

NEUTRAL CITATION NUMBER: [2024] EWFC 315 (B)

CASE NO: ZW19P01074, ZW21P00844, ZW22P00393

IN THE FAMILY COURT AT WEST LONDON
IN THE MATTER OF THE CHILDREN ACT 1989

BETWEEN

F

Applicant Father

and

M

First Respondent Mother

and

P

Second Respondent Child

(by her NYAS Case-worker)

DATE: 24 January 2024

Ms Janet Bazley KC and Ms Melissa Elsworth (instructed by Helen Fitzsimons Family Law) for
the Applicant

Mr Paul Hepher (instructed by Stowe Family Law) for the 1st Respondent

Ms Elpha Lecointe (instructed by NYAS) for the 2nd Respondent

COMBINED FACT FIND AND FINAL HEARING JUDGMENT
OF DISTRICT JUDGE SAUNDERS

Introduction

1. The Court is concerned with the welfare of P who is 14 years old. P is currently subject to a Child Protection Plan (CPP) due to concerns around Child Sexual Exploitation.
2. The parties and their representatives are as follows;

- Applicant Father is hereinafter referred to as “F”. He was represented by Leading Counsel Ms Bazley KC and Junior Counsel Ms Elsworth who were instructed by Helen Fitzsimons Family Law.
- Respondent Mother is hereinafter referred to as “M”. She was represented by Mr Hepher who was instructed by Stowe Family Law.
- P was represented by the NYAS Case-worker (Guardian), hereinafter referred to as “G”. G was represented by Ms Lecointe who was instructed by NYAS Legal.

Background

3. The parents were married Islamically. F shares parental responsibility for P, being named on her birth certificate. The parents separated in 2019 and were divorced Islamically the same year. F re-married.
4. Following the parent’s separation in 2019 F applied to the Court for a Child Arrangements Order to formalise living arrangements for P. On 21.01.2020 the Court made a shared care “lives with” order, with a two week repeating pattern of P spending 50/50 time with both parents.
5. On 13.05.2021 F applied to enforce the order of 21.01.20.
6. On 16.08.2021 M applied to vary the order of 21.01.20 from 50/50 shared care to P spending time with F on alternate Sundays from 10am to 8pm.
7. F then issued 3 applications in short succession, the first on 21.03.2022 for a SIO and PSO to prevent M from moving out of the area, the second on 11.05.2022 to vary the 2021 order so that P lives with him and for the instruction of an independent expert.
8. 20.05.2022 I made an order for the shared “lives with” order to continue and various other orders and directions, including refusing a fact-finding hearing on all of the allegations M made against F. Since this time the Court has consistently maintained the order of an equal division of time.
9. M sought to appeal the order of 20.05.2022 on various grounds and the Court at a hearing on 26.08.2022 granted permission, and granted her appeal, on one limited

basis. That being my refusal of any element of fact finding at the final hearing. The appeal court determined the limited allegations mother could pursue.

10. M then filed two further applications, the first on 10.11.2022 to vary the order of 20.05.2022 so that P spends every other weekend with F and the second on 06.04.2022 for the appointment of a Rule 16.4 Guardian and again to vary the child arrangements order.
11. 03.01.2023 I met P at court with a teacher from her school. There is a note of this meeting.
12. I heard evidence and made findings against both parents at a Fact-Finding Hearing (FFH) which took place between 20th and 24th February 2023. There is a written judgment from that hearing, there is also a document of correction and clarification points from the parties with my responses and a composite schedule of findings.
13. As a result of these findings the parties agreed to attend family therapy with Mrs Trish Barry-Relph (TBR) and the 50/50 shared lives with order remained in place. Additionally, the penal notice, PSO ad SIO against M remained in force. The only change was that P was to live with each parent on a week on/week off basis with the handovers to occur at school during the term time.
14. It is fair to say that since that time this matter continues to be beset with allegations and animosity, such that F's representatives have provided me with a 28 page chronology setting out the difficulties that are alleged to have occurred since the FFH. I note that this is not an agreed chronology and I do not use it to come to any determinations in this matter however it is important to highlight the level of conflict between these parents and the situation that P has been and is being subjected to.
15. On 17.04.2023 there was a Directions hearing to establish the progress of the therapy and to see if the parents were in agreement about the future child arrangements for P. Sadly, the parents hadn't been able to agree a therapist and so the court ordered the instruction of TBR, P was joined as a party and NYAS invited to appoint a case worker. P had refused to spend time with F and therefore M was requesting a change in the child arrangements order. Instead, I ordered a staged resumption to the 50/50

week on/week off order which had been previously made. The final hearing was listed for December 2023.

16. On 18.07.2023 there was a further directions hearing where the order made was predominately timetabling to the final hearing, with an additional hearing listed on 25.08.2023.
17. At the hearing on 25.08.2023 the Court invited TBR to continue to work with the parties, I also ordered for two professionals' meetings to take place and relisted the final hearing to 30.10.2023 due to the concerns raised about the harm being caused to P, the cause of the harm being in dispute between the parties. There were further evidence and timetabling directions in light of the new final hearing date.
18. Since 09.02.2022 P has been subject to local authority involvement, on that date an initial child protection conference took place, and she was placed on a CPP under the category of emotional abuse. On 24.01.2023 the CPP was stepped down to a Child In Need plan (CIN). However, on 05.10.2023 P was once again stepped up to a CPP under the category of emotional abuse and as a result of concerns that she was at risk of child sexual exploitation.

During the hearing

19. During the course of the combined hearing two incidents occurred. 30.10.2023 G spoke to P that evening after the conclusion of the day's evidence. This was a relatively short telephone meeting during which the G informed P of what her recommendation was. P became upset and after the call sent four emotional text messages to the G and one to the social worker. On 1.11.2023 P absconded from F's care to the care of M, she remained in M's care until the following morning when she was returned to school.
20. After the conclusion of all of the evidence on 03.11.2023 P again absconded from school when she should have been in the care of F. I will not deal with this incident, or anything which stems from this incident within my judgment. This occurred after the conclusion of the evidence and will not form any part of my decision making.

21. The only party to have directed me to the law has been Ms Bazley and Ms Elsworth on behalf of F. As such I set out here the law that applies for the purposes of my determinations.

Burden and Standard of Proof

22. A summary of the law relating to the burden and standard of proof was set out by MacDonald J in *AS v TH, BC and NC and SH [2016] EWHC 532 (Fam)*:

“Burden and standard of proof and evidence

23. *The burden of proving a fact is on the party asserting that fact. To prove the fact asserted that fact must be established on the balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. As has been observed, “Common sense, not law, requires that in deciding this question regard should be had, to whatever extent appropriate, to inherent probabilities” (Re B[2008] UKHL 35 at [15]).*

24. *The decision on whether the facts in issue have been proved to the requisite standard must be based on all of the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors (A County Council v A Mother, A Father and X, Y and Z[2005] EWHC 31 (Fam)). Where the evidence of a child stands only as hearsay, the court weighing up that evidence has to take into account the fact that it was not subject to cross-examination (Re W (Children) (Abuse: Oral Evidence)[2010] 1 FLR 1485).*

25. *If a court concludes that a witness has lied about one matter, it does not follow that he or she has lied about everything. A witness may lie for many reasons, for example, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure (R v Lucas [1981] QB 720).*

26. *The court must not evaluate and assess the available evidence in separate compartments. Rather, regard must be had to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order*

to come to the conclusion whether the case put forward has been made out on the balance of probabilities (Re T [2004] 2 FLR 838 at [33]).

27. *There is no room for a finding by the court that something might have happened. The court may decide that it did or that it did not (Re B [2008] UKHL 35 at [2]). However, failure to find a fact proved on the balance of probabilities does not equate without more to a finding that the allegation is false (Re M (Children) [2013] EWCA Civ 388)."*

Transfer of Residence

23. As the President made clear in *Re L (A Child) [2019] EWHC 867 (Fam)*, the Court cannot put a ‘*gloss on to the paramountcy principle*’: a change/transfer of residence (whether interim or final) should not be treated as a ‘*last resort*’, should not be described in terms such as ‘*draconian*’, and the Court should not apply the public law test for separation:

“59. Having considered the authorities to which I have referred, and others, there is, in my view, a danger in placing too much emphasis on the phrase “last resort” used by Thorpe LJ and Coleridge J in Re: A. It is well established that the court cannot put a gloss on to the paramountcy principle in CA 1989, s 1. I do not read the judgments in Re: A as purporting to do that. The test is, and must always be, based on a comprehensive analysis of the child’s welfare and a determination of where the welfare balance points in terms of outcome. It is important to note that the welfare provisions in CA 1989, s1 are precisely the same provisions as those applying in public law children cases where a local authority may seek the court’s authorisation to remove a child from parental care either to place them with another relative or in alternative care arrangements. Where, in private law proceedings, the choice, as here, is between care by one parent and care by another parent against whom there are no significant findings, one might anticipate that the threshold triggering a change of residence would, if anything, be lower than that justifying the permanent removal of a child from a family into foster care. Use of phrases such as “last resort” or “draconian” cannot and should not indicate a different or enhanced welfare test. What is required is for the judge to consider all the circumstances in the

case that are relevant to the issue of welfare, consider those elements in the s1 (3) welfare check list which apply on the facts of the case and then, taking all those matters into account, determine which of the various options best meets the child's welfare needs.”

Long-term supervised contact

24. In *Re S (A Child) (Child Arrangements Order: Effect of Long-Term Supervised Contact on Welfare) [2015] EWCA Civ 689, [2016] 2 FLR 217*, the Court of Appeal stated that orders can be made for long-term or indefinite supervision of contact if the welfare of the child demands such:

“[23] There are and will be cases where long-term supervision of contact is in the interests of a child – examples which immediately spring to mind are children placed in long-term foster care by the courts but who continue to have supervised contact with their parents; or the increasingly common situation, where children are placed with family members following care proceedings and the natural parents continue to have contact supervised either by the local authority or family members. Both these examples relate to public law proceedings but have no less application to private law cases, particularly where there are child protection issues but there is no need of local authority involvement because the caring parent, as here, has proved that they are capable of protecting their child. The reality is that, with ever-decreasing resources and the closure of contact centres, long-term supervision will rarely be a realistic option in private law cases such as this; that does not mean however that in an appropriate case such a route should not be deployed as a means of allowing a child to continue to have a relationship with her absent parent.”

CAFCASS Guidance re ‘Alienating Behaviours’

25. The CAFCASS guidance regarding ‘alienating behaviours’, and examples of these, are set out, for instance, at:
- a. <https://www.cafcass.gov.uk/professionals/our-resources-professionals/child-impact-assessment-framework-ciaf/indicators-child-resistance/refusal-spending-time-parent-such-alienating-behaviours>

- b. <https://www.cafcass.gov.uk/parent-carer-or-family-member/applications-child-arrangements-order/how-your-family-court-adviser-makes-their-assessment-your-childs-welfare-and-best-interests/alienating-behaviours>

Oral evidence/assessment of credibility

26. The need to be balanced in assessing oral evidence is discussed by King LJ at paragraphs 29 to 42 of *Re A (A Child)* [2020] EWCA Civ 1230, concluding at paragraph 40 as follows:

“I do not seek in any way to undermine the importance of oral evidence in family cases, or the long-held view that judges at first instance have a significant advantage over the judges on appeal in having seen and heard the witnesses give evidence and be subjected to cross-examination (Piglowska v Piglowski [1999] WL 477307, [1999] 2 FLR 763 at 784). As Baker J said in in Gloucestershire CC v RH and others at [42], it is essential that the judge forms a view as to the credibility of each of the witnesses, to which end oral evidence will be of great importance in enabling the court to discover what occurred, and in assessing the reliability of the witness. The court must, however, be mindful of the fallibility of memory and the pressures of giving evidence. The relative significance of oral and contemporaneous evidence will vary from case to case. What is important, as was highlighted in Kogan, is that the court assesses all the evidence in a manner suited to the case before it and does not inappropriately elevate one kind of evidence over another.

In the present case, the mother was giving evidence about an incident which had lasted only a few seconds seven years before, in circumstances where her recollection was taking place in the aftermath of unimaginably traumatic events. Those features alone would highlight the need for this critical evidence to be assessed in its proper place, alongside contemporaneous documentary evidence, and any evidence upon which undoubted, or probable, reliance could be placed.”

27. See also Peter Jackson J (as he then was) in *LCC v The Children* (2014) EWHC 3(Fam):

“25. No judge would consider it proper to reach a conclusion about a witness’s credibility based solely on the way that he or she gives evidence, at least in any

normal circumstances. The ordinary process of reasoning will draw the judge to consider a number of other matters, such as the consistency of the account with known facts, with previous accounts given by the witness, with other evidence, and with the overall probabilities. However, in a case where the facts are not likely to be primarily found in contemporaneous documents the assessment of credibility can quite properly include the impression made upon the court by the witness, with due allowance being made for the pressures that may arise from the process of giving evidence. Indeed in family cases, where the question is not only 'what happened in the past?' but also 'what may happen in the future?', a witness's demeanour may offer important information to the court about what sort of a person the witness truly is, and consequently whether an account of past events or future intentions is likely to be reliable.

26. I therefore respectfully agree with what Macur LJ said in Re M (Children) at [12], with emphasis on the word 'solely':

"It is obviously a counsel of perfection but seems to me advisable that any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so."

Lies and discrepancies

28. The Court must remember a *Lucas* direction as regards any lie, or alleged lies, told by a witness. Lies do not themselves indicate guilt. Other explanations for why an individual has lied should be considered.

29. Continuing with Baker J's list from above:

"90. Eighth, it is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything (see R v Lucas [1981] QB 720.)"

30. Where a witness/party lies about a material issue, the court may consider what conclusions should be drawn from that; *A Council v LG and others* [2014] EWHC 1325 Keehan J at paragraph 64:

“I, of course, give myself a modified Lucas direction. In so far as the mother has been found to have lied about a material issue, I must ask myself whether there is any reasonable explanation for her untruthfulness or whether there is no such explanation and the only conclusion the court can draw is that she has lied because she is responsible for the injuries sustained by GS and/or LS or she otherwise knows the truth about how these injuries were sustained and has not revealed the same.”

