



Neutral Citation Number: [2021] EWHC 3077 (Fam)

Case No: DA20F00073/74
ME20P01106

IN THE FAMILY COURT
SITTING AT THE ROYAL COURTS OF JUSTICE

Date: 12/11/2021

Before:

THE HONOURABLE MR. JUSTICE WILLIAMS

Between:

Mother

Applicant

- and -

Father

1st Respondent

-and-

J, K, and L

(Minors by their Children's Guardian)

-----**2nd, 3rd and 4th Respondents**

Gemma Taylor QC and Raqaiya Riaz (instructed by **Huttons**) for the **Respondent**
Jeremy Hall (instructed by Patrick Lawrence LL) for the 2nd, 3rd & 4th Respondents

Hearing dates: 4,5,6 May 2021

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MR JUSTICE WILLIAMS

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Mr. Justice Williams:

1. On 24 February 2020 the Applicant mother (the mother) issued applications in respect of three of her five children, J (aged 13), K (aged 12) and L (aged 10). By those applications she sought;
 - i) a variation of an order dated 13 November 2014 which provided that the children would live with the father to specify that the children would live with the mother,
 - ii) an order prohibiting the father from removing the children from the mother's care or seeking the return of the children to the father's care without permission of the court,
 - iii) an order that the children be known by the surname P in place of Q, and
 - iv) an order giving leave to remove the children from the jurisdiction on a temporary and a permanent basis.
2. The Respondent to the application was F (the father) and notice was also to be given to R, said by the mother to be the father of L. The application was supported by a statement of the same date setting out extensive and extremely serious allegations of domestic abuse. An application was also made without notice for a non-molestation order under the Family Law Act, which was refused, and the applications were listed for an on notice hearing on 4 March 2020. At the time the applications were made the mother and children were in Australia. In the early stages of the proceedings the father informed the court that if the children wished to remain in the care of their mother, he would be agreeable to this as long as appropriate contact arrangements were agreed. He said that DNA testing of L had shown that she was his child. Shortly after the first hearing the pandemic intervened, and the mother and children did not return to the UK until July 2020. Subsequently the mother sought to withdraw her application which the father opposed as the mother had not returned to the UK, he said she was not facilitating indirect contact between the father and the children, was telling L that he was not her father and that he wished for Cafcass to report on the case.
3. On 29 April 2020, HHJ Robinson gave further directions to progress all the applications and listed them for dispute resolution appointment. At that hearing the children were joined as parties and a Guardian appointed. On 16 June extensive case management directions were given having regard to the contents of the statements filed by the parties and the probable need for a fact-finding hearing. On 6 August 2020, the mother filed a further application seeking to vary the terms of the contact order to suspend contact. By this time the mother and children had returned to the UK and the children had been seen by a social worker from Y local authority as a result of a referral made by the police following the mother reporting her allegations to the police. The children had also by then made allegations against the father and had told the social worker they did not wish to see or speak to him.
4. On 7 September 2020 the father issued an application seeking that the children be returned to live with him and a prohibited steps order preventing the mother removing the children from the UK. He maintained that the children were being emotionally abused by their mother. A four-day hearing was listed on 18 January 2021 the precise scope of which was to be determined at an FDRA on 9 November 2020. DNA testing

was provided for. At the FDRA it was determined that fact-finding would be undertaken in relation to the parties' cross allegations. The fact-finding hearing came before Recorder Green on 13 January 2021 and given the state of the disclosure he determined that the children's allegations should be heard separately from and subsequent to the mother's allegations. On 19 January 2021 the fact-finding commenced before Recorder Green, limited to the mother's allegations against the father and did not include the children's allegations. Having heard some evidence from the mother the judge reconsidered the ambit of the fact-finding and following consultation with the designated family judge the decision was taken to reallocate the case to a High Court judge.

5. The matter first came before me on 2 February 2021. At that time the mother was still represented by leading counsel. I listed the case for 11 February 2021 in order to consider the mother's application to remove the children to Australia pending the relisted fact-finding hearing. During the course of that hearing, were the application to be granted, it would be possible for orders to be registered in the Australian courts to ensure that the mother and J returned to the UK to give evidence for the fact-finding hearing. By the time the draft order was submitted the mother had dispensed with both solicitors and counsel. I also listed the applications for a fact-finding to take place over several days in April and May.
6. At the hearing on the 11th of February 2021, I was informed that the mother had returned the children to the care of the father on 8 February 2021. Because of the outstanding allegations made by both the mother and the children and the ongoing police investigation, in order to avoid the children being removed into local authority care, the father had agreed to move out of the family home leaving the children in the care of his brother. The mother attended (remotely) late and in person and confirmed that she intended to move to Australia with her two young daughters on 2 March 2021, in order to join her husband, there. Her position was that she did not wish to pursue the allegations against the father and that the children seem to be happy to be back with him. In her position statement she said *'I am looking forward to today's handover being over and getting F out of my life, I would rather never see my older girls again than have F in my life or controlling my life. That in itself must show you what a vile narcissist he really is.'* She indicated that if she sought their care in the future, she would ask for their return. Although she had agreed that the children should return to live with the father, she maintained that her allegations were true but did not wish to pursue them. The Guardian had spoken to the children on 10 February and each had retracted the allegations they have made against the father. I directed that a section 37 report be prepared by the local authority, X City Council and the matter was relisted for further directions on 11 March 2021. I did not accede to the mother's application to withdraw her applications as I considered that it was not in the children's interests to leave the allegations outstanding and maintained the listing for the fact-finding
7. On 11 March the mother did not attend but filed a position statement in which she set out her dissatisfaction with the progress of the case and her conviction that the father was defrauding the state. By this time the father had moved back into the family home with the agreement of X social services. Written agreements had been negotiated and signed to enable him to resume care of the children along with his brother. I made further directions to progress the matter to the fact-finding hearing that remained listed before me in April and May. I reduced the time estimate and listed the application for

a pre-trial review on 28 April 2021. The order recorded the fact that the Guardian and the father were seeking orders pursuant to section 91 (14) Children Act 1989 to prevent the mother bringing further applications without the permission of the court. I made detailed provision to ensure that evidence and skeleton arguments were served on the mother to ensure that it was clear that such applications were being pursued and what the arrangements for the final hearing were to be.

