



[2025] EWHC 1254 (Fam)

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/05/2025

Before :

THE HONOURABLE MR JUSTICE MCKENDRICK

Between :

**Mother
- and -
Father**

Applicant

Respondent

A Child (Schedule 1, 1989 Act; Variation)

The Applicant appeared in person
Mr Michael Glaser KC (instructed by **Russell-Cooke LLP**) for the **Respondent**

Hearing dates: 13 and 14 May 2025

Approved Judgment

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This judgment was delivered in private. The judge has given leave for this version of the judgment to be published. The anonymity of everyone other than the lawyers must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

McKendrick J:

Introduction

1. These proceedings concern a child who is seventeen years old. The Child is not a party to these proceedings. The applicant is the mother. The respondent is the father (who does not exercise parental responsibility for them). The applications before the court are:
 - a. the Applicant's C 100 Form application dated 5 September 2024 for a specific issue order to order the Respondent to: (i) enter the child's name into the register in the Middle East country of which the Respondent is a national; and (ii) sign an application for a passport of the Middle East country of which the Respondent is a national on behalf of the child.
 - b. the Applicant's deemed application for the order of Bodey J for periodical payments to be varied up because of: (i) the costs of a driver; (ii) security costs; and (iii) the costs of holidays;
 - c. the Respondent's deemed application for the order of Bodey J for periodical payments to be varied down because the child: (i) is a full time boarder 'and otherwise'; (ii) will take a gap year; and (iii) will attend university;
 - d. the Respondent's application to release a solicitor, who acts as the Respondent's intermediary, from certain undertakings given to Mr Justice Bodey in 2013.
2. The Applicant has appeared in person. She has been assisted by a McKenzie friend, who attended with her on both days of the hearing. On the second day she also attended with a 'mental health supporter'. Given the background and the fact a Form C1A was issued, I raised with the Applicant FPR Practice Direction 3AA and whether she sought any form of participation directions. She did not. At the case management hearing in these proceedings, Harris J granted permission for the Respondent not to attend this hearing. I determined no participation directions were required. I heard evidence from the Applicant who was sworn and gave evidence from the well of the court, to permit her to have her papers around her and the (appropriate) assistance of her McKenzie friend. On the second day I permitted her some reasonable adjustments to move in court

and stand because she said she experienced some pain. I made clear she could seek breaks during the hearing and she asked for them when she needed one. She confirmed that she did not need, and had never sought, interpretation. English is not her first language. In respect of the application regarding the undertakings, I directed the Respondent's legal team to provide the Applicant an 'easy read' two page summary to assist her. I also required Mr Glaser to draft a further summary of the law, specifically having in mind any case law which might assist the Applicant. This was shared with her on day two. I am entirely satisfied she has received a fair hearing and has not been disadvantaged by the inequality of arms between the respective teams.

3. I have determined to dismiss all applications except the application to release the Respondent's intermediary from his undertakings. I endeavour to briefly set out my reasons below.

Background

4. The parties met in a country in the Middle East around 2003. The extent of their relationship is a matter of dispute with the Applicant stating they dated for some time and the Respondent denying they dated but accepting they were sexual partners. The child was born in the United States in 2008. In 2009 the Applicant issued an application pursuant to Schedule 1 of the Children Act 1989 (hereafter the "1989 Act").
5. I understand the child is a citizen of the United States of America. The Applicant informed the court they are also a British citizen (although I have seen no confirmation of this). The Child lives and is educated as a boarder at locations in the south of England. It seems clear the Child is habitually resident in England and Wales.
6. It is necessary to set out a chronology of the litigation between these parties. I have highlighted in bold and underline the orders which directly concern the applications before the court.

2009	Order made including: <ul style="list-style-type: none">• The Respondent pay interim periodical payments as follows;
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	<ul style="list-style-type: none"> ○ £15,000 to Applicant for general maintenance
April 2010	Application by the Applicant for an upward variation of interim maintenance.
2010	Applicant and the child rent the house which is later purchased as the trust property (at the Applicant's election).
December 2010	<p>Order including:</p> <ul style="list-style-type: none"> • Periodical payments increased to £27,400 per month (£17,000 maintenance plus £10,400 for rent).
2012	Applications by Applicant for amongst other things, legal fees, medical expenses, a holiday, a copy of Respondent's passport and surveillance reports. Order made included giving permission to the Applicant to apply for a US passport for the child and to travel with them as she wishes.
14 December 2012	PTR in front of Mr Justice Bodey. Order made included an interim lump sum of £21,000 for the Applicant and the child to have a holiday in the USA at Christmas, specifically being noted by the judge as 'exceptional' and in the context of the upcoming hearing.
1 March 2013	<p>After a 10-day Schedule 1 Final Hearing, Mr Justice Bodey makes orders as follows:</p> <ul style="list-style-type: none"> • Respondent to settle on the child the sum necessary to complete the purchase of the trust property at a cost of £3,450,000 and rights to the communal gardens at £17,500 and costs of purchase • Respondent to pay a lump sum to the Applicant to pay all of her unpaid legal costs, debts to third parties, £60,000 for a car and £25,000 for essential maintenance to the trust property • <u>Periodical payments to Applicant for the benefit of the child:</u> <ul style="list-style-type: none"> ○ <u>£204,000 per annum monthly in advance until the child is 18 or later if they complete full-time education (inc. gap year) until end of first degree or further order</u> ○ School fees and reasonable extras (up to £3,000) ○ Sums as required to meet university/other tertiary education