31. More recently, in *Re H-C (Children)* [2016] EWCA Civ 136, McFarlane LJ considered the Lucas direction further, in particular that a lie of itself, must never be taken as proof of guilt. At paragraphs 97 to 100 he said:

“97. Within that list of factors, although the judge does not expressly prioritise them, the finding that Mr C lied about the quietness in his flat that night is given the greatest prominence in this section of the judge’s analysis. A family court, in common with a criminal court, can rely upon a finding that a witness has lied as evidence in support of a primary positive allegation. The well-known authority is the case of R v Lucas (R) [1981] QB 720 in which the Court of Appeal Criminal Division, after stressing that people sometimes tell lies for reasons other than a belief that the lie is necessary to conceal guilt, held that four conditions must be satisfied before a defendant’s lie could be seen as supporting the prosecution case as explained in the judgment of the court given by Lord Lane CJ:

“To be capable of amounting to corroboration the lie told out of court must first of all be deliberate. Secondly it must relate to a material issue. Thirdly the motive for the lie must be a realisation of guilt and a fear of the truth. The jury should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. Fourthly the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be corroborated, that is to say by admission or by evidence from an independent witness.”

98. *The decision in R v Lucas has been the subject of a number of further decisions of the Court of Appeal Criminal Division over the years, however the core conditions set out by Lord Lane remain authoritative. The approach in R v Lucas is not confined, as it was on the facts of Lucas itself, to a statement made out of court and can apply to a “lie” made in the course of the court proceedings and the approach is not limited solely to evidence concerning accomplices.*

99. *In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of R v Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the “lie” has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.*

100. *One highly important aspect of the Lucas decision, and indeed the approach to lies generally in the criminal jurisdiction, needs to be borne fully in mind by family judges. It is this: in the criminal jurisdiction the “lie” is never taken, of itself, as direct proof of guilt. As is plain from the passage quoted from Lord Lane’s judgment in Lucas, where the relevant conditions are satisfied the lie is “capable of amounting to a corroboration”. In recent times the point has been most clearly made in the Court of Appeal Criminal Division in the case of R v Middleton [2001] Crim.L.R. 251.*

In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt.”

32. That approach has most recently been upheld by the Court of Appeal in *Re A, B and C (Children)* [2021] EWCA Civ 451, Macur LJ:

“57. *To be clear, and as I indicate above, a ‘Lucas direction’ will not be called for in every family case in which a party or intervenor is challenging the factual case alleged against them and, in my opinion, should not be included in the judgment as a tick box exercise. If the issue for the tribunal to decide is whether to believe X or Y on the central issue/s, and the evidence is clearly one way then there will be no need*

to address credibility in general. However, if the tribunal looks to find support for their view, it must caution itself against treating what it finds to be an established propensity to dishonesty as determinative of guilt for the reasons the Recorder gave in [40]. Conversely, an established propensity to honesty will not always equate with the witness's reliability of recall on a particular issue.

58. That a tribunal's **Lucas** self-direction is formulaic, and incomplete is unlikely to determine an appeal, but the danger lies in its potential to distract from the proper application of its principles. In these circumstances, **I venture to suggest that it would be good practice when the tribunal is invited to proceed on the basis, or itself determines, that such a direction is called for, to seek Counsel's submissions to identify: (i) the deliberate lie(s) upon which they seek to rely; (ii) the significant issue to which it/they relate(s), and (iii) on what basis it can be determined that the only explanation for the lie(s) is guilt. The principles of the direction will remain the same, but they must be tailored to the facts and circumstances of the witness before the court.**

59. For the purpose of this appeal, despite the misgivings I express in [49] above, I proceed on the basis that the Recorder was entitled to find the lies or inventions that she did, as set out in [26] above. Further, although the judgment is silent on this point, I assume for the purpose of this appeal that the lies do go to a significant issue, not least because the Recorder describes D as "materially dishonest" (my underlining) in [177] of her judgment.

60. The third element of the Lucas direction is no less important than the first two, and even in the terms of the restricted direction articulated by the Recorder, is patently a crucial component. The Recorder unequivocally indicates in the second sentence of [170] that the reasons she finds the lies to be indicative of guilt are set out in [171] – [174] of her judgment.

61. In my view none of the reasons the Recorder gives can withstand critical scrutiny. There is no logical connection between the conclusions she draws about his demeanour or the inferences she drew from the evidence which fixes the five 'lies' as

made through "realisation of guilt and a fear of the truth". See R v Lucas (Ruth) [1981] QB 720 @p 123 H."

33. The Court should consider how much weight to attach to discrepancies in accounts between witnesses or from one witness at different times. Per Mostyn J in *Lancashire v R* [2013] EWHC 3064 (Fam) at 8(xi):

"The assessment of credibility generally involves wider problems than mere "demeanour" which is mostly concerned with whether the witness appears to be telling the truth as he now believes it to be. With every day that passes the memory becomes fainter and the imagination becomes more active. The human capacity for honestly believing something which bears no relation to what actually happened is unlimited."

34. See also Peter Jackson J (as he then was) in *LCC v The Children* (2014) EWHC 3(Fam) about the notion of 'story creep':

"[9] To these matters I would only add that in cases where repeated accounts are given of events surrounding injury and death the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at times of stress or when the importance of accuracy not fully appreciated, or there may be inaccuracy or mistake in the record keeping or recollection of the person hearing and relaying the account. The possible effects of delay and questioning upon memory should also be considered, as should the effect on one person of hearing accounts given by others. As memory fades, a desire to iron out wrinkles may not be unnatural – a process which might inelegantly described as "story creep" – may occur without any inference of bad faith."

35. When coming to me decisions regarding who P should live with, if she should spend time with the other parent, how much time and if that should be supervised, I have considered the following sections of the Children Act 1989 when looking at the welfare of P.

1. Welfare of the child.

(1) When a court determines any question with respect to—

(a) the upbringing of a child; or

(b) the administration of a child's property or the application of any income arising from it,

the child's welfare shall be the court's paramount consideration.

(2) In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

[FI]*(2A) A court, in the circumstances mentioned in subsection (4)(a) or (7), is as respects each parent within subsection (6)(a) to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child's welfare.*

(2B) In subsection (2A) "involvement" means involvement of some kind, either direct or indirect, but not any particular division of a child's time.]

(3) In the circumstances mentioned in subsection (4), a court shall have regard in particular to—

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

(b) his physical, emotional and educational needs;

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

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

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

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

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

36. I will address the welfare checklist with specific regard to P and in light of the findings I make later on in my judgment.

37. I also considered the law regarding section 91(14) orders but as it is too premature at this stage to consider making a section 91(14) order, for the reasons I will set out below. I do not consider the law extensively here.
38. Finally, considerable time was spent on the first day of the final hearing considering if P should be separately represented in these proceedings. I gave a lengthy and considered extemporaneous judgment after considering the submissions of the parties, the law as identified by the representatives and myself, and all of the evidence I had before me at that time. Throughout the course of the hearing oral evidence was heard and there were incidents involving P and her reaction to G's recommendation and absconding from F to M on the Wednesday evening. As per my duty to the parties I continually kept this matter under review. However, the evidence and actions of P throughout the final hearing served only to reinforce my view that she was not competent when considering the legal tests and the case law.

Evidence

39. I have read and considered voluminous amounts of evidence, as follows;
 - a. Main bundle of evidence (2,151 pages);
 - b. A further supplemental bundle (2,768 pages);
 - c. A professionals' bundle, this bundle contains no original documents to the main bundle. M requested this be prepared at a previous hearing as she did not want some of the professionals to have all of the documents;
 - d. Additional documents and statements produced and provided during the course of the combined fact find and final hearing;
40. I heard oral evidence from;
 - e. Dr Willemsen
 - f. Father
 - g. Ms Trish Barry-Relph ("TBR")
 - h. Social Worker
 - i. Mother
 - j. Guardian

41. Due to the amount of evidence (as set out above) I cannot cover everything in this judgment, for the sake of brevity I have set out a summary of each witnesses' evidence and highlighted some of the specific things they have said or written which have added to determinations I have made. If I fail to mention something it does not mean that I have not considered it, but the aim of this judgment is to be manageable for all.

Dr Willemsen

42. Dr Willemsen has filed 4 reports in these proceedings, and he has participated in the two professionals' meetings which I have the minutes for. Throughout his reports and his oral evidence, he was clear and consistent, not only in his recommendations about what the final order should be, but the reasons it is are required, the harm that P has suffered and the significant risks to her should she not be protected immediately. He was concerned that we may already be too late to reverse the harm that has been caused to P but felt there was enough hope that everything should be done to try to protect her now. He felt that the window of change would close at approximately the age of 15. Dr Willemsen's evidence was that the only way to protect P's relationship with F and to address the matters which are causing P to self-harm and be at risk of CSE would be for P to live with F. He summarised this case as follows;

“There are two aspects that are important, one is the high conflict and two is the implacable hostility. We need to bear in mind that the consequence of the two findings on the parents have very different consequences for this child. I do not see the high conflict as the sole factor in this case, instead it is the problem belying the conflict which is hard to resolve, and here we have clear findings about hostility. We need to keep in mind that forms part of what P is exposed to, if this were just high conflict it doesn't explain P's behaviours, neither does just parental alienation...it is M's implacable hostility which shows her approach to conflict which is key for this child. This is a much, much more complex case”

43. M raises concerns that Dr Willemsen should not be relied upon due to him only having met P once and that was over year ago, furthermore his main report predates

the FFH. M's position is that instead I should rely on the evidence of the multiple social workers who have worked with P and state her wishes and feelings are to live with M and spend alternate weekends with F. I do not find this argument persuasive, firstly the social workers are reporting P's wishes and feelings, as expressed to them, that is not in dispute. However, Dr Willemsen is an expert who addresses the dynamic between P, F and M, how this impacts P, reasoning behind P's expressed wishes and feelings and why they shouldn't be taken into consideration. He is an expert, he brings to the court all of his expertise and experience, in my judgment he provides a perspective wholly unique to any of the other witnesses. The evidence he gives holds considerable weight as he is independent, has considered all of the papers (which was demonstrated by making reference to specific documents throughout his evidence) and he has had the opportunity to assess both of the parents. Additionally, when this point was put to him in cross examination Dr Willemsen's response was that he "*went through all of the reports where she (P) swings from one view to another*", he then went further to say one of the reasons he hadn't seen P was that the judgment of the court was if P doesn't need to be seen then he should not see her. He balanced that with the fact there is so much evidence in this case, he was able to meet and speak to the parents which gave a clear picture as to the environment around the child, and this case had "*proper multi professional work*". This approach seems eminently sensible given the specific circumstances of this case.

44. A further criticism was that Dr Willemsen has originally wanted to hear TBR's oral evidence and this had been unable to occur. The suggestion being that by not hearing TBR's evidence, Dr Willemsen's evidence was unsound and therefore I should not place too much weight on it. This was put to Dr Willemsen and he explained that the reason he wanted to hear the evidence of TBR was to establish if he had missed any areas where M may have developed, so that he could give them full consideration, however, he didn't believe it would have impacted his final position. I was able to consider this answer in light of TBR's evidence, which was that M had made very little progress and not in the areas which were required. As such I concur with Dr Willemsen, that it is unlikely hearing this evidence would have impacted on his final recommendations. He also stated that he didn't overly rely on TBR's report and

when asked if he sided with TBR because she was a professional he stated that he regularly gives evidence contrary to that of other professionals, he stands by his professional opinion and isn't swayed by others. However, in this case he felt there was a general shared concern about P.

45. Dr Willemsen's evidence about P;

- k. Wishes and Feelings – that the Court should be circumspect when considering the weight to give P's wishes and feelings, stating they were “*not to be too strong a guide when determining her welfare*” the reasons given were P's “*wishes and feelings relates to her exposure to parental conflict and the mother's implacable hostility to the father*”, this would be further compounded by her “*emotional immaturity*”. The combined effect of these concerns is that she isn't capable of understanding her exposure to the situation or the consequences of the options that are available to her. This could be seen by the fact that her expressed views “*swing*” within the reports. He felt that “*if we leave the decision up to her (P) she will be beyond the control of either parent*”.
- l. If P should be separately represented in the proceedings – Dr Willemsen's concern was “*she would be put into the conflict with the parents and pulled right in....she is child who wants to pull herself right out*” he gave a clear example of this being “*when she falls asleep in the meeting with her M*”. He went on further to say that if the court allowed her to instruct her own solicitor it would be harmful to P and this is a case where there are 5000 pages of evidence because the adults cannot filter or process what is occurring so it would be impossible for her to given the other difficulties and concerns in this case (parental conflict, splitting and M's implacable hostility.)
- m. Self-harming – P needs control in at least one aspect of her life because she has no control in the other areas, she is holding feelings that make her feel bad about herself and is projecting it back onto her body. This isn't about the professionals listening but about her need for her parents to see how they have affected her. F has started on this journey, but M is still denying the court's findings and seeking to remove herself from blame.

- n. Online sexual behaviour – there is a link between M’s treatment of P and the sexual contact online, he considers that it is a form of escapism, and while it is currently SnapChat and WhatsApp “*next time it will be Tinder*” and access to social media makes it even more dangerous. Further, “*M is teaching P not to trust her own views and therefore she makes poor decisions with males*” and the fact that the police were not progressing matters did not allay his fears as it appeared to him P was spoken to at M’s and she confirmed that she was not being exploited, which is “*something people who are being exploited will say*”. She is a 14 year old whose needs are not being met in the family and she is trying to satisfy herself by getting a response on the internet.
- o. Pregnancy test – this is very worrying, F, the school and the professionals are rightly very concerned. If M is not taking this seriously it would be very concerning to him.
- p. Relationship with F – Is complex as P has two images of F one that is informed by her own experiences “*that loves her and cares for her*” and the other is the version portrayed to her by M which is negative. Bringing these together is difficult for P. This can result in splitting and P creating two different and separate worlds for herself, he believes there are signs this is already occurring. P also didn’t want to engage with F during their session and Dr Willemsen felt P was showing “*I can’t really be seen to like you in this meeting*”. However, there are clear positives there established from her own view point and these can be built upon as long as there is no negative interference from M.
- q. Relationship with M - P cannot stand up to M for the following reasons
 - i. P has said that M shouts at her and hits her which M has now admitted but for a time M was accusing P of lying;
 - ii. There is the issue of coaching raised and it is very difficult for P to stand up to being coached;
 - iii. P is frightened about M’s reactions generally (as shown by falling asleep when meeting Dr Willemsen)
 - iv. P is frightened about M’s reaction if she admits that she loves F;

As such P chooses to align with M even though it is at the cost of her relationship with F. While the impact of M's approach on P's relationship with F is concerning there is a greater long-term impact on P which Dr Willemsen explained as "*it is also at the cost of her own mind and what she can think and feel about the people she loves. That raises concerns about if she can love a man or partner without anxious or paranoid ideas*".

