enjoyed meeting members of his extended family. His father provided information about flights and dates of travel, and they returned to the jurisdiction as promised.

127. It is to be expected that a parent travelling abroad with their child should inform the child's other parent of where they are travelling to, flight dates and times of travel, in order to reassure that parent that they have plans to return to the jurisdiction. I would expect the father to provide that information to the mother in the event that he seeks to take [Adam] away.

128. I do not consider there is a basis for continuing the prohibited steps order preventing the father from travelling with [Adam].

129. I would however make a prohibited steps order in respect of [Zayn], to make clear that the father is not authorised to remove [Zayn] from his mother's care, nor from anyone to whom she has entrusted his care, and that he is not permitted to take [Zayn] out of the jurisdiction. This order is informed by my findings in respect of 2 April 2023, and by [Zayn]'s heightened anxiety on this front; it may reassure him to know that such an order is in place.

#### Change of name

130. [Adam] has consistently expressed a wish to change his name to [name C].

131. There is no formal application and no witness statement from [Adam] in support.

132. The father supports the application, the mother is opposed as she considers the boys should continue to have the same name.

133. [Adam]'s wishes and feelings are strongly expressed, they could not be clearer.

134. I have considered this issue carefully but at this time, I do not consider that a change of name is appropriate. I will set out my reasons below.

135. A name change is a significant step in a child's life. A child's name is given to him by his parents. A child has a right to those names and the parents have rights to keep the name they chose. Those rights should not be set aside unless there are good reasons to do so. The test to apply is the welfare test and an order for a change of name ought not to be made unless there is some evidence that changing the name will lead to an improvement in the child's life from a welfare perspective.

136. In this case, [Adam] has a very strong view that he wants nothing to do with his mother's name. However, the factual basis for him holding that view remains unclear. Initially he said she had held him up by the front of his shirt and grabbed his arm. Later he said that at times he could not remember, a long time ago, she had slapped him and hit him. At the same time, his father said that the children's mother had never hit them. More recently, [Adam]'s complaint against his mother has been that she is the one that has stopped him having contact with his brother. This is not true. The decisions around contact have all been made by a judge, in light of a large amount of evidence from various professionals of their concerns about the impact of that contact on [Zayn].

137. [Adam] declined the opportunity to speak with a psychologist so that the reasons behind his complete and utter rejection of his mother could be explored. The court at this time does not have a good understanding of how it came about.
138. The court needs to make decisions on the basis of proved facts, not just because one person has a strong feeling.
139. By rejecting the mother's name, [Adam] would also be rejecting [Zayn]'s. I have not received any evidence about the potential impact on [Zayn], but given what I do know about him, his sadness about being separated from his brother, and his feelings that [Adam] does not want to see him, I have significant concerns about the potential impact of this name change on him.
140. [Adam]'s name on his English birth certificate is [name A]. I have not seen the paper trail, but understand from the mother that the children subsequently obtained French passports in the name of [name B]. She reports that their father signed documents giving his consent to [Adam]'s name being changed to [name B], and that he agreed not to apply to change the name in the future.
141. I understand that the father has used a number of different second names in his life, including [name C], [variation of name C], and [name D]. The name [Adam] seeks to take as his own is not in fact the name the father had at his birth.
142. I have reservations about making an order to change a name in circumstances where I have not seen the paper trail that takes [Adam]'s name from [name A] to [name B], and where there is no formal application or evidence to explain the significance of [name C] to [Adam].
143. I would be concerned that he may face difficulties in travelling in the future, or even obtaining a passport, without clear evidence of the previous name changes.
144. For all these reasons, I refuse [Adam]'s request for his name to be changed.

#### [Application for section 91\(14\) order](#)

145. On behalf of the mother, Ms McIntosh raised the question of the Court making an order pursuant to section 91(14) of the Children Act 1989. This places a restriction on the ability of a party to apply to the Court in family cases, by requiring them to seek permission of the Court first.
146. The father did not receive notice of this application and has not had a chance to respond to it.

147. These proceedings have gone on for a very long time. Further applications would likely be harmful to both boys' welfare interests.
148. However, neither parent has a history of making repeated applications to the Court and neither one of them is threatening to come back to the family court in future.
149. [Adam] is nearly fifteen and so the window for making orders in relation to him is limited. It could be unfair for there to be a restriction placed on the parents in respect of applications related to him for the rest of that time.
150. For all these reasons, I will not make an order pursuant to section 91(14).

HHJ Joanna Vincent  
Family Court, Oxford  
*Draft judgment sent 13 September 2024*  
*Approved judgment handed down 19 September 2024*