8. On 28 April 2021 the mother again did not attend. She had filed a position statement dated 9 April 2021 in which she acknowledged receipt of the order of 11 March 2021. She repeated her dissatisfaction with the court process and her outrage that the last order referred to the father's allegation that she had encouraged the children to lie about being sexually abused by the father and that forming part of the enquiry that the court would be undertaking. She said *'I have never nor would I ever encourage my children to lie. I will not take the blame for L's stupid actions. For myself, A and B (her younger children with her husband); as L made this case far more complex than it needed to be, if it wasn't for her lie we would have finished the I have been honest throughout this case; even to my own detriment. L unfortunately was a liar and thief long before she came to live with me.... The likelihood of L turning out to be a well raised adult is low. I do not find it fair to be in attendance when I have no representation when F gets his state funded QC. My husband is the one with the money..... I'm not asking the court for any access; I do not wish to co parent.... I currently have no relationship or contact with L and J, F has poisoned L... J is mad at me for cutting her phone off... It is a shame F couldn't have put the children's best interests first and agreed to them leaving the UK.... Instead they're going to be brought up by two convicted criminals'*
9. By that time the Police had confirmed that the allegations made by the children and subsequently retracted would be the subject of no further action. The order made required the mother to inform the Guardian's solicitors within 72 hours of receipt whether she intended to attend the final hearing remotely in person or did not intend to participate at all. The hearing remained listed to commence on 4 May.
10. The order recorded the issues as follows:
 - i) The parents' factual allegations against each other and the children's allegations against father;
 - ii) What time the children should spend with mother and whether that contact should be indirect, direct, supervised or unsupervised;
 - iii) Change of surnames of the children;
 - iv) Whether a s.91(14) order should be made restricting the ability of the parents to make applications to the court in respect of the children without first obtaining the permission of the court to do so, and if so, for what period.
11. When the hearing commenced on 5 May the mother was not in attendance and had not complied with the terms of the order made on 28 April. The father remained represented by Ms Taylor Queen's Counsel and Ms Riaz. The Guardian was represented by Mr Hall. Shortly before the hearing commenced the mother's husband had emailed the Guardian's solicitors to say that the mother was on day four of a six-day drive home from hospital treatment and was unable to view documents which had been served after

28 April. Later communications suggested that she might be prepared to stop driving in order to participate in the hearing. The father did not accept that the mother was incommunicado in the way suggested. Not only had the mother sent money by Internet transfer on 3 May, but the time difference between Australia and the UK would have meant that the hearing was taking place in the evening in Australia at which point it seemed unlikely that the mother would still be engaged in her epic journey back to her home. I was quite satisfied that the mother's non-engagement in the proceedings was entirely voluntary, that she had had access to the relevant documents, was aware of the decisions that the court was considering and had, for reasons of her own, decided not to participate.

12. For the purposes of the hearing I was provided with an electronic bundle comprising some 1125 pages of evidence. Both the father's team and the Guardian had provided detailed skeleton arguments for the hearing on 28 April 2021 in which the statutory framework and relevant case law bearing upon section 9114 applications was extensively set out. Further documents were filed for the fact finding hearing itself. I heard evidence from:
 - i) Ms Dickens the social worker who had prepared the section 37 report
 - ii) Ms Whitnell, the children's Guardian
 - iii) The Father.
13. Given the contents of the section 37 report and the retraction of the allegations, I did not consider it appropriate to hear evidence from any of the children, in particular J who had earlier (whilst in the care of the mother) expressed a desire to give evidence. I made it clear throughout the hearing that were the mother to make herself available to give evidence, I would consider hearing from her, but she did not do so. A further email was received on her behalf in which she stated she was willing to speak to me but absent the father's legal team and without being asked questions. I declined to allow the mother to set the terms of her engagement with the court process.
14. During the course of submissions, I raised a number of points with which they were unable to obtain instructions on in the course of the hearing. I therefore allowed the parties to file further written documents prior to the completion of my judgement. Both the father and the Guardian filed further documents and the mother filed two further documents.

The Parties Positions

15. On behalf of the father Ms Taylor QC and Ms Riaz made the following essential points:

- i) He invited the court to dismiss all of the mother's applications and to make a new Child Arrangements Order providing that the children were to live with him.
- ii) He sought an order prohibiting the mother from removing the children from the jurisdiction and for the handover of the children's passports.
- iii) In support of his position in respect of the substantive applications he emphasised:
 - a) The mother's allegations were no longer actively pursued by her and they could not be proved on the balance of probabilities. It was disproportionate and unnecessary to conduct a detailed fact-finding hearing as the allegations had been overtaken by events.
 - b) In any event, the evidence demonstrated that many aspects could be demonstrated by other evidence to be demonstrably false and the court should prefer the father's evidence in all material respects in relation to them. The court should find that the allegations were malicious and unsupported. The history of the mother failing to pursue them in 2014, the evidence of texts and telephone calls including recordings together with the other evidence all demonstrate that the allegations were deliberate lies and exaggerations.
 - c) The children's allegations had been retracted, were not supported by any party and could not be established on the balance of probabilities. The mother's conduct in promoting them, asserting that she could believe the father was capable of this, supporting the undertaking of intimate examinations and ABE interviews has been significantly harmful to them. The provenance of the allegations moving from the 2018 implicit allegation of sexual impropriety, through the children's documents, the discussions with the children by police and social workers after the mother had made her seven-hour statement to the police upon her return from Australia, the allegation emerging from K in her ABE interview following the mothers email to the police in October and the retraction in early January as it became apparent to the mother that her plans to return to Australia may be disrupted and she may be exposed in the fact finding, all support the conclusion that the allegations cannot and should not be substantiated.
 - d) The evidence shows that the mother has little respect for the court process, the seriousness of the proceedings and the enormous emotional and psychological impact on the children of her conduct.
 - e) The evidence demonstrated that when the children were living with the father from 2014 to 2019, they were well cared for and happy and they were now content to be back in his care. Their best interests were served by the making of a Child Arrangements Order for them to live with the father.

- f) The evidence demonstrated the mother provided a poor standard of care for the children prior to 2014, including being arrested for child neglect. She then abandoned them with the father to pursue her life in London and had sporadic and unreliable contact with them thereafter until late 2019. She then persuaded the father to consider allowing the children to live with her, given her immeasurably superior material status to that of the father. When he did not then agree to remove himself from the children's lives to enable the mother's husband to take on the role of father, she made allegations when she was thwarted in her goals. These escalated if she did not achieve her aim with her first set of allegations. The mother's recent attitude to L and J illustrated how inconsistent she was and the recent comments about L being a liar and a thief were worrying.
- g) The mother's behaviour has had a significant detrimental impact on the father and on the children.
- h) However, they wish to have some form of relationship with her and would benefit from maintaining their relationships.
- i) Initially the father was willing to contemplate a very flexible arrangement in respect of the children's relationship with their mother but as the case developed and he was asked to consider the future against the backdrop of the past and in the context of observations I made his position also developed. He remained concerned about the impact on the children if they were unable to have direct contact with their mother and that placing obstacles in the path of the mother seeking contact might result in them not seeing her for an indefinite period of time. He therefore proposed that it was to be supervised by his brother.
- iv) He sought a direction pursuant to section 91(14) Children Act 1989 preventing any applications being made in respect of the children without permission of the court for a period of three years. This was justified to give the children stability and to remove the threat of any possible future application which would disturb their living arrangements. The burden of these proceedings and the parallel criminal investigation have been significant both for the father and for the children. The mother's actions show little respect for the court process and professionals or the children's interests. They are irrational and unpredictable and cause enormous disruption and harm which are likely to be repeated unless controlled by the court.