	<ul style="list-style-type: none"> ○ On 01.03.2017, 01.03.2021 and 01.03.2025 £37,500 (CPI linked) to enable Applicant to purchase a new car ● Periodical payments and the cap on the Respondent's liability for school extras shall increase automatically each year. ● Respondent agreed that he would provide sufficient security for future periodical payments (including educational expenses)
1 March 2013	<p>Order of Mr Justice Bodey in Declaration Of Parentage proceedings including:</p> <ul style="list-style-type: none"> ● Declaration that Respondent is the child's father ● Applicant has sole Parental Responsibility and sole care for the child and Respondent does not have Parental Responsibility ● Applicant cannot bind the Respondent to sign any documents/extra financial provision or otherwise when exercising the terms of this order.
19 April 2013	<p>Order of Mr Justice Bodey which included that:</p> <ul style="list-style-type: none"> ● The settlement of the trust property: <ul style="list-style-type: none"> ○ Applicant has liberty to request the trustees to sell the property and invest in a replacement property ○ Trust to continue until the child is 18/ end of first degree (inc. gap year) whichever is later ○ On expiry of the trust, the funds to revert to Respondent (and in the event of the child's death) ○ Each party entitled to nominate one trustee, this need not be a professional trustee ○ Trustees to fully insure the property and provide Applicant with the policy annually ● Respondent's obligation to pay the child's tertiary fees shall apply to any such university, wherever situated, to which Respondent does not object
17 May 2013	<p>Order of Mr Justice Bodey including that;</p> <ul style="list-style-type: none"> ● The settlement of the trust property:

	<ul style="list-style-type: none"> ○ Trust property to be held by the Trustees by their holding all the issued shares in a company, which in turn own the title to the trust property. Respondent to take all necessary steps to bring this about ○ The Trust shall be in the form of the draft handed up at this hearing (and as amended re 24.05.2013 judgment) save as otherwise agreed by the Trustees ○ Nothing in 1(f) of 29.04.2013 shall prevent the Trustees paying out trust income on trust expenses ○ Respondent to bear costs of constituting the Trust ● Respondent to pay to £17,000 for Applicant's rights to the communal gardens ● Maintenance/repair/redecoration as follows: <ul style="list-style-type: none"> ○ Applicant responsible for internal maintenance/decoration and regular outgoings ○ Respondent responsible for maintenance/repair of structure and fabric, inc. drains, gutters, pipes and external decoration. If Respondent doesn't discharge as they fall due, settle into Trust additional sums ○ Any other repairs/maintenance of property/gardens shall fall to Applicant ○ Respondent to be responsible for ensuring programme of external redecoration maintenance and repair is put in place on a 5-year cycle, starting 31.09.2013/within 28 days of the constitution of the intended trust ● Respondent by 24.06.2013 to bring £3.3m into the jurisdiction to act as security for periodical payments and educational expenses to be held in such manner as the parties agree
25 June 2013	Housing Trust set up and Security Fund of £3.3m confirmed.
26 June 2013	Purchase of property completed
11 July 2013	Security Agreement signed between the Respondent and his intermediary for the holding of the security fund