- r. Impact of the recommendation on P – he accepted that it would be traumatic and painful for P initially, also there was a possibility that P would become resentful of F or other authority figures for imposing the plan on her. However, he has also been aware of considerable success and if it works then P's future relationships with all people would be more positive and she "*would learn to protect herself*". He did not feel there was any other option would stop the conflict and ultimately that is what P needs.
 - s. Therapeutic work – P requires therapeutic work currently regardless of the outcome of this case, if the court makes the recommendations of TBR then this work will have to be informed by the decision of the court.
46. Dr Willemsen's evidence about F;
- t. F's progression since the FFH – he does take some things on board, while F does still get caught up in his own frustrations he acknowledges this and is actively working on his issues. Dr Willemsen felt that F is onboard with the court's findings, and he doesn't want P in the middle. F knows that this means he needs to work on things and is willing to do that. Dr Willemsen felt F has taken time to think about it.
 - u. Online sexual behaviour – F understands the concerns and was acting appropriately by safeguarding P.
 - v. Approach to M – F can sometimes "*lose himself and act in frustration*" but he believes this stems from a feeling of helplessness. However, he acknowledges M's role in P's life and would be willing and able to promote that.
 - w. F's ability to safeguard P – F has been raising concerns for some time about M's approach to him, lack of boundaries for P and P's sexualised behaviour but has felt unheard and not believed. This has impacted his approach to M and

situations which has not always been positive, however now we are starting to see that some of his concerns were justified. F has acted appropriately to safeguard P.

- x. Conflict with M – this was driven by M and he “*doesn’t think the high conflict is in equal measure*” because F is more capable and will be able to promote M. Dr Willemsen also wouldn’t accept that F was attacking M in his statements and schedule of allegations, instead he stated that “*F has so much evidence because he raises things and she (M) keeps pushing him back...it is very hard to negotiate with her*”.
- y. Current contact with P – it appeared to him that contact occurred after the court made an order or a professional filed a report which highlighted their concerns about M. He felt this showed that when M puts her mind to it P will go to F as “*M is quite powerful*” however he “*did not see where substantial changes have been made other than to say it is working right now*”. This variable approach by M to enforcing contact with F will be having a further damaging impact on P and M cannot see or accept that.

47. Dr Willemsen’s evidence about M;

- z. M’s overall presentation – that she is very powerful and strong. This extends to verbally strong which means she talks and talks whilst not taking onboard the opinion of others either denying their view or telling them they do not see it correctly. She is not a pushover and “*you do not mess with her*”.
- aa. Control – Dr Willemsen identified that one of the main difficulties is that M feels the need to be in control and this includes being in control of P and P’s relationship with F. This manifests itself in “*attacks on F and wanting F to parent as she does*”.
- bb. Concerns generally – M doesn’t acknowledge concerns or the seriousness of them especially when this is combined with her permissive parenting, as a result she would struggle to effectively safeguard P. Although, Dr Willemsen highlighted that M’s parenting is permissive when it suits M at other times she is controlling and strict. The mixed messages this is giving P will be impacting her emotionally.

- cc. Online sexualised behaviour – M was dismissive about the sexual contact P was having. M denying or minimising what has happened is a real problem as it will cause “*more conflict, more dilemma and more doubt*”.
- dd. Ability to have a conversation with F – M’s implacable hostility towards F means this is virtually impossible, however M is so caught up in her own experiences that she cannot see the impact this is having on P.
- ee. Approach to P - “*M believes that she is the only one that is in tune with P and knows what she wants*” however she struggles when P expresses views that are contrary to her own, one of the main areas of difficulty is that P loves F. Also that M doesn’t accept that P is fearful of her and that means that P’s needs are not being addressed, M doesn’t understand the impact on P of her implacable hostility towards F.
- ff. Physical abuse/chastisement – M didn’t accept P’s allegations that M hit her until the FFH, this is very concerning as the physical act itself may be abuse however, when it is denied it is emotional abuse that is taking place and this will have had a role in the way P presents when with M.
- gg. Ability to work with others – Dr Willemsen’s view was that “*she finds it very difficult to subject herself to others’ views, opinions, what the court or F might say*” so much so that “*she has an inability to be equal to others*” she feels that she knows best and therefore cannot work with other people, professionals or F unless their opinion is in accordance with her own. This is further supported by the evidence of numerous complaints about every professional in this case who does not agree with M’s opinion or approach.
- hh. Progression since the FFH – overall, he felt that in terms of implacable hostility M has not moved but in other areas she has “*moved a bit*” i.e. with self-regulation. However, she has to take onboard other’s approach and allow herself to be submissive which M still struggles with and therefore cannot move forwards.
- ii. Parental alienation – there are alienating behaviours from M but this matter is far more complex than simple alienation.

48. Dr Willemsen stated that it is important P has a relationship with both of her parents but she needs to live with the parent who can keep the “couple” in mind, the parent she is with needs to be able to say I know you love F/M and I love him/her because he/she is your F/M that is *“basic stuff and is crucial for a child”*. The child needs to live with the image of parents who love them and want them. As this helps us develop adult relationships and becomes the central relationship dynamic for all people moving forwards. *“It is important that she is surrounded by people who can keep that primary couple as important – P really needs that and the self-harming shows she has lost that, she clearly feels very alone.”* He went on to say that this would be an *“impossible task if P remained in care of M...I am worried about the critical time we are at, and interventions are going to be difficult. Right now, it feels like we lose her if we do not have an intervention now.”* When asked who the best parent would be to provide P with what she needs his evidence was *“I think F is in a better position, he has difficult feelings but he won’t forget that she (P) is her M”*.
49. Considerable concern was also expressed that *“we are going towards a situation where P will be beyond parental control and neither parent will be able to control her”*. This was further compounded by the social workers expressing the same concerns and because of those concerns she is on a CPP. Dr Willemsen felt there needed to be a sense of reality between the parents.
50. Dr Willemsen’s evidence on the options for P’s time with each parent
- jj. M's plan - alternate weekends and additional time only when P asks for it and half school holidays – *“my summary that is not a correct method for P to think about and say what she wants. Instead, it is for the adults and the court to think about, while I can see M’s view but I am very concerned as it will not help P form stable relationships”* for all reasons already said.
 - kk. Current plan – 50/50 shared care week on/week off and half of school holidays – *“it is important that she (P) develops an attachment with F that is secure and that she can be taken out of the conflict. I cannot see how the conflict will stop with 50/50 shared care – this has been going on for years and I am not*

convinced that if M cannot take onboard the findings of the court how she could have a conversation with F. Then P is exposed further conflict”

- ll. TBR plan - P live with F – *“it is quite an extreme option...but the family is around and I think it is a position that is needed. We need to think about helping P to learn to protect herself because that is central to her wellbeing and the best chance of that occurring is with F. F has flagged up concerns and was right, he sees what M is like. For me they will be considerable changes for her (P) but it is connected to P’s understanding of the courts and her understanding of her family. She needs to be helped to understand why the court has made the decision it has so that it seems less extreme and then she can think back to it. She needs to be with people who can think about her and her needs which is crucial”*
- mm. M suddenly comes on board – *“I would be very worried that we would find ourselves back here at some point or worse that F just gives up and P will continue to be exposed to the conflict. If she (P) gets much older then there isn’t much we can do...it should happen forthwith including supervised contact with M”* also *“it is best that the court or a professional oversees M’s change”*.
- nn. Section 91(14) Order – that one should be made after a review hearing. It should apply to M, as F was less likely to make applications and should last for 2 years.

Ms Trish Barry-Relph (TBR)

- 51. TBR has filed three reports, answered questions put to her by F, a short updating statement provided on Day 2 and attended the two professional’s meetings. She was timetabled to give evidence first but due to delay in commencing the evidence and her being unwell she gave evidence after F. While giving evidence she continued to feel the effects of her illness, however she was given breaks when she requested them and did not suggest that she was unable to continue or that she felt her evidence was being compromised in anyway. If she had raised these issues or if I felt she was unable to continue I would have acted immediately. Additionally, she was supposed to give evidence in person, however due to the above issues she gave evidence remotely. Initially M questioned this approach however I was provided with an

earlier email from her solicitors agreeing to TBR's remote attendance on the grounds of cost and therefore when considering the impact of delay and the proportionality of waiting for TBR to attend in person, I determined that we should continue with her evidence via CVP. At no stage during TBR's evidence did M raise concerns with the way in which TBR's evidence was given which would cause me to consider if it could be relied on or the extent to which I could rely on it.

52. Throughout her oral and written evidence she was clear and consistent, she was able to accept areas of concern and acknowledge difficulties however, she maintained her recommendation that P needed to live with F while having supervised contact with M for a period of at least 3 months. TBR set out that she felt this was the only option which would safeguard P and ensure she had a positive relationship with both parents. While TBR felt both parents were initially responsible for the situation (albeit to differing degrees) since working with the family F has worked hard and has made progress, sadly the same could not be said for M.
53. M seeks to criticise TBR on the basis that she sets herself out as a '*specialist in parental alienation, who has chosen to advertise herself as a strong proponent of stamping out parental alienation*' and asks me to conclude that she is "agenda led". It seems to me that M is advancing circular argument here, if TBR is an expert in parental alienation then she is best placed to advise the court as to if features are or aren't present in the case. Being an expert in a matter does not mean you are bias in identifying it within a situation, it merely means greater weight should be given to your evidence regarding that area of expertise. At no point was any evidence adduced that could lead me to conclude TBR was agenda led, that she finds parental alienation in all of her cases or that there was any bias towards finding parental alienation over another explanation. M's citation of the terminology used in TBR's reports is pedantic and doesn't in and of itself show any bias, for example she refers to "*alienating behaviours*" but at no stage does TBR claim there is parental alienation and instead, correctly, leaves it for the court to determine. I accept TBR's evidence that the article M referred to was "*written not with families in mind but an interdisciplinary approach to professionals*" and was designed to assist thought processes in professionals while expressing an "*aspirational desire*". Equally the

piece does not express anything which would cause me to be concerned about the impartiality of this expert and her ability to look at the facts of this matter from the perspective of a court ordered expert.

54. M then builds on her first submission regarding parental alienation by quoting Ms Justice Lieven's criticism of TBR in Warwickshire County Council, **[2023] EWHC 399 (Fam) & [2022] EWHC 2146 (Fam)**. This case is quoted for two purposes in M's closing submissions, firstly as a criticism of TBR's classification of parental alienation within a case and secondly the approach I should take to the plan as put forwards by TBR. I shall consider the second point later on in my judgment. When considering the case I do not consider there was an issue with the approach of TBR but instead with the "*labels and generalisation*" of the term parental alienation and how that can be "*unhelpful, by embedding conflict and a sense that one parent is right and justified, and the other parent wrong and has acted inappropriately*". This clearly has not occurred in this case for the following reasons:

- oo. A separate FFH was held, at the conclusion of which I made a number of very carefully considered and detailed findings. I specifically did not make a finding of parental alienation as this matter was too complex to be distilled into that term. TBR was only instructed after that FFH and on the basis of the judgment. That judgment has not been appealed;
- pp. There has been no generalisation in this matter, there has been a lengthy and detailed FFH, there are thousands of pages documents and both experts have provided a number of reports including responding directly to the parents' questions;
- qq. No-one at this hearing is claiming there has been parental alienation by M. While that was F's case at the FFH, I am told he has accepted my judgment and accepts that the family dynamics were far more complex, including his own actions causing some of P's behaviours;
- rr. Both experts have referred to "*alienating behaviours*" this cannot be a criticism of them, as it is their duty to raise with the court any matters which they believe are relevant and would assist. Neither of them have stated, either orally or in

writing, that there has been parental alienation only their concerns in light of the behaviours they have seen with reference to their own expertise;

ss. TBR also gave evidence that the facts in that matter were different when compared to this case, her plan had been approved by the court and there was a 20 month gap between her involvement and the hearing of the appeal. It had been a complicated case which had been ongoing since 2018.

55. Sadly, M's approach to TBR can be seen throughout the papers as an approach she takes to any professional that doesn't agree with her view. Initially she is open to working with them, when they take an opposing view to M she makes complaints about them and then does whatever she can to undermine them. I give no credence to M's criticisms about TBR's impartiality or approach to this matter.

56. TBR's evidence about P;

tt. Wishes and feelings – *“should not be determinative for the court”* as P does not have the information, knowledge or experience to decide to resist or refuse relationship with a parent. She is younger than her chronological age in many ways which includes her moral development, has been *“parentified by M”* and has *“been subjected to conflict for a long time”* and further to that P is *“frightened of M...frightened to express her true wishes and feelings”*.

uu. Emotional immaturity – P is already showing mistrust of authority figures because she thinks that she can make decisions which she is not capable of making. This can be seen by the risk of CSE, *“she is on a CPP because she has been exposed to influences that have put her at risk, if she had achieved the normal development of a 14 year old she would be able to balance and decide those risk factors for herself”*

vv. P's needs – *“P needs steady firm parenting and boundaries”* at the moment she hasn't been able to see conflict being resolved for her and this has left her feeling *“invisible”*. TBR explains that P's need for boundaries is because they are important and without them P will be anxious. The parents have different styles of parenting and this means that F (as the boundaried parent) will be seen as the *“bad parent”*. M then portrays this to P and professionals as F being

insensitive and abusive, instead of a different style. P has “*therefore developed an over-amplified, exaggerated image of F as a punitive and restrictive parent*”.

- ww. Meeting with P in F’s care – accepted there was only one 15 minute, remote meeting and was not a therapy session. On all other occasions they were due to meet while P was in F’s care P absconded. TBR felt this was because P needed M to be there when she saw TBR, this was a concerning sign because P was worried about M’s reaction.
- xx. Relationship with M – M “*projects her distress and unwanted parts of herself on to P*” and M gives her “*wholly contradictory messages regarding if she should stay with F*” as such she has not given P emotional permission to have a positive relationship with F. M “*seems to engender a sense of fear in P*”.
- yy. Relationship with F – P “*does not have a consistently good relationship with F...and there isn’t consistency in view or reaction*”. TBR felt that P has a “*spoilt image*” of F which is the dichotomy between her own experiences of F and the incompatible belief system she has internalised about who F is, which is as a result of the narrative provided by M. It is not that P deliberately tries not to see F but she is compelled to react to the emotional discomfort caused by M.
- zz. Risks – it is M’s implacable hostility to F which has caused the emotional splitting of P and has resulted in her self-harming and being at risk of sexual exploitation. In the future there are further risks of substance misuse, sexual misconduct and depression/mental health difficulties.