16. In her documents the mother made the following points:

- i) While she no longer wishes to pursue her applications, she maintains the truth of the allegations against the father.
- ii) She does not support L's allegations and maintains that L is a liar. She says she bears no responsibility for what L has said or indeed anything that the other children have said. She says she has been honest throughout the case and that

the father has turned the children against her. She says she could provide better parenting than the father, who continues to fail to set boundaries and to allow the children to develop in a way which will be harmful to them.

- iii) She does not seek orders because she refuses to engage in any form of coparenting with the father and if there is any prospect of him playing any role in the girls lives, she refuses to play any role herself as she regards it as an opportunity for him to abuse her.
- iv) She is unable for financial and practical reasons to participate in the hearing having spent her life savings up to the aborted fact-finding hearing.
- v) There will be no request for the children to live with the mother away from the UK whilst the father is in the children's lives.
- vi) There will be no request to have indirect contact that is monitored by F or his brother. The mother makes clear she will not coparent under any circumstances.
- vii) M maintains that there would be no risk to the children being in her care and that they would in fact have a far better life.
- viii) M denies having the children's passports.
- ix) M denies that her behaviour has been erratic and unpredictable since 2015 and asserts that she has had a very calm and settled lifestyle.
- x) She says that she has acted tirelessly and with a commitment to removing her children from a very bad situation with zero parenting from their father.

17. On behalf of the Guardian Mr Hall emphasised the following points;

- i) She supports a final Child Arrangements Order being made for the children to live with the father. The children need to know that their home will remain with the father throughout their minority and that their schooling and their social environment will be in X. It should be supported by a section 91(14) order for at least two years or until J has completed her GCSEs.
- ii) The mother's relationship with the children is harder to govern given her behaviour and the children's ability to make direct contact with her.
- iii) The Guardian's solicitor has taken considerable care to ensure that the mother is informed of the progress of the case since she disengaged. It is clear that the mother has received documents and is aware of hearings and the court can be confident that consideration of section 91(14) is in the context of the mother having full notice of it.
- iv) The children's allegations, if they are untrue, led to them being interviewed by the police and being medically examined in L's case, when they knew they were making false allegations. This is harmful to them. The possible conclusions that the court might reach in respect of why the allegations were made range from the mother deliberately making the children give false accounts through to the

children sensing that, if they made false allegations, it might assist their mother in her aims and in their aim to live with her.

- v) Both the Guardian and social worker are concerned at the instability that was introduced into the children's lives in particular over the last 15 months but also by the mother's conduct before that from 2013 onwards both in abandoning the children but also in making complaints about the father's care. The children's emotional welfare requires stability which can best be achieved by preventing further applications which challenge where they live. Whilst there are not repeated applications this is a case where the welfare of the children justifies the use of section 91 (14). The difference in the homes provided by the father and the mother both in terms of geography, schooling and material wealth provides a very distinct contrast which adds to the difficulty that the children may experience settling back into the father's care. The mother's dramatic changes of position where she moves in the space of a few weeks from making very serious allegations about the father, supporting the children's allegations and suggesting that he is unfit to care for children to returning the children to his care suggests that her future behaviour may be equally unpredictable and disruptive which justifies the court providing as much stability as possible. The section 91(14) order should relate to the live with order rather than contact.
 - vi) The Guardian considers that it is in the children's interest to continue to have a relationship with their mother and to have positive contact. J is missing her mother and her half siblings and had said she would like to live with her if her sisters could accompany her. L equally is likely to miss her mother. K currently has some contact with her mother. Contact should not only be remote but should allow for direct face-to-face contact within this jurisdiction. She supports an order which gives father the discretion as to the terms on which contact takes place. She is confident that the father will avail himself of support and guidance in relation to contact. A more restrictive order may result in the mother removing herself completely from the children's lives.
 - vii) A period between two and four years would enable J to complete her GCSEs and K to transition to senior school.
 - viii) The Guardian supports the court making a Specific Issue Order that the mother surrender the children's passports and be prohibited from applying for further documents.
18. The parties' detailed allegations were set out in Scott schedules. I do not intend to set out the schedule in their entirety but will focus on the nature of the main allegations. The mother's Scott schedule included the following:
- i) The father groomed the mother when she was 15 years old, providing her with drugs and embarked on a sexual relationship. The father denies this and says their relationship started when the mother was 17.
 - ii) The father forced the mother to have sex with a friend using physical violence. The father denies this.

- iii) From 2005 the respondent forced the mother to work as a sex worker. The father denies this.
 - iv) The father twice as a punishment took the mother to brothels and imprisoned her and forced her to work as a prostitute. The father denies this.
 - v) Between 2003 and 2019 the father operated escort agencies and knowingly recruited underage young people into the sex industry. The father admits setting up and running an escort agency which operated for a short period of time closing over 10 years ago.
 - vi) The father has groomed and had sex with many underage women before introducing them to the sex industry working for his profit. The father denies this.
 - vii) The father subjected the mother to domestic violence and abuse and coercive and controlling behaviour including the following. The father denies all the allegations:
 - a) Assaulting her in 2006 by throwing her to the ground and repeatedly kicking her and then encouraging an associate to assault her.
 - b) In 2007 by stabbing her in the stomach with a screwdriver.
 - c) In 2007 by trying to cut a ring from her finger.
 - d) In 2010 by breaking into her house and assaulting her.
 - e) In 2014 by attending at her home brandishing a large knife.
 - f) On 16 Feb 2015 by forcing her to withdraw money at knifepoint and threatening to kill her.
 - viii) By forcing her to pay him money to see the children. The father says that the mother paid his brother to take the children to a service station to handover and to pick up for contact weekends. The money was to meet the brothers travel expenses.
19. The father's Scott schedule included the following allegations:
- i) The mother cut his face with a knife in 2015. The mother says this was done in self-defence, he having earlier held a knife to her throat and that the children witnessed this.
 - ii) The mother has emotionally abused the children by abandoning them and threatening to put them in care. The mother says she left them with the father temporarily when she relocated to London.