30 August 2013	<p>Urgent application made by the Applicant and ex parte order of Hayden J for Respondent to pay £4,500 towards dental hospital fees for the child, with the Respondent's intermediary to pay the sum out of the secured fund.</p> <p>Applicant's applications for an increase of the periodical payments and various other matters listed for a further hearing.</p>
11 December 2013	<p>Order of Mr Justice Bodey including;</p> <ul style="list-style-type: none"> • <u>Undertakings of the Respondent's intermediary regarding security fund (Applicant's application for a new security arrangement dismissed)</u> • <u>Dismissal of Applicant's variation application</u> • Refusal of permission to appeal
31 December 2013	<p>Application made by Applicant to appeal to the Court of Appeal.</p> <p>Appeal rejected on 10 December 2014 (Re A (A Child) [2014] EWCA Civ 1577)</p>
8 January 2015	<p>Applicant's application for permission to appeal to the Supreme Court – permission was refused on 16 April 2015.</p>
November 2015	<p>Application made by Applicant to the High Court for an increase in the periodical payments. Application dismissed by Mr Justice Bodey on 22 December 2015.</p>
4 June 2018	<p>Application made by the Applicant for (amongst various other matters):</p> <ul style="list-style-type: none"> • An increase in the maintenance payments • Provision of security • School extras increase • Passport for the child in the Respondent's country of nationality.
22 January 2019	<p>Hearing of the above application by Mrs Justice Roberts who dismissed all but three of the substantive matters before the court. Directions given in relation to:</p>

	<ul style="list-style-type: none"> • Trust arrangements for the Property • Schedule 1 financial provisions • Passport for the child in the Respondent's country of nationality.
February 2019	Applicant's non-molestation order application and hearing. Application dismissed.
March 2019	Applicant sought to return the matters that remained open from Hearing of 22 January 2019 to court. Hearing listed for June 2019.
7 May 2019	Order of Mr Justice Keehan vacating hearing of June 2019 by consent.
June – October 2019	Applicant applied to restore the matter to the court, with hearings adjourned in October 2019 and January 2020 by consent.
4 March 2020	Hearing focused on the appointment of Applicant's second trustee and security concerns raised by Applicant. Mrs Justice Roberts listed both items for further directions on 10 June 2020.
10 June 2020	Order of Mrs Justice Roberts for CAFCASS to consider if the child should be independently represented and whether they should have party status in the proceedings.
11 September 2020	Court email confirming that they had heard from CAFCASS who confirmed to the judge that they do not see a role for one of its officers to become involved in the ongoing financial proceedings. They recommended that the child does not need to be independently represented by a r.16.4. guardian. The matter is due to be listed for a hearing but the Applicant requests a delay to allow her to recuperate after an operation. Neither she nor her solicitors at that time sought to restore the application to the court.

7. The Applicant's C100 application of 5 September 2024 is handwritten and confusing. The Respondent issued a C2 application supported by a witness statement of Ms Jemma

Pollock (a solicitor and partner at Russell-Cooke LLP) both dated 3 October 2024, seeking the summary dismissal of the applications.

8. The parties came before Harris J on 8 October 2024. The order records that the Applicant was not pursuing some of the issues related to the “Trust Property.” The recital clearly records that the Applicant agreed that the only issues to be determined at the hearing before me, were the applications for an increase in periodical payments and the registration/passport specific issue order applications. The court waived the requirement to issue a Form A1 Schedule 1, 1989 Act application. A further recital to the order records the Respondent “indicating that he seeks” a reduction in the periodical payments. It is again recorded that the requirement to issue the application on the appropriate forms is waived. It is recorded: “*AND UPON the court determining that the above applications are the only ones to be considered.*” The Respondent took the ‘millionaire defence’ thereby relieving him of disclosure obligations. The Applicant was directed to file a Form E1 with 12 months of financial disclosure. The Applicant was directed to file witness statements related to the applications to be determined and the Respondent was given permission to do so, if so advised. The registration application was listed to be either dismissed or the subject of further directions. The matter was listed for a two day final hearing.
9. Given the unusual way the parties presented their applications, the matter was not placed before the lead judge for Financial Remedies, Peel J.; was not allocated in the usual way; and was not the subject of a Dispute Resolution Appointment Hearing.
10. At the hearing, contrary to the directions made and the FPR, I was presented with a bundle of documents prepared by the Respondent running to 883 pages and a bundle filed by the Applicant running to 431 pages. Various other documents were presented before, during and after the hearing. I admitted a “witness statement” from a third party and an email dated 23 February 2024 from the child’s school’s Deputy Head of Pastoral. Various other applications were made and I make clear none of them were listed to be determined at the hearing before me and they have not been considered. At the conclusion of the hearing, I directed the Respondent to file a short summary to explain to the Applicant, his application to release the Respondent’s intermediary from his undertakings to Bodey J. I further directed the Applicant to respond clarifying her

position on this discrete matter within three days. She did so and opposed the application in the absence of a financial audit of the Respondent's intermediary's role.