57. TBR’s evidence about F;

- aaa. Progress since FFH – F accepted the findings and was willing to work on understanding and moving forwards. TBR felt confident that F was motivated to change and this had been positive including less likely to become frustrated and to “*react to M’s triggers*”. F was becoming more thoughtful and was developing an understanding of the high conflict and appropriate responses.
- bbb. F’s approach to M – believes that he respects her as M and that he genuinely didn’t want this matter to get to the stage it has. F genuinely wants P to have a

relationship with M and TBR believes he could promote this. F is frightened of M and he is also frightened for P.

- ccc. Further work – F can still act inappropriately at times, such as questioning P in the car ride on the way to school. F is moving forwards but there is still work to be done “*F needs to see that P’s actions are part of her internal narrative and not deliberate*”, TBR believes he will continue to progress while P is in his care.
- ddd. Safeguarding – no concern about F’s ability to put in place boundaries and ensure the safety of P when in his care.

58. TBR’s evidence about M;

- eee. Progress since FFH – felt there hasn’t been any progress in terms of M’s acceptance of the findings, in particular the finding of implacable hostility. M has stated that she is “*going to challenge them and doesn’t accept them*”. In the first tranche of work TBR felt there was “*some progress*” but “*M reverted back into making allegations and counter-allegations*” as a result it has not been possible to progress therapy with either M or P.
- fff. Engagement in therapy – M “*was too busy looking back (at the courts findings or lack of findings) that she did not properly engage*” and that M “*did not have the capacity or insight to see her part in the process*”. Engaging with M has been difficult for TBR and she felt M tried “*to create a sense of fear that I may not have understood everything*” about the FFH, case and the family relationships. TBR that she is frightened of M at times, which she feels M projects on to her.
- ggg. Parentification of P by M – this is a violation of the emotional boundary so that the child ends up serving the parent’s needs. TBR sees no hope for change given M’s rejection of the idea that P is a parentified child;
- hhh. Own research – TBR was concerned that this seemed to be M’s focus and M was using it to undermine the process and TBR’s role by stating it was “*much better*”. It was unhelpful for M to be doing this as we didn’t know what information these other professionals had been given, and there were risks it would cause “*contradictions and confusion*”.

- iii. Recruiting professionals – TBR was concerned that this was still happening as she continues to “*send plethora of emails which are critical of F*” the aim of this was to cast doubt about F in the professionals minds and reinforce that he is controlling P. M would choose who to copy into the emails and M would try to “*split*” professionals causing there to be a lack of joined up thinking despite the professionals best intentions. These emails are distracting professionals away from the issues around P. TBR has felt that M wants her to “*take a side*” against F.
- jjj. Parental alienation – there are signs of alienating behaviours by M, there is concern that lack of resolution of these behaviours is “*leading towards more entrenched alienating dynamics*” and it is significant that P has absconded from F to M but never from M to F. However, it is for the court to decide if this is parental alienation.
- kkk. Implacable hostility towards F – while working with the parents TBR has “*been listening to M continually stating that F isn’t parenting in the right way*” and see above about recruiting professionals. TBR’s view is that M not only continues to be implacably hostile towards F but has no acceptance or insight of this and therefore it is unlikely M will change and so P will continue to be subjected to this.
- lll. Contact with F – she believes that M could influence P to spend time with F as can be seen for periods of time throughout these proceedings, but there “*are contradictions in that as there have been many months where M has said she cannot force her or influence her, so what is the change now? It isn’t reliable*”. Therefore, despite the order having been complied with since August 2023 there is “*a risk it will revert back to how it was before with M stating she cannot force P*”.
- mmm. Safeguarding – “*M minimises those (risk) factors and states that it is a normal part of adolescence*” and there is real concern between the professionals about the time it took her to sign up to the safety plan and that she will not adhere to it, for example by providing a second phone. It is thought that M indulges P because she is scared of losing her and so sends a

permissive message. However, M keeps putting distractions in place which means she loses sight of P and her needs.

59. TBR was asked about her opinion on the reasons for P absconding from M's care. At that time we had heard some evidence from F regarding conversations he had with P in the car on the way to school regarding the recommendations of the G. We had not heard evidence from M, so TBR was not aware that M had also had conversations with P regarding the court proceedings on the 1.11.2023 or 2.11.2023. I was impressed by TBR's balanced view of the situation, she did not place blame on either parent but instead set out a third option, whereby the internal conflict within P was causing her such confusion she could not enjoy time with F and therefore felt compelled to run away. If correct TBR attributes the confusion caused to M's negative portrayal of F, and not as a result of the conflict between the parents.
60. TBR raised concern about any further delay in this matter as the longer P remains in the situation the more harm is being done.
61. TBR's evidence as to the plans suggested;
- nnn. M's plan or the current arrangement – if this occurred then it is likely that P would lose her relationship with F and it is currently at risk of "*breaking down*". P will continue to be in the centre of the hostility and will have to continue to take sides. Also there are serious risk factors for long term harm such as pain of lost years, rejection of the parent who did not support the relationship and loss of confidence and sense of self. This is in addition to the risk of substance misuse etc stated above. Furthermore, there was the risk of intergenerational trauma which would be passed from P to her children.
 - ooo. TBR's plan – "*there are always risks of doing something and doing nothing but they have to be weighed against the medium to long term risks*" TBR saw this plan as the only way to ensure P has a positive relationship with both parents. She felt P "*needed a break from the distorted and amplified images of F, so that she can properly settle with him*". The 12 week supervision period would support M to accept the findings of the court,

enable P to rebuild her relationship with F and for M to apologise to P acknowledging her mistakes and that she was wrong. In order for this plan to be successful the following must occur;

- i. M needs to accept the findings, while she is disputing them she is “*nowhere near*” being able to apologise to P or have a meaningful dialogue with her;
- ii. There must not be any covert conversations between M and P as this would undermine the work that was being undertaken;
- iii. Any therapist must have all of the information from the proceedings including the judgments and findings, otherwise there is a likelihood that M’s narrative will continue to be repeated;
- iv. There needed to be oversight of the plan initially and the G should remain involved. She would be happy to continue to work with the family and report back to the court;
- v. Whoever reported back to the court required sufficient experience and expertise, this would not be the social worker and she would suggest Dr Willemsen should undertake the work;
- vi. Monthly consultation meetings between school, social worker and G.

(“SW”)

62. This SW had not provided a section 7 report and instead prepared a short, overnight statement, regarding specific issues. This is not a criticism of her, initially it was agreed between the parties that there was no need for a section 7 report due to the large amount of evidence provided by experts and the G. However, during the hearing M made an application and I allowed it on a small number of specific issues. This was to allow M to have all her issues and arguments heard, at no stage did I consider there was an impact on any of the parties’ article 6 rights. Neither did the parties raise this as a concern.

63. SW gave the following evidence;

- ppp. P’s wishes and feelings – P has always stated that she wished to live with M, and spend alternate weekends and holidays with F, however the SW felt she

said this as P didn't want to upset M. The SW also noted that P's actions indicate otherwise and she has seen a clear bond between F and P.

- qqq. CSE – the LA remain concerned about this, despite the police deciding to take no further action. While they have accepted the police's decision they have referred the matter to MACE due to their level of concern and the risk of significant harm, the situation will therefore continue to be monitored by the MACE panel. It is concerning that P was asked with only M present and they didn't speak to F.
- rrr. P's relationship with M – it is more of "*friendship*" rather than a parent/child relationship. P has fewer boundaries at M's. The nature of M's relationship with P "*concerned her*" as there is a lack of supervision and boundaries and P spoke to M with a level of disrespect. Further in the professionals meeting SW said, "*P tells her (M) what to do, She (M) does not have parental control over P*".
- sss. P's relationship with F – F has boundaries but there is a clear bond between them. She hasn't seen P treat F disrespectfully, the way she does M.
- ttt. Safeguarding – she was concerned about M's ability to adhere to the safety plan. When it was discussed with M she was not readily onboard with the risks to P and felt "*P's rights were being taken away*", she did not want to take or check P's phone and refused to agree with most of the points F raised. Despite this being raised 6.9.2023 M only agreed removing certain apps from P's phone 06.10.2023 and the safety plan is not yet signed. Concerns were raised that P was beyond M's parental control in the professionals meeting. In contrast to M, they had no concerns about F's approach, and it was "*clear F always puts P's safety first*". The SW felt that if P was living with F she would "*possibly not*" be on a CPP.
- uuu. Complaint – SW confirmed that M had made a complaint about her, she felt this was because of the report she had written for the ICPC. However, she will remain P's allocated SW.

64. I found the SW to be genuine and it was clear that she wanted to assist. She is a relatively newly qualified SW and accepted that case was complex. She said she had

“no experience” in cases like this, therefore she wouldn’t be able to oversee it moving forwards, were I to make a final order. She did not give any evidence as to what the final order should be and that is understandable given her lack of experience and her limited knowledge of the professional’s oral evidence and their reasoning for their recommendations.

(“G”)

65. In addition to her final analysis, G also attended the two professional meetings and provided a note of her meeting with P on 30.10.2023. I found her evidence to be clear and thoughtful. G is in support of TBR’s plan and that contact between M’s and P’s time together should be supervised fortnightly for 12 weeks she described it as “*this is an opportunity to be where we need to be*”. Her reconsidered recommendation was the case should remain open during this time so there is court oversight. I was impressed with her reflective approach, it was clear that she listened to the evidence throughout and adjusted her position accordingly, for example she changed her recommendation regarding finalising this matter at the end of this hearing in light of the lack of the SW’s experience. Since she became involved in this matter the G has taken this open-minded approach and has adjusted her position in response to emerging evidence, as would be expected.
66. M seeks to criticise G and highlights her change in position since her August position statement, however at that time we did not have the final reports of the experts, the professionals meetings hadn’t taken place and P wasn’t on a CPP. It would be remiss of me to rely on that position statement when there has considerable updating evidence and concerning behaviour from P in the interim. Further, M claims that it felt as if the G “*was reacting on the hoof without having had time or proper opportunity to reflect and gather her opinions in considered way*”, at no stage did the G request more time or suggest that she wasn’t comfortable with the emerging evidence or the evidence she was giving. On the contrary G seemed composed, she was clearly in command of the details of the evidence and was able to respond to M’s cross examination with examples from the experts but also her own, evidenced, opinion.

67. There was further criticism of the G for only seeing P on four occasions at the time she came to her final conclusion, although it appeared to be accepted that there was further communication by text and phone. I do not consider this unusual or worthy of criticism, we must remember this is a case where P has had a high level of professional involvement, she has had numerous social workers, school support, Dr Willemsen, TBR and the G. She herself has expressed a desire to be “normal” and to have as little involvement with professionals as possible, specifically she did not wish to have any involvement at school. Both parents agreed with the approach of limiting the visits by professionals which is the reason Dr Willemsen was asked to only have a second meeting with P if he considered it necessary. The G’s remit is not solely to meet with the child and inform the Court of their wishes and feelings, it is to consider the entire case from the perspective of the child and to provide independent advice about what is in their best interests. The G has clearly undertaken this role to a high standard including liaising with the parents, experts, school, “*working closely with*” the social worker and attending two professionals’ meetings.
68. The G set out the difference between P’s stated wishes and feelings and her recommendations. I accept P has told G she wishes to live with M and see F on alternate weekends, half of school holidays and any other or extra time as she chooses. G’s evidence was “*I don’t think P has always been clear on this as she will say one thing, then when you have a conversation it changes and then further down the line it changes again...really what she is saying is that she wants a relationship with both (of her parents)*”. An example of this is 30.10.2023 when during the telephone conversation where P initially said she wanted M’s plan and then “*she (P) asked that she live 50/50 and wanted that relayed to the court*”, the G was surprised by this statement and P contradicted it again within the text messages that she sent later. G does not believe that P wrote the text messages on 30.10.2023 as they were not written in P’s usual style, the phraseology being “*odd...especially her saying about documentary proof*” and F had found a copy of them in the Notes App on her phone.
69. The G’s recommendation differs from P’s stated wishes and feelings as she supports TBR’s plan and hearing the evidence of Dr Willemsen reinforced her view that this

was the correct approach. The G has weighed a number of factors into this decision and stated that she doesn't feel her recommendations go against P's long term wishes and feelings which is to have a positive relationship with both of her parents. P just cannot appreciate what needs to occur to enable this to happen. The G's reasoning for the position she takes is best summed up as follows;

“It is about the relationship with F and that at the moment she has an image of him that is incorrect. At the moment she (P) is in conflict about what she thinks and what she should feel about F and what she does feel about him. I also feel that the boundaries he (F) has and feels are necessary are key. I am very worried about P at the moment”

70. In order for the parents and P to heal and progress the G felt that therapeutic work with F and P should be undertaken by TBR, with M seeing a psychoanalytic therapist who has background knowledge of the case and has seen some of the case papers, such as the judgments. The G felt this work should be undertaken but that further assessment should be completed by Dr Willemsen and he should report to the Court on the progress that has been made. She would also complete a further analysis. If, after this work and the further assessment, everyone agreed on the way forwards then future hearings could be vacated.
71. The incidents during the five-day combined hearing the G felt were *“part of what this child is caught in the middle of”* but noted that F spoke to P before the Court said not to, whereas M had criticised F for speaking to P, yet she has heard the courts direction and spoke to her anyway.
72. Regarding CSE it is the G's professional opinion that P *“has been exploited and groomed”* and the police's decision to take no further action did not reassure her, because they only spoke to P and took her word for what was being said. They didn't speak to F and they haven't seen the phone or messages. However, from this and the G's knowledge of P, G feels that she requires steady and firm parenting to catch her before she becomes out of both parents' control. Only F would be able to provide this to P.

73. While the G agreed with the majority of TBR's report and her conclusions including P being caught between her parents and not being morally developed enough to have a say in the outcome of the proceedings, she also agreed with TBR's analysis of the different plans. However, she wasn't following TBR's report blindly; she was also able to state elements of it which she did not agree with and certain terminology that "*wouldn't have been the way I would put it*". Also that while she didn't think TBR was saying this was a case of parental alienation, if she was the G would disagree.
74. Regarding the alleged incident between F and P where it is claimed F grabbed P by the arm, she stated that she "*couldn't get to the bottom of it*" as P had told M who had told the SW. F claimed it didn't happen as he was the one who had the phone and P was trying to take it from him, but F accepted that the situation should have been handled differently. While P said her arm was hurt there were no marks on it.