The Legal Framework

20. Although the mother is no longer actively pursuing her applications, which the fact findings were obviously relevant to, I refused her application for permission to withdraw the applications as I did not consider it to be in the children's best interests to allow the case to conclude without some conclusions in relation to them being reached. The mothers applications issued in August 2014 terminated with an order that the children live with the father but no adjudication on the mothers allegations was undertaken and self-evidently the absence of any conclusions contributed to the fact that the mothers applications issued in February 2020 were then the subject of lengthy proceedings culminating only now in this judgment.
21. Although the mother did not participate in this hearing in order to pursue her case in respect of her own allegations, in my view this court is still required to attempt to reach conclusions where it is possible to do so. The mother actively withdrew the allegations made by the children but given the context of the case I have sought to investigate them also to some degree. As the Court of Appeal has emphasised in *Re H-N and others [2021] EWCA Civ 448* (see also *Re F (restrictions on applications) [2005] 2 FCR 176*) the court must consider the potential relevance of allegations independently of the position taken by the parties and whether some enquiry is necessary nonetheless in order to protect the children's welfare. The burden of proof of course in the usual case lies on the party making the allegation. The allegation must be proved by them on the balance of probabilities. In respect of the mother's own allegations the burden and standard of proof can be approached in the usual way; allowing for the fact that the mother has not attended to prosecute her case. The court is not bound to find the mother's case proved or the father's case proved but may determine that allegations have not been proved to the requisite standard; see *Rhesa Shipping Co SA v Edmunds (The Popi M) [1985] 1 WLR 948*. The inherent probability or improbability of an event remains a matter to be taken into account when weighing probabilities and deciding whether, on balance, the event occurred [*Re B (Care Proceedings: Standard of Proof) [2008] UKHL 35* at paragraph [15]]. The father has to prove nothing in relation to the mother's allegations. In respect of his allegations, the father must prove them on the balance of probabilities. In respect of the children's allegations where neither the mother or the Guardian are pursuing findings, I have investigated them to answer the question of whether the evidence is such that the court is obliged to find some means by which they should be investigated or prosecuted in a more formal way within these family proceedings in order to protect the children's welfare and if not then the consequence of them not being established would under our binary system result in no finding.
22. Findings of fact must be based on evidence, and the inferences that can properly be drawn from the evidence, and not on speculation or suspicion. The decision about whether the facts in issue have been proved to the requisite standard must be based on all of the available evidence. The court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvas. A judge in these difficult cases must have regard 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 a conclusion.
23. Self-evidently the credibility of the parties plays a central role in matters of fact. I bear in mind the principles in relation to *Lucas* and remind myself that the fact that one party

may have lied about one matter does not indicate that they have lied about all matters, still less that they have lied about the allegations made against them. A lie is capable of amounting to corroboration if it is (a) deliberate, (b) relates to a material issue, and (c) is motivated by a realisation of guilt and a fear of the truth: *Re H-C (Children)* [2016] EWCA Civ 136 at paragraphs [97-100]. A failure of a party to attend to answer allegations or perhaps even to support allegations does not allow the court automatically to draw the inference that the allegations are true or not true. The court should consider the circumstances in which the individual has failed to attend in determining whether or not that failure to attend assists the court in determining the veracity of the allegations.

24. I remind myself that in relation to historic matters the memory is a potentially fallible source of evidence. Evidence may be honestly and sincerely given but be false. Reliance on demeanour also requires some care. The presence of contemporary documentary material or other supporting evidence can be of considerable help.
25. Although the general approach is that any fact which needs to be proved by the evidence of witnesses is generally to be proved by their oral evidence r22.2(1)(a) FPR 2010, facts may also be proved by hearsay evidence. The effect of Children Act 1989 s.96(3), Children (Admissibility of Hearsay Evidence) Order 1993 is to make all evidence given in connection with the welfare of a child admissible notwithstanding its hearsay nature. This would commonly include Local Authority or police records which are very often hearsay, often second- or third-hand hearsay, but also extends to witness statements. The court should give it the weight it considers appropriate: *Re W (Fact Finding: Hearsay Evidence)* [2014] 2 FLR 703 and where hearsay goes to a central issue, the court may well require the maker of the hearsay statement to attend to give oral evidence.

Section 91(14) Children Act 1989

26. This sub-section of the Act provides as follows:

On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

27. This means that, if each parent is named in the order, neither will be allowed to bring and pursue an application for orders concerning their children without first applying to the court for permission to do so. Without such an order, the parents would each have the unqualified right to bring such applications.
28. In his Skeleton Argument, Mr Hall summarises the principles which have been developed as follows from the leading case of *Re P (Section 91(14) Guidelines) (Residence and Religious Heritage)* [1999] 2 FLR 573, CA, Butler-Sloss LJ. The court always has to carry out a balancing exercise between the welfare of the child and the right of unrestricted access of the litigant to the court. The guidelines are as follows:
 - i) Section 91(14) should be read in conjunction with s 1(1) which makes the welfare of the child the paramount consideration.

- ii) The power to restrict applications to the court is discretionary and in the exercise of its discretion the court must weigh in the balance all the relevant circumstances.
 - iii) An important consideration is that to impose a restriction is a statutory intrusion into the right of a party to bring proceedings before the court and to be heard in matters affecting his/her child.
 - iv) The power is therefore to be used with great care and sparingly, the exception and not the rule. The court must be satisfied that it is necessary and proportionate as it is an interference with the Article 6 rights of the person affected.
 - v) It is generally to be seen as a weapon of last resort in cases of repeated and unreasonable applications.
 - vi) In suitable circumstances (and on clear evidence), a court may impose the leave restriction in cases where the welfare of the child requires it, although there is no past history of making unreasonable applications.
 - vii) In cases under para vi above, the court will need to be satisfied first that the facts go beyond the commonly encountered need for a time to settle to a regime ordered by the court and the all too common situation where there is animosity between the adults in dispute or between the local authority and the family; and secondly that there is a serious risk that, without the imposition of the restriction, the child or the primary carers will be subject to unacceptable strain. The Court of Appeal has reiterated the principle that a need for time to settle to the regime ordered is not sufficient to justify a s 91(14) order: the purpose of the order could and should have been achieved by giving the order time to work itself out: *Re G (Residence: Restrictions on Further Applications)* [2009] 1 FLR 894, CA).
 - viii) A court may impose the restriction on making applications in the absence of a request from any of the parties, subject, of course, to the rules of natural justice such as an opportunity for the parties to be heard on the point. In particular it is wrong in principle, except in exceptional circumstances, to put a litigant in person in the position, at short notice, of having to contest a s 91(14) order (*Re C (Prohibition on Further Applications)* [2002] 1 FLR 1136, CA).
 - ix) A restriction may be imposed with or without limitation of time (the latter being very exceptional but not applicable in this case).
 - x) The degree of restriction should be proportionate to the harm it is intended to avoid. Therefore the court imposing the restriction should carefully consider the extent of the restriction to be imposed and specify, where appropriate, the type of application to be restrained and the duration of order (see also *Re G (Contempt: Committal)* [2003] 2 FLR 58, CA).
29. More recent authorities where the ability of the court to make such orders absent repeated applications is shown include;
- i) *Re M (Parental Responsibility Order)* [2013] EWCA Civ 969; order justified by reason of F's likely misuse of applications to seek control and M's vulnerability.