The Evidence

The Applicant

11. The Applicant filed two witness statements, both dated 17 December 2024. One relates to her periodical payments application and one relates to the specific issue order. She gave oral evidence and was questioned. Her written evidence is more in the form of a submission. She seeks the increased periodical payment to be backdated to the child's birth because the Respondent has the means to afford that and she says there is a continuous obligation from birth. She says there has been a failure to meet the child's financial needs and this has caused instability. She says life has become "unbearably expensive". She sets out reasons for increased holiday provision and lists the holidays the child has taken. She gives an example of a holiday of 11 days costing £ 200, 000. She says the child needs a driver because she has medical conditions, including a recent knee operation. A driver would provide the child with emotional support. The driver would also provide security. She says security at the home is needed after a fire. She explains she was injured in the fire. She spends time making complaints about the Respondent's intermediary's handling of the trust property. She asks for compensation for the failure to provide a passport to the child. She says the maintenance payments have been insufficient.
12. She sets out episodes when she says there were physical attacks in various locations between 2018 and 2022. She provides Metropolitan Police crime reference numbers.
13. In her second statement she recounts her own background and her account of her relationship with the Respondent. She explains her battle for her child's rights. She explains why she wants the child recognised for his heritage and legal rights in the ruling family to which the Respondent belongs. She says it is clear the Child is a member of that ruling family and has rights under the law of that country. She purports to set out the law of that country. She references international conventions. She says the Child's plan is to move to the Middle East after they complete their education in

England to cement their heritage there. She says nationality is a crucial part of the Child's "plan". She says they will renounce their US citizenship.

14. She exhibits a letter which purports to be from the Child to the court dated 5 October 2024. The Child says they have tried to speak with their father without success. The Child says they travelled to the Respondent's country of nationality for a passport in August 2024 but the request was denied by the authorities because they did not have the Respondent's signature and because the Child was not added to the register.
15. Her oral evidence was difficult to follow and tended towards exaggeration. She is not a reliable historian. She explained she married her husband in an Islamic ceremony in 2023. They separated in 2024. He bought her a Rolls Royce and gave her around £ 360,000 in cash and transfers. When asked about the list of holidays she said there were more than she had recorded in the written evidence and she states she forgot to add some to the list that had taken place. She explained she does not drive and the Child needs a driver for the weekends. The Child is a weekly boarder. She has her own cosmetic business and some form of a shop. She works there but the venture is not profitable. She stated that in the last three months "there had been seven attempts on my life". She stated all had been reported to the police and they were investigating. She was unable to show the court any contemporaneous documentation to support this.
16. The third parties' witness statement dated 11 April 2025 relates to a car and is not relevant. The email from the Deputy Head of Pastoral is from 2024, does not relate to the Child and does not relate to the Child's school.
17. The Applicant also sought to rely on a report from a journalist on Middle Eastern law, dated 28 January 2019 and a letter from a law firm, dated 10 February 2019. Neither document can be considered to safely or comprehensively set out the law on the Middle East in May 2025, being over six years out of date. No permission has been given for these 'experts' pursuant to FPR Part 25. I have read and considered them *de bene esse* largely to see if they help me understand the registration specific issue order application. They do not.

Respondent's Evidence

18. The Respondent chose not to file his own written evidence and relied instead on Ms Pollock's three witness statements, dated 3 October 2024, and two dated 28 January 2025. Ms Pollock has never met the Respondent and has not spoken to him recently, but has taken instructions from him through an intermediary. Her first witness statement is effectively a legal submission in support of the summary disposal of the Applicant's case. It is denied there are any security concerns for the Applicant or the Child and it is noted the Applicant has previously made 'fanciful' claims in this regard. She notes Mr Justice Bodey dismissed the Applicant's allegations there were attempts to poison the Child with lollipops, sodas and cherries.

19. Her second witness statement recounts this:

"At the time of the final hearing on 1 March 2013, the applicant's budget for periodical payments was at £668,799 p/a excluding school fees and extras – over £55,000 per month. A copy of that budget is enclosed at page 1 of exhibit JP2.

Mr Justice Bodey determined that the periodical payments for [The Child] should continue in the amount of £204,000 p/a. In paragraph 90 of his judgment, he commented that the applicant's budget was 'really a former wife's budget rather than a Schedule 1 budget'. He concluded that the existing level of maintenance would 'enable [the applicant] to give [The Child] a very good quality of life whilst recognising that she was not (legally) married to the father.'