Parents

75. I am going to give an overview of each parent's evidence and then will deal with each allegation individually. In terms of the law I am going to take the same approach to the allegations of breaches as I did in the FFH, that is a civil burden and standard of proof. This is because F is not seeking an enforcement order regarding these allegations and instead is seeking for them to be considered as part of the factual matrix of this case so that the court may be fully inform by all elements of the parents' interactions.
76. I also bear in mind that for some of F's breach allegations M is not saying that they did not occur but that F raising them is petty and bullying behaviour. Of course, that is not the legal test I need to apply, however as it has been raised, and I am aware of the case law setting out that the court should not be used as a means of perpetuating coercive and/or controlling behaviour, I will consider M's argument separately to the question of if the breaches occurred.

Father Summary

77. F has submitted two statements, two schedules and a response to M's schedule. There was also further statement and evidence during the course of the hearing. During his evidence he spoke warmly of P but his distress and concern were apparent

and could be seen by his actions both to protect P but also in the frustration he felt because his *“concerns were not always listened to”*. I was impressed by his insight into P being *“emotionally damaged by the conflict”* and his acceptance of the part that he has played in that. He was able to take responsibility for his actions both before and after the FFH *“yes, I have been abusive and sworn at her...I have apologised to M about that and explained they were said in the heat of the moment”*. F was also willing to acknowledge positives about M’s when appropriate *“M was 100% right in the line that she took with P”*, *“M is positive, she is confident and a getter, she is a good role model for P in that regard”* and had insight into how M would respond to situations *“recognise she can be emotional and reactive”*. F also justified his approach regarding the number of allegations he has made against M as he felt *“he had no choice”* but that he had *“compromised a lot”*.

78. F’s evidence went over night into day three and it was notable to me that he had reflected overnight and set out that he had raised petty issues previously and so this time he had only *“put the ones for which [he] had evidence”*. This reflective approach was throughout his evidence including accepting that he would write a letter of apology to P and stating *“I know some of where I have gone wrong and I need more work”*. It was clear he was willing to defer to experts and professionals regarding the best approaches to take.
79. F accepted that he had breached the order by checking P’s phone but felt that the situation required that action and he is pleased he did as now we are aware of the sexual messages. However, he denied being controlling, emotionally and physically abusive. Regarding the messages sent to the G on 30.10.2023 he accepted discussing it with P because he was sure she hadn’t written them, his explanation for his certainty was *“apostrophes, capitals and certain language...these are not phrases that she uses...a big deal for me she always spells their wrong”* I considered this credible and it was supported by the G’s experience of P too.
80. Overall F sought to agree with, and be guided by, the professionals in doing what was required to ensure P’s was safeguarded and no longer subjected to the conflict which was causing her harm. He agrees with their assessment of P’s moral

development and her inability to truly express her wishes and feelings as a result of being caught in the centre of the conflict. He would support her seeing M and spending time with her maternal family.

Mother Summary

81. M has filed two statements, a response to F schedule of allegations and a response to F's schedule of breaches. She also submitted some call logs in relation to the 1.11.2023. While it is clear that M loves P, prioritises her education and has made sacrifices for her, I was struck by the frequency with which M brought matters back to herself, for example when talking about the sexual messages she claims the reason she didn't take action was "*it took me back to the school move incident so I got totally confused about what F wanted*". When asked about P spending time with F her response was "*I have to take P to F's, I have told F to ask her what is going to make it better so that she stays and blame is always on me which makes it hard for me*". This is not only M making the issue of P's relationship with F about her but it also seeks to place all of the blame on F. M doesn't seem to be aware that this is the approach she continually takes. If M cannot blame F then she will seek to blame professionals such as "*I have done my own therapy because TBR hasn't been giving any therapy with me*" completely ignoring the fact that she refused to work with TBR, or at one stage she blamed P's boyfriend by saying "*he has ADHD and is on the ASD spectrum so he does things that are not quite right*" thereby absolving P and herself of any responsibility. This attitude could be seen in the cross-examination questions asked of all the witnesses but especially F where the questions focused on his approach and its impact on M, rather than on P.
82. M agreed that she did not accept the court's findings as she "*respects the court's decision but I think I am allowed to disagree where I see an alternative*". Even where M accepted the findings she minimised or justified her actions, for example regarding finding 5 of the FFH (allowing P to make adult decisions) she stated "*I accept that I did that in the past but I am not anymore, my intention is not to let her choose but you have to bear in mind all of the trauma...including self harm and threats to kill. So I have to balance that emotionally and physically. It is a no win situation for me*".

83. Throughout her evidence, both written and oral, M cherry picked the evidence that supported her case and either ignored or sought to diminish anything that went against her. M's case is that I should put the greatest weight on the LA social workers' evidence and find fault with that of the experts. M says this is because they have been working with P and the family for a long time whereas the experts haven't "*seen the past*". This conveniently ignores the fact that P has had at least 4 social workers, so there has been no continuity and that none of these have the high level of expertise which Dr Willemsen and TBR have. Further, she sought to criticise Dr Willemsen and TBR for "*not having the full bundle and all of the information*" ignoring that this was a direct result of an application M made at the PTR as she did not want the experts to have all of the documents. In short she was criticising them for a situation of her own creation.
84. At numerous points her evidence contradicted itself, I cannot list them all so a few examples are as follows;
- vvv. Most notable and concerning is her approach to P's and F's relationship. While at points during the evidence M claims that P and F have a good and positive relationship and there have been no issues for some time, she also seeks to blame F for all of P's difficulties and states that she is trying to get P to tell him why she struggles at F's home and that she tries her best but it is "*difficult*" and F is too strict. Her answers depend on if M is trying to support her plan for the final order or if she is talking about F and his parenting. From M's evidence it would be easy to think she was describing two different relationships such is the disparity.
- www. On the issue of CSE M has said "*F has over exaggerated and is misleading*" however she also states that she still doesn't have all of the information and that is why she is not reacting in the way that would be expected.
- xxx. Regarding F being strict at one stage M was asked about Dr Willemsen saying that P is more vulnerable and her response was "*I don't agree with him, it could be for a number of reasons but it could be that P is rebelling against F's strict rules*". Approximately 5 questions later M says "*I don't*

think F is too strict". In her written evidence she also refers to him as an "authoritative parent" and makes allegations regarding him being too strict.

yyy. M stated "I have always said that we don't talk to P about proceedings" however, P told the G that she wishes M would stop talking to her about the proceedings and M accepted that she spoke to P about the 30.10.2023 text messages after I had specifically told both parents not to.

85. Permissive parenting by M is a real concern in this matter and M's evidence was full of references to P being given a say and/or control of the situation, "*the age she (P) is at she can say what she wants, she can have the autonomy she desperately wants*" and that M is seeking to be her "friend". While this on its own would be highly concerning in this case with this child, those concerns are raised by M's actions. Two of the most concerning examples are;

zzz. M's Approach to CSE – throughout her evidence on this issue M sought to blame F for not sharing information or P's boyfriend (above) and she continued to minimise the situation. M seems to have no insight into the concerns and her initial reaction was to push against F instead of work towards an immediate plan which would safeguard P, latterly her priority has been to minimise the impact on P rather than ensure her safety. An example of M minimising the impact of the safety plan with no regard to the consequences was the Halloween party (October 2023). M held a party for 35 children despite the concerns raised about CSE because "*P is missing out on her freedoms...her Snap Chat and Tik Tok is off, she has had all of that freedom taken away due to the concerns, but I am allowing her to have all of that fun*". A further example is the pregnancy test, M just accepted P's explanation with no thought or analysis save for checking the cost of the test. Until the questions were put to her in evidence she didn't query why it was a joke, why they would urinate on the test or how it would be considered a joke unless one of the girls had a reason to take it (by virtue of having sex). Additionally, she didn't see the link between the test and the CSE until it was pointed out to her and even then she continued to deny it.

aaaa. M's approach to P – At best M is treating her like a generic child with no consideration for her own individual needs and experience. At worst she is using P to further her own agenda with no understanding of the impact on P. I fully believe that M would never allow P to be harmed on purpose but her lack of insight and understanding mean this is what is occurring. There are further examples, including not accepting the number and ages of people P is messaging, but this quote from M sums up her approach to P being at risk of CSE “*I haven't said I don't believe she is at risk, all children are at risk of sexual exploitation*”, from this it is clear that M doesn't see P as any different from a “normal” child, she doesn't accept the damage that has occurred as a result of the animosity or the risks she is exposed to due to her vulnerability. As such she cannot protect her from that harm or those risks, let alone help her move through them therapeutically to enable her to move forwards.

86. M doesn't agree with the professionals' recommendations at all stating “*I respect that they have reached the views they have, I just don't agree with the views. They are all relying on each other and it is self fulfilling prophecy*”. At some points in her evidence she claimed that the experts have acted immorally and against their professional ethics for example “*TBR colluded with F not to get her (P) counselling*”, whereas this was a decision made by me at one of the previous hearings. M doesn't agree that P has been parentified by her as she has read about it and doesn't believe that is what she has been doing.

87. When giving evidence about the professionals' views of P M complains that “*the focus on P has been lost*” but that is only in relation to what M wants and says that P wants. During the hearing P was at the centre of everyone's evidence except for M. There is a complete lack of acceptance of any view which goes against her own or would conflict with the plan she wants for P. When looking at the issues of wishes and feelings M ignores both experts, the G, SW and F and instead claims that because M has been doing some critical thinking with P since August 2023 S's maturity level is “*better...I think she is a little bit ahead in her moral development*”,

this completely ignored the very serious concerns around the CSE which have arisen since then.

88. For all of the above reasons I find M's evidence unreliable, contradictory and self-serving. She had no insight and could not accept any blame or wrong doing, instead she sought to distract or deflect that blame on to the professionals or F. When discussing any contentious issues her focus is predominately on placing herself as the victim and F as the villain, while pursuing this narrative she loses sight of P, her needs and the impact on her. When I combine this with the parentification of P and M's permissive parenting which is continually seeking to appease or place P at the centre of the decision making, it seems obvious to me that this has and is continuing to cause P to be vulnerable and is placing her at real risk of further harm.

Father's allegations

89. Allegation 1: M does not accept the findings made by the court on 3.3.2023, believes the court to be 'biased' against her, maintains the allegations which she made against F which were not found by the court, and has not taken any real steps in order to prevent P continuing to be exposed to her harmful behaviours. **Found**
- bbbb. M has stated clearly throughout numerous documents, to both Dr Willemsen and TBR and in oral evidence during this hearing that she does not accept the findings made against her or the fact that I did not make a finding against F (regarding a physical altercation).
- cccc. It is also the evidence of both the expert witnesses that part of the reason M has been unable to engage in the therapy or progress is due to her lack of acceptance.
- dddd. In her oral evidence it was clear that M has not progressed and remains implacably hostile towards F.
- eeee. As a result of Paragraphs 82(a)-(c) P continues to be exposed to M's harmful behaviours.
90. Allegation 1a: M has continued to deflect the blame onto others, including F, professionals working with or assessing P, and/or the court. **Found** - as set out above M's general approach is to blame others for the issues in this matter. An example not

set out above is M in her statement in response to this allegation states that F is exhibiting disguised compliance she then sets out the allegation at length. At times M's deflection has extended to P and on one occasion her boyfriend.

91. Allegation 1b: M has continued to demonstrate 'disguised compliance', and has failed to work openly, honestly and in good faith with professionals, including (but not limited to) TBR, Dr Willemsen, the LA, P's school, and the NYAS caseworker.

Found in part - While professionals, most specifically TBR have described concerns about M demonstrating disguised compliance this was in the early stages after the FFH. Once M became aware of professionals' recommendations not aligning with her own she has been hostile and at times refused to work with them or makes complaints about them. M's disguised compliance is only present when M is seeking to recruit professionals to her side. Once it is clear that objective hasn't been achieved M's entire approach changes.

92. Allegation 1c: M continues not to show any real insight into the court's and professionals' concerns about her, and neither has she been able to accept any criticism from the court/professionals. **Found**

ffff. During M's evidence, both written and oral, I have seen no evidence of genuine insight into any of the concerns of the court or the professionals.

gggg. The only matter M accepts is that of high conflict, it is material that this finding also places blame on F

hhhh. When M perceives herself as being criticised she seeks to take on the role of victim and attempts to deflect the blame on to others.

93. Allegation 1d: M has continued to try to 'recruit' professionals and share information and/or gather evidence from them to support her case. **Found**

iiii. There is ample evidence throughout the papers of M seeking to cause professionals to think negatively of F, including a large number of emails which M accepts sending.

jjjj. TBR gave evidence that she believed M was trying to get her to take M's side over F and to split the professionals.

kkkk. One of the reasons TBR asked for professionals' meetings was due to her concern about splitting and that some professionals were receiving a different version of events to others.

llll. M objected to the experts receiving the full bundle.

mmmm. M covertly recorded F on multiple occasions and playing one to TBR but did not provide it to him in order for him to respond. She claims that he has provided permission to do this but if so then why hasn't she given him a copy of it.

nnnn. M's brother contacted TBR claiming that his children had been alienated from him, TBR was concerned about this approach and the reasons for it.

94. Allegation 1e: M has not fully and properly engaged in the therapeutic process with TBR, but rather has used this process as a means for continuing with her conflict with F and as a way to try and gather further evidence to support her case. Found

oooo. I have set out above TBR's evidence on M's engagement and how she believed that M was evidence gathering towards the end of their sessions. This is in direct contrast to F's engagement.

pppp. TBR also gave evidence that she believed M was trying to get her to take sides and played her a recording of F.

qqqq. M has stated that she undertook work with different therapists, which is highly likely to have undermined the work TBR was undertaking. Although I have no evidence of this.

rrrr. In oral evidence M stated she didn't accept she had parentified P as she has read information and come to that conclusion herself.

ssss. In M's statement in response she denies this allegation but then goes on to be negative about TBR's approach, including questioning her professionalism when she states "*I feel TBR has gone beyond her remit*".

95. Allegation 1f: M continues to engage in abusive, critical and non-child focused communication with F. At times, she has used messages in order to fabricate false versions of events and, at other times, she will not respond to F for prolonged periods of time. Found – there are numerous examples in the bundle of M's negative communications both to and about F. While she claims she doesn't blame F for P

self-harming it is clear she blames him in the contemporaneous emails, when asked about this in cross examination she sought to minimize it by stating “*I was distraught and I wasn’t in the country when the school told me*”.