- ii) *Re A & B (Contact) (No 3) [2014] EWHC 818 (fam) [2015] 2FLR 885*: order justified given the impact of proceedings on resident parent.
 - iii) *NH v JH (Abduction) [2015] EWFC 43, [2016] 1FLR 885*; order not made despite father's conduct in abducting the children and the need for the children to remove the possibility of litigation to promote stability against the backdrop of a devious and manipulative father but applications reserved to that judge.
 - iv) *Re C1 and C2 (Child Arrangements) [2019] EWHC B15 (Fam)*; order merited given the father's litigation conduct and his single-minded rejection of any view contrary to his. He had been diagnosed with a narcissistic personality disorder. The impact of the father's behaviour on the mother and children significant feature.
 - v) *Re C3 and C4 (Child Arrangements) [2019] EWHC B14 (Fam)*, Keehan J made a s.91(14) order on the basis that the welfare of the mother and children required respite from the father's litigation conduct.
 - vi) *Re C-D (A Child) [2020] EWCA Civ 501* '*...the guidelines set out in Re P are, self-evidently, guidelines. As was said in Re P, the power is to be used with 'great care', but it is clear that the circumstances in which a child's welfare will justify the making of such an order are many and varied.*'
 - vii) *Re X (A Child: Child Arrangements Order) [2020] EWFC 57*, the impact of court applications on M's mental health and consequent risks to the child's welfare, and the 'number of applications', justified an order for 6 years.
30. Although the earlier authorities identified the use of section 91(14) orders in cases where there had been repeated and unmeritorious applications, it is clear that the courts, including the Court of Appeal, have confirmed that they may be deployed in any situation where the circumstances, in particular the article 8 rights of a child or parent justify limits being placed on another party's article 6 rights. In particular the potential impact of further applications on the children and the disruptive effects that would have on them may justify the restriction of a parent's right to apply. Ultimately it is all fact-specific and requires a careful evaluation of the relative rights engaged and where the balance falls.

The Evidence

31. The Bundle contains a wide variety of sources of evidence which taken together with the parties' statements need to be considered in order to determine what the true history of this family and these children are and thus ultimately where the truth lies in relation to the allegations and which informed the evaluation of the children's best interests going forwards. Self-evidently the task of piecing together the evidence has taken place in a different context to that which would usually exist. The mother has not participated to pursue her applications or her allegations and so her evidence has not been tested by cross-examination. The father's response to the allegations was tested by Mr Hall on behalf of the Guardian but this was entering the forensic waters only up to the knees rather than a full dive into them as would have been the case had the mother been represented.

32. The chronology attached to this judgment and the references which are incorporated into it contains what I consider to be material parts of the evidence that I have read and heard. Plainly it cannot be a complete record of all of the documentary or oral evidence that I heard but a very clear picture emerges from it as the pieces of the jigsaw were sorted and put into place.
33. The father's oral evidence reflected and was consistent with his written evidence down the years, contemporaneous records and the corroborative evidence from other sources. Insofar as demeanour and presentation assists in gauging the reliability of his evidence, I considered that in the main he was seeking to answer questions frankly and honestly. His response to the mother's allegations that were put to him on behalf of the Guardian and in relation to the allegations of sexual touching of L was measured and I thought sincere. In particular, his evidence of how he dealt with matters of hygiene with children showed a good understanding of the girls and their sensitivities. At times he appeared rather indecisive or powerless when talking about his interactions with the mother but ultimately, I concluded that he was simply out of his depth in how to deal with the mother who is such an unpredictable, self-centred and manipulative character. Only in two particular areas was I concerned as to how frank he was being in his account. That involved the full extent of his involvement with the escort agencies and the extent to which he made any money from them and the extent to which he managed them. I concluded that there was a greater level of activity than he admitted to but nothing approaching the status of violent pimp, and an involvement that ended before J was born rather than enduring to 2019 as the mother alleged. The other was in relation to the payment of monies to him in early 2020 when the children went to Australia which I found hard to follow. I'm not satisfied that the monies were paid to him to be used as some sort of security for the children going to private schools but rather was paid and used to support some financial need of the fathers. Whether this was in relation to the confiscation order or whether it was to compensate him for some loss of benefits associated with the children moving away from his care I'm not sure. However, neither of these areas are significant when one compares them to the overall landscape that I'm considering. Overall, I considered him to be a generally reliable witness of fact. His oral evidence was consistent with his written evidence and with his police interview, was broadly consistent down the years and was in the main corroborated by what contemporaneous and other evidence existed. I preferred his evidence on all relevant matters to that of the mother.
34. In his evidence, he was very child focused and showed a considerable degree of empathy to the children's situation. Remarkably, he did not seem to hold any real bitterness for the mother for putting him and the children through the instability and stress. All of the evidence suggests that he continues to promote the girls' relationship with their mother and is remarkably tolerant of the mother's unpredictable and erratic behaviour. Even now he recognises the need for the children to have some sort of relationship with their mother and the detrimental impact it would have if she were to disappear completely from their lives. Far from denigrating the mother to the children (and it is quite clear from the wording on it that the voodoo doll was a joke) it seems to me that the father glosses over the very serious concerns that exist about the mother's behaviour and the damage that she is capable of doing to the children. The professionals who have assessed him down the years including police, social workers and the Guardian all appear to have found him to be frank, child-centred and non-judgemental. However, I was satisfied that his experiences since late 2019 had now caused him to

reflect further on how he manages the children's relationship with the mother and that he will be more cautious in the future, although I think the lack of confidence that he has in his own judgment and his lack of assertiveness in his relationship with the mother both need addressing. Hopefully the social work support will assist with this.

35. I have been unable to directly assess the mother's evidence through it being tested by cross-examination. Nor have I been able to observe her demeanour either when her evidence was tested or in the dynamic of a court environment and so I am cautious about drawing conclusions in relation to her psychological make up and how that factors into the reliability of her evidence or how it explains her actions. However, notwithstanding that lack of direct observation, it is self-evident from the chronology that the mother is a grossly unreliable witness of fact. Her starting point for her allegations was that she was in care in a Barnardo's home and that she and other girls resident there were groomed by the father from 2004. The evidence from her family confirms that she lived at home until she left school and moved away which would contradict her account on its own but given that Barnardos closed its last children home before she was born that further undermines the foundations of her case. As one moves through the chronology one sees that the mother's assertion that she provided good quality parenting to the children and put them in the care of the father whilst she relocated to London to pursue her studies (and/or have a gynaecological operation) is also demonstrably untrue. The mother was investigated and cautioned for child neglect and the evidence establishes beyond doubt that the mother chose to place the children in the care of the father in order to pursue her lifestyle choices in London. Her statements of August 2014 and February 2020 give different accounts on this as they do in relation to her allegations of violence (her first statement does not include an allegation that he attempted to cut her finger off or of stabbing her with a screwdriver while she was pregnant). Her assertion that she did not pursue her application in August 2014 because the father terrified her into its non-pursuit is completely inconsistent with the audio recording of the mother's call to the father and with the messages that were exchanged. The mother's assertion that she was so terrified that she had no contact with the children for two years is demonstrated to be false by the video of her delivering Christmas presents a few months later. The letter from her family confirming the mother's propensity for telling tall stories is supported by the father's own experience of her account to him about her background which was false. All of the evidence points to the mother being dishonest when it suits her to be so. She was dishonest to the health professionals treating her at the time of her pregnancy with A, has been dishonest to the court, is dishonest to her family. This of course does not mean that everything she says is false, but it does in my view require powerful corroboration in support of any material allegation that she makes. The father described, with a sense of powerlessness, that it was difficult to manage the mother because if she did not get her own way the situation escalated until she either did get her own way or until she was exhausted with escalating matters and gave up. I have no hesitation in rejecting her evidence unless it is corroborated by contemporaneous documentation or other powerful evidence. As it happens in this case and as the chronology makes clear, there are almost no examples of her account being corroborated. The photos she produces of injuries have no provenance and could equally arise from other incidents the mother may have been exposed to down the years; for what it is worth her appearance looks more recent than would be consistent with her allegations. The photograph which is alleged to show her as an escort is difficult to identify and the father was clear that it was not her. If it was

taken at the home the father once occupied (as the enquiry agents suggests) it does not seem to have been of the mother.

36. I am also satisfied that the mother's failure to attend court in 2014 and again this year is because she does not wish to have her allegations tested. The father said in evidence that during the aborted fact-finding hearing the mother had accepted in cross-examination that she was not in a children's home, and it seems reasonable to conclude that the mother's subsequent disengagement from the proceedings was not a product of running out of money or inability to get internet access, but was because she feared being exposed in cross-examination. Given that the mother was made bankrupt in September 2019 on her own petition, I'm unsure how she managed to amass £160,000 or how that could be properly described as her life savings. The mother has been aware of the hearing dates since early February and I have no doubt could have arranged her domestic commitments to ensure she was able to participate either through the father caring for the children or from the employment of help. She relied heavily on her employment of a full-time nanny earlier in the proceedings yet now maintains that she is unable to participate because she is on the road with her child during the court day. I simply do not accept that this is the case, given the time difference between Australia and the UK. These are yet further examples of the mother's dishonesty and attempt to manipulate the situation to suit her ends.
37. It is quite plain from the evidence that I have read as demonstrated by the chronology but also by the mother's position statements and her dealings with the court and other professionals, that the mother is self-centred and lacks any sense of responsibility for her own actions. Her conversations with the father over her desire to have J live with her and leave K and L with the father, her threat to put the children in care if the father did not take them while she moved to London for lifestyle choices, her second abandonment of the children in February 2021 to resume her life in Australia are only a selection of the occasions when she has prioritised her own needs over those of the children. They are important not only because of the emotional impact they must have had on the children and on how one evaluates the mother's behaviour in the future but also because they shine a light on the environment in which the children's own allegations surfaced. The mother clearly is a woman who likes to get her own way and her emotions live very close to the surface. She does not hold back in expressing them and I have no doubt at all that her views on the father and her desire to have the children live with her in Australia with her husband and her two younger daughters would have been very evident to the children. It would have been evident to them that she did not wish the father to be any part of their new lives in Australia. It would have been very evident to them I think that if they did not support what their mother wanted, there was a risk that she would turn on them or abandon them as, of course, she eventually did. It is difficult to conceive of the emotional pressure that the children must have been under to say and do things which supported what their mother wanted. It has not proved possible for me to explore all the evidence that might bear upon the question of whether the mother expressly coached the children into making the allegations that they did in particular the sexual abuse allegations. The evidence is not available to me to do that. The mother is also clearly a material girl who places very great emphasis on the wealth that she now has access to and not surprisingly her daughters are easily influenced by that wealth and the lifestyle that accompanies it. Between the pressure emanating from their mother and the attractions of life in Australia it is abundantly clear that a fertile environment existed in which the children would have well understood that aligning

themselves with their mother and adopting her hostile attitude to the father would not only keep her happy but would serve to further their desire to continue with life in Australia. The documents that the children wrote are I am satisfied the product of discussions between the mother and at least J if not all three children where they were provided with a list of issues which they were to provide answers to with a view to furthering the mother's case. The earlier insinuations in the mother's complaints to the NSPCC and to social services that something untoward was happening between the father and L then developed into full-blown allegations made by L, into which K was subsequently drawn. Although the mother would say that responsibility for the sexual abuse allegations lies with L I have no doubt at all that responsibility for those allegations lies fairly and squarely with the mother who placed her children in a situation where they were encouraged to criticise and denigrate not only their father, but almost every aspect of their lives in X. Given the mother's earlier allegations to the NSPCC and social services about the father and L sharing a bed I'm satisfied that the seed of the sexual abuse allegation was sown by the mother in some shape or form and flourished in the fertile soils created by the mother. The father himself has said to the children that he understands how the allegations came to be made and I think he is right to do that. The children were in an impossible position which the mother placed them in. They may themselves feel some guilt about it and may feel some responsibility for false or exaggerated allegations that they made; that would be natural for any person with a conscience. I hope that they do not blame themselves too much.

Social Work Evidence

38. Ms Dickens was allocated the case following my section 37 direction. She attended pre-hearing reviews and gave evidence. It seems to me that the salient points of her report and oral evidence are as follows:
- i) The mother repeated her overall account of long-term serious abuse and violence and controlling behaviour. Communication with police disclosed that the police had not been able to make contact with the mother to ascertain whether she wished to pursue the complaint. The mother did not wish to pursue as she believed any attempt would leave her vulnerable to threats and financial extortion from father. She said she would prefer to wait until they were adults. Mother said she did not believe the allegations of sexual abuse to be true and that L had made them because she enjoyed the attention. Mother said L frequently lied and stole money and that a nanny had been sacked for stealing money when L had in fact stolen it. Mother expressed concerns about F's parenting abilities in particular implementing boundaries.
 - ii) Father denied all of the allegations and believed they were made as a result of the children being unfairly influenced by the mother. He struggled to understand why she would support the allegations they had made and then return them to his care. He was child focused and wished to ensure that they return to school and was concerned as to how he could best help them to manage their feelings about being abandoned by their mother. He did not seem interested in presenting the mother in a bad light but rather focused on the children. He wanted them to continue to have a relationship with the mother.