96. Allegation 2: M continues to have an intractable opposition and is implacably hostile to P having a full and meaningful relationship with F. M has demonstrated alienating behaviours including (but not limited to) the following: dealt with below

97. Allegation 2a: M has coached and/or encouraged P to make false allegations against F, including as recently as October 2023, when P made a false allegation that F had hit her. [Alternatively, P made the recent hitting allegation against F as she was angry with him for enforcing boundaries in relation to her device and app use and/or P made this allegation as a result of the negative internalised spoilt image which she has of F, which has been instilled in her by M.] **Not Found**

tttt. I have not heard evidence from P and therefore could not make a reliable finding as to what exactly occurred on that occasion.

uuuu. I do not have the evidence to determine what P told M. P may have lied to M, P may have told the truth and M then coached or encouraged P to make a false allegation or M may have changed the version in reporting it to the professionals.

vvvv. I do not have the evidence to determine the reason P made the allegation.

wwww. I find there was an altercation between F and P and this was regarding a mobile phone. No marks were on P as a result of the alternation. The SW and G looked into the allegation, discussed it with both F and P and this has not caused them concern about F’s parenting or to question his time with P.

98. Allegation 2b: M continues to raise new false allegations of abuse against F. These either arise from distorted thinking or are designed to cause P to believe that F is an abuser and not fit to spend time with her. **Found**

xxxx. M made a report to the police on 6.05.2023 alleging domestic abuse and that F had been abusive to P. F and the professionals were not aware of this until ICPC on 5.10.2023.

yyyy. 12.08.2023 M claimed F was waiting in a car outside her home. She provided no evidence of this and when she gave oral evidence it was unconvincing and disjointed. F provided contemporaneous evidence that he was at work and retrospectively his journey at the time the allegation was said to occur and F's oral evidence was consistent with the other evidence he provided. Even then M was unable to accept that she could have been mistaken.

zzzz. 15.09.2023 M requested the police investigate an alleged allegation that F and P are scared of her. M could not appreciate the impact this would have had on P.

aaaaa. M has also made a number of allegations which predate the FFH, one of which was mentioned for the first time in M's oral evidence. I do not make any findings as to the truth of these allegations only that they continue to be made despite them not being raised when there was an opportunity for them to be properly adjudicated upon and M is now seeking to use them against F.

99. Allegations 2c: M has continued to delegate, or seeks to delegate, adult decisions to P, including (but not limited to) whether she spends time with F and, if so, how much time she spends with F. Found

bbbb. M's application that P should be entitled to instruct her own solicitor. At the time M first raised it P had not expressed any wish for separate representation and even after the conversation with the G on 30.10.2023 (where she was told the G's recommendation) she did not express a wish to have her own voice in the proceedings and only asked the G ensure I knew what she wanted (which she duly did). While the initial application could be considered misconceived, after hearing the clear and unequivocal evidence of Dr Willemsen and TBR as to the harm this would cause P by placing her further in the centre of her parents' disputes and conflict M has continued to raise this application at every possible stage.

cccc. I have set out above just some of the examples of M's permissive parenting which includes allowing P to make adult decisions.

ddddd. M's evidence that P should talk to F and explain why she doesn't want to spend time with him.

eeee. M has expressly stated that P should be allowed to decide any extra time that she spends with F if the court makes the final order she is requesting.

ffff. M stating in emails to F that P wants to see him "*on her (P) terms*".

100. Allegation 2d: M continues to respond in an overly emotional way to and in front of P, thereby failing to protect P from her distress. M does not understand or accept the emotional impact this has on P. **Found**

ggggg. M accepts that she is an emotional individual and this can be seen in the recordings and her accepted reactions which formed part of the FFH.

hhhhh. I accept that M has worked on this in therapy and Dr Willemsen acknowledged this was a positive although it is the only area in which he felt M had progressed.

iiii. M has acted in distress in front of P for example describing herself as "*highly distressed*" when P doesn't want to spend time with F and insinuating P was aware that F had parked outside her home (something which had clearly caused M distress by the way she dealt with it).

jjjjj. I do not criticise M for her emotions and therefore her responses. However, she has failed to shield P from these emotions and this would have added to P's sense of conflict and internal distress.

kkkkk. M was unable to hide or manage her emotions regarding F in the court room, therefore it is more likely than not that M would not be able hide these emotions from P. This would undoubtedly have impacted on P and increased her internal splitting between her own narrative of F and that of M.

lllll. I do not believe that M has done this in any way maliciously, however she has been so caught up in her own emotions that he has lost sight of P and her needs.

101. Allegation 2e: M continues to denigrate, and make false allegations against, F to, and in front of, P. Allegation 2f: M continues to subject P to conflict between herself and F, both directly and indirectly, as well as involving P in adult issues. **Found** – these

allegations are a follow on from each other and, in some part, overlap with some of the findings made above. It is clear throughout M's OFW messages that she blames F for difficulties in the coparenting situation, such as booking school trips, handing over P's passport and P's oyster card being removed. Or she will use F in a negative way to try and force P into complying with her, such as stating the only way P is going to Center Parc is if F takes her. While in M's statement she denies this, she doesn't rebut any of the specifics, which can be seen in the OFW messages and instead seeks to blame F. She has given no explanation for why she has dealt with matters in this way, although I consider reasonable explanation cannot be conceived. It is clear that M uses F when it suits her, either to enforce parting boundaries that she is struggling with or to blame F for a decision that has been made. This places P into the conflict between the parents and adds to P's "*spoilt narrative*" of F as set out by the experts.

102. Allegation 2g: M still does not view F as an equal parent and does not view P's relationship/time with F as being as important as P's relationship/time with M.

Found

mmmmm. Dr Willemsen gave evidence that M considers her parenting "*superior*" to that of F's and that she "*subordinates F by attacking his way of parenting*".

nnnnn. Dr Willemsen also set out that M feels "*she alone understands (P)*", this is supported by the numerous and often lengthy OFW messages from M instructing F on how to parent and what P needs.

ooooo. Both experts gave evidence that M doesn't accept any opinion that differs from her own and it is clear that this extends to the opinions of F and his parenting. Nowhere in the bundle or in oral evidence did M acknowledge F's opinion or approach as having any merit whatsoever.

103. Allegation 2h (also the separate schedule of allegations): M has continued to persistently breach orders made in this case, without any reasonable excuse, and has continued to obstruct both direct and indirect contact between F and P (as per F's schedule of breaches). At times, M has fabricated messages and calls, purporting to

be from P, when in fact these were from M. M has also continued to arrange activities/appointments for P within the time that she is due to be with F. FOUND

ppppp. It would be disproportionate to deal with each individual alleged breach and therefore I shall consider them as a whole and (as previously set out) on the balance of probabilities.

qqqqq. M has accepted a number of breaches of the order since the FFH, although she claims reasonable excuse as she could not force P to spend time with F.

rrrrr. It is highly relevant that since TBR's interim report, which recommended a change of residence, M has had no difficulties in adhering to the order regarding the time P spends with F. This only changed during the combined hearing.

sssss. At the hearing which considered TBR's interim report I raised my concern about P being beyond M's control, in light of the high number of breaches by M and the frequent episodes of P absconding. I explained why this would be so concerning and asked all of the professionals to consider in their final evidence if P was beyond M's control.

ttttt. Both experts gave evidence that M can ensure P spends time with F as has been demonstrated since the report, in which case it is also reasonable to conclude that there are occasions when M chooses not to comply. Both experts gave evidence that nothing has changed which would have assisted M in complying with the order.

uuuuu. On a number of the occasions the order has not been complied with due to P absconding from school or F's care. TBR highlighted the significance of the fact that this always occurred from F's care to M's and this also ceased from the time of her interim report until during the combined hearing.

vvvvv. M accepts arranging an opticians appointment and dental appointment for P when she was due to be with F.

104. Allegation 2i: M continues to place significant pressure onto P regarding P's relationship with F, including making P feel guilty if she enjoys spending time with F. M has encouraged and/or instructed P to not transition into the Applicant Father's care and, if she does, to later abscond from the Applicant Father's care. The Respondent Mother has on numerous occasions collected P, or arranged for P to be collected, from different locations before the Applicant Father is able to do so **Found** – this is in large part a repetition of the breaches as set out in paragraph 96 above. The expert evidence is M's implacable hostility toward F is creating a situation whereby P feels the need to please her and do what M expects. Furthermore, TBR gave evidence that the "*spoilt image*" of F and P's "*splitting*" of him creates a deep anxiety and uncomfortableness within her. She can only get away from this by absconding from, or not going to, his care (this is set out in greater detail above). However, if the only reason P was running away from F was due to her internal turmoil then it would not have stopped suddenly as a result of a report which she shouldn't have been aware of. Therefore, the reason why I find M has been explicit or encouraged P (instead of P acting solely as a result of her internal turmoil) is because of the direct correlation between TBR's interim report and P willingly spending time with and no longer absconding from F's care. M has reinforced P's knowledge that she doesn't support P's relationship with F by collecting her when she has absconded and not returning her to F's care, M has accepted this has taken place although not the reason why.

105. Allegation 2j: M has continuously contacted P whilst she is in F's care, with this often being via phone or Snapchat so that the contents of these conversations cannot be monitored. **Found** – there was a recital on the order 18.07.20213 regarding M being invited not to use snapchat to communicate with P due to concerns about her communication with P. In that recital she was given a warning that an adverse inference may be made due to snapchat messages disappearing. This was concerning due to a lack of transparency in a case where serious allegations are made against M of coaching and encouraging P to abscond. M refused to give an undertaking and during evidence she accepted she had been communicating with P via snapchat. Additionally, I have considered M's dishonest evidence about text messages. Firstly,

F being cross examined about the appropriateness of a text message ‘rant’ being from him, before M accepted it was from her and secondly, all messages between M and P having been deleted after 30.10.2023 phone call. In the contemporaneous OFW messages between the parents where F is requesting M to stop messaging P constantly while P is with him, M ignored his pleas. Combined all of this evidence leads me to the conclusion that this allegation occurred.

106. Allegation 2k: M has continued to refuse to agree mutual rules for P as between both parents’ households (including but not limited to P’s use of her electronic devices and Apps such as Snapchat), thereby seeking to promote herself as the ‘fun’ or ‘permissive’ parent and thereby placing P at increased risk of harm/exploitation as a result. M has colluded with P in order to enable her to, for instance, continue to use apps such as Snapchat, despite the clear instruction from the professionals that such apps must be deleted from P’s devices, due to the risk to her. M has no insight into this risk and therefore cannot keep P safe. Found

wwwww. Not only has F struggled to agree mutual rules between homes but the SW found M resistant to a safeguarding plan and felt that M was hostile to any of F’s suggestions.

xxxxx. SW also believed that M was more focused on P’s rights than keeping her safe and putting in boundaries. This is likely explained by her observation that M tries to be P’s “friend” rather than parent, a sentiment that M agreed with in her oral evidence, although instead of seeing this as concerning instead she tried to portray it as a solely positive position.

yyyyy. At the professionals meeting there were concerns between all of the professionals as to M’s ability to maintain boundaries for P and therefore keep her safe. The school were concerned that M would buy P a second phone and I have made a finding above that M has colluded with P and communicated with her in a non-transparent way.

zzzzz. M has described taking snapchat and Tik Tok away from P as removing her rights but that she is the one who is continuing to ensure she doesn’t

miss out on the “fun” (by allowing her to have a Halloween party at her home).

aaaaaa. I have already set out above how M is a permissive parent and the negative impact this has on P. I also find that she has parentified P (as per both experts’ evidence) and this is causing P further emotional and psychological harm.

bbbbbb. I could not identify any insight M had as to the harm that has been and continues to be causing to P as a result of her actions.

107. Allegation 3: P has suffered significant emotional harm as a result of M’s behaviour. The evidence demonstrates that M is wholly unable to demonstrate insight into her behaviour and how it impacts on P and she sees no need to change. Unless P lives with F, she will continue to be prevented by M from having a normal relationship with him and will continue to suffer significant harm. **Found** – for all of the reasons and analysis as set out above.

Mother’s Allegations

108. Allegation 1a: F has an intractable opposition, and is implacably hostile, to P having a full and meaningful relationship with her M and has engaged in a process aimed at excluding M from being involved in safeguarding P, specifically in respect of controlling her devices through screen time, not allowing M access to parental controls, and not providing M the full picture in respect of the images / conversations found on P’s devices which he says are indecent. **Not Found** – there is no evidence of this allegations at all. None of the professionals support M’s assertion of implacable hostility or that F was seeking to exclude M from safeguarding. Conversely it is felt that M was the one who refused to work with F. Furthermore the phrase “*which he says are indecent*” referring to the sexual messages and conversations highlight M’s minimisation of the very serious concerns of the professionals.
109. Allegation 1b: F has either not shared the full extent of what he has discovered on P’s devices with M and/or greatly exaggerated claims regarding P being sexually exploited at school, to professionals and potentially to the police also. F has gone on

to blame M for P's behaviour on social media **Not Found** – there is no evidence that there is further material which has not been shared by F. Professionals have seen the same material that M has and they are equally as concerned as F, to the point that the SW has put in a MACE referral. F has raised concerns about M not supporting the safeguarding plan, these concerns have also been expressed by the professionals.

110. Allegation 1c: F has tracked M indirectly via P's devices when P is in M's care, impacting M and causing her emotional and psychological distress. **Not Found** – the SW gave evidence that the parents raised using the Life360 App on P's phone. Therefore, M was aware of this and the need for it to be in place. There is no evidence that F intentionally or inadvertently tracked P while she was with M and if they did take place M was fully aware of the reason the App was on P's phone and that it was in no way to monitor her.
111. Allegation 1d: F has and continues to not see M as an equal parent and only includes M when F has no other choice but to include M, examples are when F notified CG before M of him finding sexual images on her devices. F controls what information is shared with M **Not Found** - the only example M has of this alleged behaviour is the sexual images/conversations, F found the messages late at night and the following day took time to establish the exact nature of them. He then brought them to the attention of the G at a prearranged meeting before informing M. Given the animosity in this situation and Dr Willemsen's evidence about F feeling unheard and overruled by M, it is understandable that he would take a more measured approach, especially in a situation of such seriousness and concern. Furthermore, M did not inform F of finding a pregnancy test in P's room at the same time and this was despite being aware of the concerns around sexualised behaviour.
112. Allegation 1e: F has told P he is going to be moving away with P and did not share his intentions until he had to, yet historically criticised M for considering moving 7 miles to Watford **Not Found** - I accept F's evidence that as he rents, he was waiting for confirmation as to which property they were moving to before informing M of the details. This is because the move may not have taken place and he didn't have confirmation as to his new address.