- iii) In initial discussions with J, she said that she would like to live with her mum, but by 18 March she said she did not want to live with her mum as her mum had been mean. She described her dad as funny and kind and disagrees with her mother's description of him as manipulative and bad. She said she was confused by what her mother had told her. She confirmed the allegations were made up as the children were confused about who they wanted to live with and what their future would look like. She was aware that L and K wanted to live with their dad, and she did not want to be separated from them. She said the best time of her life was before she went to Australia and was living with her dad and his brother. She said that her mother had been saying horrible things to her in texts to K and that she didn't want to see them.
- iv) K wanted to live with her dad and his brother, S. She worries about never seeing her dad and that her mother might hate her.
- v) L is worried that she will never be allowed to see both parents and she did not want to choose which parent she lived with. She dreamt that her mum and dad would get back together.
- vi) Both J and K's first memory was of waking up to find themselves alone in the house and going to their neighbours for help. They thought the mother had lied to them as she said she had gone to church, but it was 2 AM in the morning. They all said they did not want to be involved in court proceedings and wanted it to end. They weren't sure how to maintain a relationship with their mum, but they wanted her to stop talking about the court case and to say nice things not mean things. They all trusted their dad and mistrusted their mum.
- vii) J had returned to her school and had settled in and appeared to be doing well. Very recently the school had raised a concern about inappropriate sexual activity between J and another boy. J however said that they had simply been kissing and the boy had subsequently exaggerated what they had done. The social worker thought that close account was genuine.
- viii) K has started secondary school and was reported to be doing well and settled.
- ix) L had returned to her primary school and was reported to have settled back in the well. Her school has had no concerns about her since she has returned.
- x) The evidence demonstrates that the father has provided the longest period of consistent parenting and the evidence shows they are happy whilst in his care.
- xi) The children had told both the social worker and the Guardian that they made the allegations up. The police were taking no further action.
- xii) The children have experienced a great deal of disruption in their short lives and are confused and saddened by their situation. The mother's concerns about the father's parenting have not been substantiated; they are well cared for with their emotional, educational and physical health needs consistently met whilst in his care. The father is attentive to the children's needs and emotionally warm towards them. Concerns about his being the perpetrator of abuse have not been substantiated.

- xiii) The children's emotional well-being is a concern as a result of the mother's actions. Her leaving them in order to travel to Australia and her attitude towards them is potentially emotionally harmful. M has not been a consistent parent. Her pattern of making allegations against the father, none of which have ever been substantiated is harmful to the children and their ability to maintain a secure base.
- xiv) The instability the children have experienced recently needs to be addressed and the parties should require permission before making any further applications in relation to the children. The children need to be clear about their future and where they will live.
- xv) In order to avoid disputes M and F should avoid communication save in emergencies.
- xvi) The threshold for local authority intervention is not met. Non-statutory support will be provided. That is likely to provide a better level of support than a Family Assistance Order.

Guardian's Evidence

39. The Guardian's final report is dated 21 April 2021, but she had also filed two Re W assessments and a number of position statements which contained relevant material. Together with her oral evidence, she makes the following points;
- i) The work undertaken by Rachel Dickens has been extensive.
 - ii) The children have been caught in the middle of parental conflict and have rejected their father in favour of their mother, have made serious allegations against their father which were then retracted, and have been removed from school friends and environment they were familiar with upon the promise of a new life outside the UK.
 - iii) The circumstances give rise to concern that the children's allegations were made to meet the mother's needs rather than their own. J's desire to give evidence with the detrimental impact that that would have on her, causes the Guardian to remain concerned that J's desire to do this was to meet the mothers needs not J's. Since returning to her father's care J has not expressed any further desire to give evidence but has said she wishes to remain in her father's care, return to school and for proceedings to end.
 - iv) K and L gave ABE interviews which they now say were false. This was emotionally harmful, especially if they had been encouraged by the mother to denigrate the father.
 - v) There can be long-term and far-reaching consequences in relation to the children's sense of emotional welfare, belonging, and attachment when they find themselves in a position of having to denigrate one parent to please the other. It can impact on them in the long term as well as in the short-term in forms of regressive or challenging behaviour.

- vi) The children need to have their care arrangements settled as soon as possible. This should allow them to resettle into the father's care. They need some certainty around their future. They may need to have the opportunity to explore their experiences to help them to understand and make sense of the last 15 months, but this may be better done in the medium term so that they can settle back into the father's care.
- vii) The local authority have a good understanding of the family's situation and can provide support.
- viii) The father is child focused and has the best interests of the girls at the forefront of his mind. Having considered the totality of the evidence, she felt comfortable with the idea of the girls living with him. She did not consider that the father posed any risks to the children and did not support findings in relation to any of the allegations.
- ix) She considered that some parameters need to be put in place around contact between the children and the mother. In particular this was necessary in relation to contact abroad but also in relation to direct and indirect contact.
- x) She was concerned that the mother would seek to return the matter to court at some point in the future given her unpredictable behaviour. She considered that a bar on the mother making any application in relation to child arrangements should be put in place at least until J completes her GCSEs.
- xi) She did not support the application for a change in the children's names.

Conclusions

- 40. In relation to the factual disputes between the parties I am satisfied that the mother's allegations against the father have not been established; indeed, I am satisfied that the father's account is true and that the allegations made by the mother have been almost entirely fabricated.
- 41. In relation to the allegations that emerged from the children, I am satisfied not only that they do not require a more detailed explanation than that which has been undertaken during this hearing, but that the allegations of sexual impropriety and violence are not established on the balance of probabilities. Whether the father occasionally shouted at the children, whether he ought to have dealt with J's sleep related anxiety sooner, whether he is more relaxed in his parenting style and has difficulty boundary setting, are not matters which I feel it necessary to go into any further. The overall picture that emerges of the father is of a child-centred and caring father who provides a caring home for the children in which their needs are prioritised and met. Under our binary system, a figure of zero is returned against the allegations and the father emerges with a clean bill of health.
- 42. As I have said earlier, I have had insufficient evidence before me to gain any insight into the mother's psychological functioning and why she behaves as she has. The evidence from her family would suggest that her dysfunctional behaviour long predated her relationship with the father and has continued up to the present time. However, absent a psychological assessment of the mother I can do no more than note that

dysfunctional behaviour and observe that its longevity suggests it will continue into the future. I should also observe though that there would appear to be periods of time when the mother is able to provide for the children's needs in various ways. The assessment carried out by Y social services concluded that she was providing good enough parenting in 2017 and in 2020. Of course, they did not have the benefit of the overview that I have in relation to the risk that the mother poses in terms of the emotional well-being of her children, but she clearly has qualities as well as flaws