113. Allegation 1f: F has refused to provide travel details to M in advance of her passport being provided, yet insisted on this information coming via his solicitor, despite it being sent F directly by M historically **Not Found** – F provided the travel details as soon as he had them, which was at the train station while purchasing the tickets.
114. Allegation 1g: F has attended M’s home and sat outside in a vehicle not known to M. Both M and P saw him. F then denied doing this, causing confusion to M and making her feel intimidated, anxious and distressed. F then sent an elaborate video to M from his work colleague ‘showing’ him at work **-Not Found-** I have dealt with the evidence regarding this allegation but from F’s perspective above.
115. Allegation 2a: Breaches of Order – F has allowed P to abscond from his care **Not Found** – I have dealt with these allegations in detail above with regards to F’s allegations about breaches and P absconding.
116. Allegation 2b: F has repeatedly breached the order dated 20.05.2022 as he has taken P’s phone from her which has resulted in her self-harming and absconding from F’s care **Not Found** – while F accepts there have been a small number of occasions where he has removed P’s phone, which I deem are part of acceptable parenting, there has been no evidence adduced which shows there is any correlation between this and P self-harming and/or absconding.
117. Allegation 2c: F has installed a tracker on P’s phone and laptop which he then insisted remained on whilst P was in M’s care **Not Found** – M has produced no evidence to rebut F’s reasonable explanations as to the circumstances surrounding this. These measures are particularly important in light of the CPP and that both parents raised the Life360 App with the SW.
118. Allegation 3 Obstructing and Controlling Communications: F has routinely obstructed contact between M and P including (specific allegations then put) **Not Found** – I have combined all of these allegations together as the approach to them is the same. There is no evidence the intention of F was to control either M or P. Some of the actions have been taken as part of proactive parenting or upon the recommendation of the SW and they need to be in considered in light of the concerns

of all the professionals around P's telephone usage, social medial usage and behaviours.

119. Allegation 4 Coercive and Controlling Behaviour of F towards M and P. - 4a F continues to pedal the narrative of parental alienation, something which he has done since the separation, despite no finding of parental alienation being made. **Not Found** – I am only considering F's behaviour and allegations since the FFH as it is accepted that F did make that allegation as part of that hearing and I did not make a finding of parental alienation. There needs to be a nuanced approach to this allegation as Dr Willemsen, TBR and the G all say M exhibits alienating behaviours, which is a finding I have made (above). F in evidence was clear that he used to believe M was alienating him from P but now accepts the FFH decisions and the evidence of the professionals. In accepting their evidence he also accepts that M exhibits alienating behaviours, which is not the same as alienation. I find that F is following advice and recommendations from those with greater knowledge and experience than him and is deferring to that knowledge. F cannot be criticised for this approach and it is not coercive and controlling behaviour.
120. Allegation 4b: F makes M question herself and her decision making in respect of P by repeatedly questioning or confusing the situation, or version of events (4 specific examples then put) **Not Found** – I have already made findings regarding the first three of M's examples (please see above) these findings were in favour of F's narrative. Therefore they do not support M's allegations. The final example F gave evidence about and TBR also gave evidence of his approach. F does not wish to remove P from M's care and therefore I have no doubt this is the message he is conveying to M's family and anyone else, however he feels that he has no choice but to do so having consideration for P's welfare and the recommendations of the professionals combined with the increasing concerns about P and the risks surrounding her.
121. Allegation 4c: F continues to place significant pressure in all areas of parenting P **Not Found** – there is no evidence of this other than M's assertions. In fact the evidence from the professionals is that F is attempting to co-parent effectively and to

work with M however it is M who is implacably hostile to F (as per my findings in the FFH) to the extent that when discussing a safety plan for P it was M who refused to countenance any of F's suggestions.

122. Allegation 4d: F has been verbally abusive to M **Found** – in his oral evidence F accepted that at times he had lost his temper or become so frustrated with M that he was verbally abusive. He accepted this was wrong and said that he had apologised to her. TBR and Dr Willemsen both felt that F continues to experience frustration when trying to work with M and that this is one of the areas he was still working on in therapy.
123. Allegation 4e: F has used M's family and friends as a means to create conflict and allow her not to have the support of her network. F has shared information with family and friends relating to P and her welfare guised as "safety" leading to her and M being ostracised by their family and community **Found in Part** - F accepts that he set up a WhatsApp group regarding his concerns for P and to seek support. He explains that he did so as he wished for those around P to be aware of the concerns and the behaviours she was exhibiting as he didn't believe that M was being honest and felt that he and P needed the support. This was undoubtedly a misguided approach by F and has raised the levels of conflict between the parents. However, I do not believe he did it for this reason, it is accepted by all that this is a high conflict case and it occurred at a time when F was (and is) still working on better ways to manage this conflict. It also does not constitute coercive and controlling behaviour when seen in the context of this case as a whole. Therefore, I do find that the actions occurred but not the intention behind those actions.
124. Allegation 4f: F blames M for any behaviour of P that does not meet his expectations or that is in line with his views, cultural/religious or otherwise **Not Found** – there is no evidence of this other than M's assertion. The evidence of both experts and F is that F accepts the high conflict in this case and the part that he has played within that conflict. He also accepts that P's behaviours are in part as a result of being exposed to this conflict. While he also has concerns about M's implacable hostility towards him, per permissive parenting and the parentification of S those concerns are echoed

by the professionals and he cannot be criticised for recognising that, in fact if he didn't recognise those concerns I have no doubt professionals would be questioning his insight.

125. Allegation 5 Lack of insight from F into the care P needs – 5a: P has self-harmed whilst in his care and did not notice/did not share with M. F does not provide P with the emotional space to express her views which conflict with his own. F then tries to blame M **Not Found** – The evidence is that P has self-harmed while in the care of both parents and Dr Willemsen gave evidence that the location of the self-harming is no indicator as to it's cause, it is the situation around the child which is the critical factor. M in her evidence tried to distance herself from blaming F for causing P to self-harm and yet this allegation is directly contradictory to her evidence. This allegation causes me great concern as to the insight of M and her unrelenting persecution of F without any consideration to the evidence, especially where the impact of her approach will have ramifications for P and her emotional/mental health.
126. Allegation 5b & 5c: F has been a strict parent resulting in P developing behaviours to lie to her father and undertake age-inappropriate things behind his back whilst in his care. F is unable to see P as a young woman and provide her with age appropriate autonomy **Not Found** – none of the professionals have raised concerns about F's parenting or his approach to her and more recently the professionals have expressed that F's boundaried approach is preferable and better at meeting P's needs than M's approach of being her friend. I have set out in detail about the experts' evidence of P's spoilt and splitting image of F, I have no doubt this influences P's behaviour when with him however the cause for this is M and her implacable hostility. This is another allegation which causes me concern about M's ability to understand P and her behaviours and M's ability to meet her needs.
127. Allegation 5d: F is preoccupied with P being sexually exploited, F told M that if she allows P to go to parties she could get rapes and telling M of stories of other friends he has who have stated that girls at 15 years of age at private schools have got rapes, creating unnecessary fear **Not Found** – all of the professionals and F are very

concerned about the risk of P being sexually exploited, none of the professionals have criticised F's approach and some have praised it. Such is the level of concern that P has been placed on a CPP and has been referred to MACE. The concerns of the professionals has been M's approach and that she may undermine the safety plan. Having heard M's evidence (set out above) I am also very concerned about her minimisation of this matter and her complete lack of insight. It stands to reason that she cannot protect P from a risk which she doesn't appreciate and cannot fully accept.

128. Allegation 5e: F has misled the professionals to thinking that P has had sex even after a conversation with M where he admitted he does not know if P has had sex or not
Not Found – F has taken a natural and appropriate response to the concerning evidence of P's sexualised behaviour and risk of CSE. It would be expected for a parent to raise with professionals the question about if P has had sex where the numerous concerns (set out above) have been raised. It is to F's credit and a marker of his honesty that he accepts he doesn't know the answer.
129. Allegation 5f: F insists his rules are followed whilst P is in the care of M which creates conflict between him and M and Him and P. F does not consider M's rules to be of equal value, such as rules about studying and extra tuition to be as important as his rules minimising M's views/considering them less important than his
Not Found – the evidence sets out that F is trying to have discussions with M and agree a set of rules that can apply in both homes. The evidence is that M is obstructing this, she doesn't see F as an equal parent and cannot accept this his approach could hold value (Dr Willemsen as set out above). The evidence shows it is M that struggles to take anyone else's views or approach on board.
130. Allegation 5g: F will make no attempts to support M is returning P to his care, when she absconds and returns to M's instead preferring to use the incident to bolster his case in respect of M's alleged breaches by failing to ensure P does not abscond from his care/or encourage P to return to his care when she does
Not Found – this allegation is in direct contradiction to M's assertion that F doesn't listen to P when she says things and doesn't take her opinion into consideration. It is a clear example

of M cherry picking F's behaviours to support her different narratives. I have already made a finding regarding P's absconding and M using F to blame for parenting decisions (above) but further to this I accept that F is attempting to remove P from the middle of the conflict, which is in direct contrast to M's approach.

131. Allegation 6 Continuing to involve P in adult conflict and discussing adult issues with P – 6a F has repeatedly discussed details and issues relating to these court proceedings with P **Found regarding both parents** – F accepts having discussions with P and gave evidence about the discussions he had with P during the course of the hearing. However, both parents have done this and the evidence around M's conversations is far more concerning as firstly she doesn't accept having those conversations unless it suits her narrative to admit to them (conversations during this hearing), secondly P has told the G that M is always discussing the case and she wants her to stop, this has not been said by P about F and finally given M's implacable hostility I am far more concerned about the nature of content of the conversations M has with P.
132. Allegation 6b: continually speaking negatively about M, "mum is scary you are scared of mum aren't you" and "you think mum is going to find out things that you say to people, don't you?" **Not Found** – the only evidence I have of this is from M, she reports that P has told her. I cannot determine on a balance of probabilities if that is true, if P has lied to M or if M is being untruthful.
133. Allegation 7 F imposes his religious/cultural/other beliefs on P and M causing upset and distress – 7a: F imposes his strict religious and cultural beliefs on P and M **Not Found** – there has been no evidence adduced that F has strict religious beliefs save for the assertions of M, I do not rely on these due to her implacable hostility towards F.
134. Allegation 7b: F regularly blames M for P's lack of "honour" using crude and offensive language to describe P's actions (4 examples set out" **Not Found** – the word "wanking" used by F is not offensive in the context of the messages she has exchanged is a phrase that young people would use and understand more readily than "masturbation". The professionals have seen a number of images from P's phone and

they agree that they are sexual and provocative, especially when taken in the context of the conversations between P and the males.

135. Allegation 7c: F has a belief that P's welfare and her rights to having healthy relationships with the opposite sex is not as important as his "honour" given his cultural beliefs **Not Found** – F approach to P and the current concerns surrounding her relationships with males is supported by the professionals. No one, except M, has raised any concerns about F's approach. This allegation further highlights M's implacable hostility towards F and her lack of understanding of the risks to P as a result of her sexual behaviour. This adds to the concern of how M can protect P when she is minimising or ignoring the risks.
136. Allegation 7d: F has yanked a necklace from P's neck as it was a cross costume jewellery fashion piece, causing P distress and confusion. **Not Found** - the only evidence I have of this is from M, she reports that P has told her. I cannot determine on a balance of probabilities if that is true, if P has lied to M or if M is being untruthful.

Additional Matters

137. M's argument that the position of the social workers, most specifically Mr Varghese, should bear more weight than any other evidence. I accept that during the FFH Mr Varghese gave evidence that he felt the final order should be as per P's wishes and feelings which were to live with M and see F alternate weekends, half of the school holidays and additional time as she wished. M states that the social workers have been constantly involved with the family and have seen P frequently, therefore they have the greatest level of insight into what is right for P. I reject this argument entirely, as when Mr Varghese gave his evidence we did not have the reports from the experts (save for the first report of Dr Willemsen and that was on an either or basis), he also did not have my findings or any of the updating evidence about what has occurred since the hearing. I bear no criticism of Mr Varghese's opinion at that time, he was basing it on the information before him, however matters have moved on significantly since then.

138. Text messages sent 30.10.2013, I do not make any findings as to if P wrote these messages entirely of her own volition or as a result of pressure/communication/with M. It is one of these scenarios and either way causes me a high level of concern for P and her continuing to be at the centre of the conflict. If they were written by P they show her lack of emotional maturity, reactivity and inability to manage the situation. If they were as a result of M's influence they would show that she is manipulated by M in to being the mouth piece for what M wants. Either way the messages cannot be used to inform me as to her wishes and feelings and instead completely reinforce the fact that she does not have the ability to instruct her own representation, due to emotional immaturity as a result of being the centre of the conflict or due to her susceptibility to M's influence and control.
139. P absconding from F to M during the course of the combined hearing, this single incident does not take me any further than the findings I have made above save that it shows that P's conflict regarding spending time with F has not been resolved. Either because M continues to exert influence or because she continues to experience internal conflict. I agree with the evidence of the two expert witnesses, something has to materially change for P to enable her to feel heard, so she stops absconding and placing herself at risk of harm.
140. Despite my email clearly stating that none of the parties were to make reference to the weekend of 3rd to 5th November in their closing submissions, M has chosen to do so. I am not going to address those submissions as I am not going to stray into satellite litigation. I have already determined that final orders in this matter can be reached without considering the events of 3rd and 4th November. I am basing my decisions solely on the evidence at the final hearing and while the events of that weekend may represent behaviours indicative of the concerns as set out in the evidence I heard, it is not a decisive event. My decision is based on the whole situation, P as in individual, her behaviours as considered over a prolonged period of time, the continuing presentation of the parents and the extensive evidence heard during this combined hearing. Regardless of which parent's version of events is correct it would be erroneous of me to make a final determination based solely or in large part on a single incident in a case which all professionals consider complex,

especially where that would cause additional delay, which is likely to further impact on the emotional wellbeing of P.

141. In F's submissions he sought to update me as to what had been occurring since the last hearing in this matter (6th November 2023), while I did not specifically say that could not form part of the parents' submissions it was clearly implied when I said there was to be no reference to the weekend of 3rd and 4th November. I have completely disregarded this portion of F's closing submissions, the information is not evidence, neither of the other parties have been given the opportunity to respond to this information and the experts have not been asked to consider it.

142. M's written submissions seek to draw criticism of the management of the hearing due to two factors;

cccccc. The "*haphazard*" manner in which evidence was dealt, referring predominantly to the matter of P's text messages to the G and SW and her absconding from F to M during the course of the hearing. These were issues that were happening and being dealt with in "real time". At that stage I did not know if they would affect any decision I was going to make and all parties considered that I needed to have as much information about them as possible, which I agreed with. I did consider if the matter should be adjourned to allow full statements etc to be produced however, I took the view that they were single incidents in a matter where there are myriad allegations that cover the issues which have been raised by these two incidents. Therefore, I undertook the necessity and proportionality test regarding adjourning the hearing but determined this is a matter whereby incidents such as these are already being considered and at the next hearing we would be in a similar situation with even more evidence, all of a similar ilk, only P would have been further harmed by additional delay. As set out above having heard the evidence of all of the witnesses and having considered the whole picture, I do not consider either of these matters were determinative when making my final decisions.

dddddd. The late finishing time on the final (Friday) of the combined hearing. I gave an extemporaneous judgment regarding M's application to adjourn at the time and that judgment should be the first point of reference for the reasoning behind my decision. However, it should also be considered that a substantial reason for this matter running over the time estimates was due to the way M decided to conduct her case. The morning of the first day was taken up by M's application for P to have her own representation and this this matter was raised throughout the remainder of the hearing, along with the need to adjourn for a number of reasons. M also made an application during the course of the hearing for the SW to give evidence, which added an additional witness to the timetable. These applications took time to hear and consider properly and I gave two full extemporaneous judgments in relation to them and we heard from an additional witness. M did not seek to clarify my decision to sit late on the Friday despite being given the opportunity. Had it not been for M's approach the evidence would have concluded comfortably within the 5 day time frame allocated, although I accept that submissions and judgment would have had to be reserved to a later date.

Welfare Checklist and Plans

143. I have already thoroughly analysed the evidence and made considerable and lengthy findings (as set out above) the below analysis of the welfare checklist will not repeat either of these and should be considered in conjunction. There are two plans that I need to consider, these are;

eeeeee. M's Plan – P to live with her and spend alternate weekends and half of school holidays with F. There to be additional spending time arrangements as P requests.

ffffff. TBR's plan – P to live with F, for the first 12 weeks P's time with M should be for up to three hours fortnightly, supervised by a professional. Those 12 weeks should be used for P to receive a narrative of the judgment, there should be therapeutic input for P, F and M, it would

enable time for M to reflect and accept the courts findings and work through these with her therapist and for M to write an apology letter to P. After the 12 weeks there should be further assessment and consideration should be given to how to move this matter forwards.

144. Before I go through the Welfare Checklist in relation to both of the suggested plans it needs to be highlighted that this is no longer a matter of determining if P should live with M or F and which would better meet her needs. As Dr Willemsen put it this case is “*much, much more complex*” than simple animosity or parental alienation. P is on a CPP and is considered to be at risk of CSE. The experts’ evidence is the risk is as a result of the emotional harm from the animosity in the parental relationship, and that animosity is underpinned by M’s implacable hostility to F. P is particularly vulnerable due to her emotional immaturity, fragility and risk-taking behaviours which are a result of not feeling heard, being put at the centre of the parents conflict and having a spoilt and split image of F. They are concerned that P is beyond M’s parental control, or soon will be, due to M’s permissive parenting and her parentification of P and that if something is not done now then P is likely to become beyond the parental control of both parents and the risks of sexual harm will increase. I made a finding (above) that if something doesn’t materially change for P then the implications of continuing to be in her current state of emotional turmoil could be life long and affect her future relationships not just with her parents but with the wider world.
145. M has highlighted the following case of **Warwickshire County Council v The Mother & Ors, [2023] EWHC 399 (Fam) & [2022] EWHC 2146 (Fam)**. This case is quoted for two purposes in M’s closing submissions, firstly as a criticism of TBR’s classification of parental alienation within a case and secondly the approach I should take to the plan as put forwards by TBR. I considered the first point earlier in my judgment and deal with the second now. TBR gave evidence about this matter which is set out above, further to that I find that the case I am considering is substantially and significantly different to Warwickshire for a number of reasons, the most significant being the following;

- gggggg. There is no finding of parental alienation in this matter, while there are alienating behaviours, this matter is more complex and multi-faceted;
- hhhhhh. In Warwickshire the judge at first instance held the fact finding and then immediately ordered the plan as suggested by TBR, this did not give the parents time to digest the findings, work through them with therapists or allow for further assessment and review by the court. All of which have taken place in this matter and therefore I have further detailed evidence;
- iiiiii. The only matter of concern in the Warwickshire case was emotional abuse as a result of parental alienation. In this case I have found that while there are alienating behaviours there is not parental alienation and there are a number of concerns about M's permissive parenting, her parentification of P, the CSE, M's lack of insight into the concerns surrounding P's behaviour and P being beyond M's parental control. P is on a CPP as a result of the serious concerns surrounding her behaviour;
- jjjjjj. In that matter both parents were open to and working with professionals and while there was some criticism of the mother, including limited compliance, the concerns were not as serious as those that have been identified about M in this case. Also there was no suggestion of disguised compliance, or blame and deflection of blame onto others, which I have found, in part, to be the case here;
- kkkkkk. The mother in the Warwickshire case accepted that she had made mistakes and must change, spoke positively about therapy and felt she had a real understanding of her behaviours. None of this can be said for M, while she has been positive about the therapy she sourced herself, we have no evidence of this therapy and in her evidence M showed no insight or understanding and continued to deflect blame on others;
- llllll. The father in the Warwickshire case did not take responsibility for his part in the difficulties, which is in contrast to F who has started that journey, although accepts he has further to go;

mmmmmm. Warwickshire is a case of siblings and as a result required took into consideration the children as individuals but also a sibling group of 2 and a sibling group of 4 (step siblings who were treated as sisters). It needed to be very carefully managed in light of those dynamics. In this matter P is an only child and those specific considerations are not relevant;

146. Finally, I draw attention to M throughout the hearing and in her closing submissions referring to the orders being considered as “*draconian*”, despite the clear case law stating this is not the case and should not be the test in private law matters *Re L (A Child) [2019] EWHC 867 (Fam)*. Therefore, this is not a test I use or apply, I continue to approach this matter from the view that the Child’s welfare is my paramount consideration and to determine this I apply the Welfare Checklist.

The ascertainable wishes and feelings of the child

147. I have dealt with the detailed and substantial evidence on this matter in length throughout this judgment as it is an area of considerable contention and deserves proper consideration given P’s age, I won’t repeat it all here. Throughout these proceedings P has said a number of different things to different professionals and as recently as during this hearing (31.10.2023) said to the G within the same phone call that she wanted M’s plan and then changed to wanting the current 50/50 shared care arrangement. However, I accept that the wishes and feelings P states with the most regularity recently is M’s plan. When P was informed of TBR’s plan and that the G was supporting this she became distressed and communicated this is something she didn’t want and considered would have a wholly negative impact on her.
148. Both experts and the G gave evidence that P’s wishes and feelings cannot be relied upon due to the reasons set out above. I accept their evidence both written and oral, that P’s wishes and feelings while taken into consideration should not be determinative. Further, I accept the G’s view that P wishes to have a good relationship with both of her parents but she does not know what is required to make this happen. It is a mark of her emotional immaturity and internal conflict that she cannot understand the position she is in. It was the view of the experts and the G that

TBR's plan is most likely to result in P having a positive and healthy relationship with both of her parents, as F has the ability and is willing to promote M.

Her physical, emotional and educational needs

149. P's physical needs are being met to a high standard by both of her parents in terms of clothing, housing, food etc. However, there are significant and substantiated concerns about M's lack of insight and therefore inability to keep P safe from sexual exploitation and the physical harm that could result from this. If I were to order M's plan P would continue to be at risk of this harm. There are no concerns raised about F's ability to meet all of P's physical needs and to take the steps required to put in the boundaries P requires to keep her safe from physical harm. If I were to order TBR's plan this would be the most likely option to ensure P remains safe from physical harm.
150. P's emotional needs have been greatly impacted by the high conflict between the parents, being at the centre of that conflict, M's implacable hostility towards F, M's permissive parenting and M's parentification of P. All of these have created an inner turmoil for P which is causing her to self-harm and engage in risky sexual behaviours. Were I to order M's plan all of these concerns would continue and P would continue to experience emotional harm, the long term impact of that was set out by both experts. If I order TBR's plan it would remove all of the elements that are causing P emotional harm and by only having supervised contact until therapeutic work was undertaken it would allow P time to settle, process and work through those issues. It would allow an opportunity for F to continue his progress and for M to gain understanding and insight but I accept that it would cause P distress initially and this may be a difficult time for her and F. TBR's plan is the only approach which allows material change for her to cease her inner turmoil and when I balance the short term difficulties against protecting P from long term harm which is likely to escalate and affect her relationships beyond the family and into adulthood, I find that the long term damage outweighs the short term distress.
151. Both parents are equally capable of meeting P educational needs. While M has been more proactive in finding and funding private education and tutors for P there have

been no concerns raised about F's commitment to and support of P's education. The current situation is impacting on P's education and the school have raised concerns about P, these are likely to be as a result of P's turmoil and being at the centre of the conflict. Therefore, TBR's plan is likely to ameliorate these concerns in the longer term, however this is not a determinative point as P is engaging well with school.

The likely effect of any change in circumstances

152. Both plans will necessitate a change in circumstances for P. M's plan means that P will be put further in the centre of the parents' conflict, or Dr Willemsen identified a concern that F will fatigue and therefore withdraw from the process and P permanently. I have already set out the long-term impact of P remaining in the current conflict, it would be equally, if not more damaging to her should F withdraw. At the current time F is the parent that is providing a safe, calm space for P away from the behaviour and influence of M. He is the parent that is providing the boundaries which the professionals state she requires. Without F, there would be no one who has insight into, and appreciates, the risks that she is at. P would be unlikely to receive therapy which contains the narrative she requires and therefore her long term well being will be compromised. She is likely to continue to participate in risky behaviours such as self-harm and continue to be sexually exploited which impact on her into adulthood.
153. TBR's plan is a more extreme change for P and it is recognised by all of the professionals that initially this will cause her distress and she may rail against the plan by absconding or seeking out extreme behaviours. However, the evidence was that once this period was over, P would be able to settle and benefit from the calm space to rebuild her relationship with F while engaging in narrative-based therapy. Both experts felt that there was enough of a prospect of this plan succeeding that it should be attempted as the alternative of remaining in the current situation would almost certainly be negative.

Her age, sex, background and any characteristics which the court considers relevant

154. P is a 14 year old female, while she is academically capable, she is emotionally immature, vulnerable and at risk of emotional harm and sexual exploitation. All of

these concerns have been set out above. I have found that P requires a material change in her circumstances as they are responsible for the inner turmoil she is currently experiencing. Therapeutic input is required but it must be the right therapy, which is informed by the findings of the court and which helps her make sense of her parents actions and the court decisions. This cannot be a generic therapist and needs to be someone with specialist training and knowledge of these proceedings. While that is ongoing she needs boundaried parenting which seeks to protect her from her own poor decision making. The evidence is M cannot support that approach as at the current time as she is in denial about the risks and extent of P's vulnerabilities; throughout her evidence M minimised the concerns. M lacks insight into herself, P and the conflict which has caused this situation and therefore cannot assist P in gaining this insight. All of the professionals agree that F is the only parent who can provide an environment for P which she requires. While it is not the perfect solution as it will cause P distress and F is still working on his difficulties, it is the only option that addresses P's characteristics and gives her the best chance at an optimistic future and positive relationship with both parents.

Any harm which she has suffered or is at risk of suffering

155. I have set out at length the harm P has suffered and the harm she is at risk of suffering were I to order M's plan. I have also found there needs to be a material change in P's situation to protect her from these risks. I have also set out the short-term harm she may suffer as a result of TBR's plan, but this would protect her from the immediate risks of harm by sexual exploitations and is likely to stop long term harm, including into adulthood.

How capable each of the parents is of meeting her needs

156. Sadly, M is not currently capable of meeting P's needs beyond the educational and basic physical care needs. I have given a full and detailed analysis of the evidence as it relates to M being able to understand, have insight into and meet P's emotional needs. M is unable to parent P as she requires. At this time M cannot acknowledge her faults, let alone start gaining insight into them or how they have impacted P, until she can do this she will continue to be incapable of offering the standard of parenting P requires given her lived experiences, vulnerability and exposure to conflict. M

causes so much conflict in P that the evidence was if M is allowed to have unsupervised contact with P while she was beginning the therapeutic process it would be disastrous for P and would undo any progress that was made.

157. F is not a perfect parent but he is trying. He is working with all of the professionals, he is taking advice, listening to opinions and making himself vulnerable, he acknowledges that he still has work to do but he is doing the work and the experts recognise how far he has progressed. None of the professionals have any concern about F's ability to meet any of P's needs. They, and he, acknowledge that it will be difficult and distressing but it is P's "only" chance of having a relationship with both of her parents and of understanding and working through her inner turmoil so that she may have the positive future she deserves. The experts and G are in agreement that TBR's plan is the only way for P to have all of her needs met, and keep P safe from the risks of harm.

The range of powers available to the court under this Act in the proceedings in question

158. Both experts stated that were P to remain in the care of M then she will not be able to form a positive relationship with F and it is likely to have long term negative implications for her. P's "best chance" was with F, both were concerned that it may already be too late and the damage is now irreversible. However, they, the G and I are of the view that if there is a chance for P to have emotional security and learn to protect herself, then that chance must be given every opportunity to succeed and the window of change is still open. Therefore, I make the following orders;

nnnnnn. P shall live with F

oooooo. P shall spend time with M once per fortnight for up to three hours, to be supervised by a professional

pppppp. P shall have supervised video or telephone contact with M at a frequency to be informed by the professionals

qqqqqq. This judgment shall be disclosed to the professionals in the case and a narrative based on this judgment and the FFH judgment shall be prepared for P

- rrrrr. P shall participate in therapy based on the narrative that has been provided, this can include either or both of the parents depending on the therapist's recommendation
- sssss. If M choses to undertake the therapy as set out above then this judgment must be disclosed to the therapist
- ttttt. Dr Willemsen shall provide an updating assessment of F, M and P (timeframes to be ascertained by the parties)
- uuuuu. G to provide a further analysis
- vvvvv. F's application for a s91(14) order is adjourned
- wwwww. There shall be a further hearing in this matter to consider the updating assessment

159. I accept that further direction will be required to enaction the above orders.

District Judge Saunders

24th January 2024