43. It is abundantly clear that the mother has, for many years, prioritised her own needs over those of the children, including prior to 2014 when she neglected the children at times, to her abandoning the children in the summer of 2014. I accept what the father and his brother say about how distressing the children found this. It would be a surprise if they had been anything other than traumatised by their primary carer simply leaving them with their father and virtually disappearing from their lives. The mother's actions in issuing proceedings on the back of allegations of the utmost seriousness and then abandoning them within days, accepting that she had lied and exaggerated and seeking the father's advice about how they should be withdrawn was in my experience quite extraordinary. You really could not make it up. She obtained an ex parte order that the children be removed from their father and returned to her care on the back of her false allegations. It is fortunate that she chose not to enforce it as the father undoubtedly would have complied with the order had she chosen to do so. Thereafter she continued to make periodic allegations against the father involving police visits late at night. All resulted in the authorities being satisfied that the children were safe and well with the father. Her unpredictable appearances in the children's lives thereafter are likely to have served to emphasise their relative lack of importance to their mother and when she did begin to show a more predictable interest that together with the material advantages must have been an almost irresistible attraction to the children to move to her care, love and lifestyle.
44. It seems clear that the father misguidedly, but I think with the best of intentions, agreed to the children going on an extended holiday with the mother. I am satisfied that he had agreed that, if the children wanted to remain with her, that he would have permitted that; he was expecting the family to base themselves in Y and for the children to attend private schools in Y. With the benefit of the overview that I now have that seems incredibly naïve, but hindsight and detachment is a wonderful thing. It must have been very difficult to say no to the girls, when not only would they be reunited with the mother who they clearly love and missed but when that was accompanied by the prospect of an affluent lifestyle quite different to that which the children were used to. I hope that the father has gained sufficient insight into the mother's unpredictability to resist any such temptation in future. The way in which the situation rapidly unravelled with his relationship with the children being denied and the mother saying she wanted him to have nothing to do with the children any more has, I think, made him realise that he will need to be more clear-sighted and assertive in ensuring that the children's stability and emotional needs are met in the coming years. Being at the receiving end of false allegations of the utmost seriousness, both in terms of sexual and violent conduct towards the mother, but also sexual impropriety in relation to one of his children should reinforce to the father the level of risk that the mother poses to his well-being and to the stability of the girls.

45. The mother's litigation approach, both in 2014 and 2020, has been to make allegations of the utmost seriousness, triggering high levels of intervention both by the court and by child welfare authorities, and then to abandon the proceedings. The abandonment of the proceedings one might have expected would come from the mother not achieving her aims in rapid fashion, but in 2014 they were effectively abandoned within a matter of days and after the mother had secured an order requiring that the children be returned to her care. Her applications then were capricious. In February 2020, and her conduct of the litigation since, were plainly designed to progress her desire that the children live with her and her husband and her two younger children in Australia and to remove the father from their lives. At the first hearing before me I indicated that I had some sympathy to the mother's application to remove the children temporarily to Australia between February and April, but on the basis that the mother and at least J would return to the UK to participate in the fact-finding hearing. However once again the mother was thwarted in securing her ultimate aim, and she proceeded to not only return the children to the father's care against the backdrop of the most serious allegations of domestic abuse, but also to remove herself from the country and to disengage from the proceedings, subsequently seeking to shift responsibility for events onto the court, the lawyers or, most egregiously, the children and in particular J. Her conduct of this litigation has been about as bad as it can get, and the children need to be protected from further applications issued by the mother which might disrupt their stability.
46. The outcome of the case in terms of the evaluation of the children's best interests is therefore not a difficult one. It is quite clear that their best interests lie in remaining living with their father. I can conceive of no reasonably foreseeable change in the mother's functioning which would justify a change in those living arrangements. The mother's unpredictable behaviour in relation to the children themselves and in relation to court proceedings has profound consequences for the children. Although this is not a case where the mother has made repeated spurious applications (if by repeated one means more than two), her applications have been accompanied by allegations, the investigation of which have at least latterly had profound consequences for the children and the father and they have then been abandoned by the mother. Both the mother's abandonment of the children in 2014 and 2020 and her making egregious false allegations when issuing court proceedings and then abandoning them together, with the obvious emotional toll that this has taken on the children and, I consider, on the father, provide a compelling case for the court to restrict the mother's access to the courts in relation to her making any application for the children to live with her. The children's need for stability and their emotional welfare together with the emotional well-being of the father justify restricting the mother's access to the court. The Guardian suggested a period of between two and four years. Given my conclusions on the mother's track record I am satisfied that the mother should be prevented from making any application for the children to live with her for a period of four years. Given the history, I am also satisfied that the father remains vulnerable to approaches from the mother and I will therefore make a child arrangements order which not only specifies that the children are to live with the father, but that the lives with order can only be varied on application to the court and that the children are not to live with the mother without the permission of the court.
47. It is also abundantly clear that there is a real risk of the mother taking matters into her own hands if she were to have the children with her and be out of this jurisdiction. The mother's clear preference is to base herself in Australia and/or the Middle East. Whilst

the mother has not previously abducted the children, the nature of her character is such that it is impossible to predict what she will do in the future and it seems to me that there is a real risk to the children were the mother to have unrestricted contact with the children. The mother will not therefore be permitted to remove the children from the jurisdiction without the permission of the court. Although I hope that the father has gained sufficient insight to withstand any approaches by the mother, the risk remains too great at present and I therefore do not consider that he should be left in a position where his consent would permit the children to be outside the jurisdiction with the mother. I will make an order directing that the mother, either by herself or by instructing another, do disclose the whereabouts of the children's passports and do cause them to be delivered to the father. If the mother does not do that within 28 days, the passports will be cancelled, and the father shall have permission to obtain replacement passports on his application and without the consent of the mother.

48. The issue of the children's relationship with the mother in future has troubled me. The father, the Guardian and Ms Dickens have emphasised the importance of an ongoing relationship between the mother and the children. At present, the mother is favouring K and excluding J and L. It may be that the girls themselves will take it into their own hands and reject the mother but, for as long as they wish to have a relationship, it seems to me that the Guardian and the father are right that the court should not place obstacles in the way of that the effect of which would be to eradicate that prospect of a relationship. Not without some reservation I agree that, given their ages, the issue of indirect and direct contact should be left to the discretion of the father, subject only to a condition that direct contact between the mother and children in this jurisdiction should be subject to supervision by the father's brother or some other suitable agreed individual. I do not therefore consider it necessary or proportionate to make a section 91(14) order in respect of applications for contact. However, I will reserve any applications made by the mother in relation to these three children to me.
49. The mother's application to change the children's surnames is now without foundation and I refuse that application.
50. I note there is reference to the mother having sought a declaration of parentage in respect of L. I've been unable to locate any DNA test results, but the evidence is compelling that L is the father's daughter as he is recorded to be on her birth certificate. If the mother did issue an application for a declaration of parentage identifying R as L's father that application is dismissed.
51. That is my judgment.