The level of periodical payments was therefore considered in detail by three different High Court judges between 2009 and 2013, each of which made consistent orders. The applicant has however not been content with the outcome and has made no fewer than five further applications to increase the financial support she receives, being:

Application to the High Court – application made on 30 August 2013, just 6 months after the final hearing. This was rejected by Mr Justice Bodey on 11 December 2013;

Appeal to the Court of Appeal - application made on 31 December 2013, appeal rejected on 10 December 2014;

Application for permission to appeal to the Supreme Court – application made on 8 January 2015, permission refused on 16 April 2015;

Application to the High Court – application made in November 2015, dismissed by Mr Justice Bodey on 22 December 2015; and

Application to the High Court – application made on 4 June 2018, adjourned by the applicant and not restored.”

20. She submits a driver is not required and Mr Justice Bodey rejected a similar argument at paragraph 90 of his 1 March 2013 judgment. She notes the Child is a boarder and does not need daily transport. She states there is no evidence they come home on the weekend. On security she says the allegations her client has stalked the Applicant are false. She laments the fact allegations are made against the Respondent’s intermediary, solicitors and counsel. She notes the fire in 2017 began in the kitchen and that there is no evidence of third party involvement. She describes the £ 750, 000 for the Child’s proposed gap year as unreasonable. She states:

“If [the Child] is to travel for the full period of his gap year, the applicant will have no direct expenses for [them] and will be providing no care for [them] at all. Indeed, [they] will be 18 at that time and it is usually considered part of the gap year experience that [The Child] learns to stand on [their] own two feet, travelling and working where [they] choose. As such, the periodical payments should reduce significantly at that stage as the applicant can work to support her own expenses entirely. My client’s proposed budget is set out below but in short, we would propose that the maintenance is reduced to provide for food and housekeeping/house maintenance for the applicant, with a general maintenance amount for [the Child]. However, it would ultimately be a matter between the applicant and [the Child] as to what part of that total payment is made available to [the Child] directly to fund [their] gap year.”

21. Her witness statement then makes submissions about the Respondent's case to reduce payments. The proposal put forward is that the payments are reduced as follows:

- a. £ 138, 000 until summer 2026 when the Child will complete their A levels and school;
- b. £ 80, 000 for 2026-2027 gap year (£ 40, 000 for the Child and £40, 000 for the Applicant's household expenses);
- c. £ 100, 000 during university. The costs of fees and accommodation to be provided in addition.

22. Her third witness statement deals with the Family Book and the passport. She notes the Applicant relies on a report from the aforementioned journalist without the permission of the court. She says citizenship is a matter for the authorities of the country in question. Ms Pollock raises issues regarding the impact on the Child's US citizenship if granted citizenship of that other country.

23. The Applicant cross-examined Ms Pollock.

The Law

24. Paragraph 1 of Schedule 1 of the 1989 Act provides as follows

(4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

25. Paragraph 4 provides that:

(1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court shall have regard to all the circumstances including—

- (a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;*
- (b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;*
- (c) the financial needs of the child;*
- (d) the income, earning capacity (if any), property and other financial resources of the child;*
- (e) any physical or mental disability of the child;*
- (f) the manner in which the child was being, or was expected to be, educated or trained.*

26. Paragraph 6 provides as follows:

- 6(1) In exercising its powers under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments the court shall have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order.*
- (2) The power of the court under paragraph 1 or 2 to vary an order for the making or securing of periodical payments shall include power to suspend any provision of the order temporarily and to revive any provision so suspended.*
- (3) Where on an application under paragraph 1 or 2 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under that order, the court may provide that the payments as so varied shall be made from such date as the court*

may specify, except that, subject to sub-paragraph (9), the date shall not be] earlier than the date of the making of the application.

27. Although paragraph 4 does not expressly refer to the welfare of the child, in most cases welfare will be a constant influence on the discretionary outcome - see *Re P* [2003] EWCA Civ 837 at paragraph 44.

28. Moor J summarised Schedule 1 claims in *Haya Bint Al Hussein v Mohammed Bin Rashid Al Maktoum* [2021] EWFC 94, as follows, at paragraphs 45 and 46:

The first claim is that of HRH pursuant to Schedule 1 of the Children Act 1989. It has, in many respects, been overtaken by the claim HRH makes pursuant to Part III of the 1984 Act, so I need only deal with it briefly. Section 1(2) gives the court power to make financial orders by way of periodical payments, secured periodical payments, lump sums, settlement of property orders, or transfer of property orders but, in each case, the payment or transfer is to be either to the child himself/herself or to the applicant for the benefit of the child. Section 1(5) permits the court to make further orders for periodical payments, secured periodical payments or lump sums, at any time if the child has not reached the age of 18. Whilst orders normally end on either the child's 17th or 18th birthdays, this does not apply, pursuant to s3(2), if the child continues in education or there are special circumstances which justify the making of an order thereafter. Whilst an order shall, in general, cease to have effect on the death of the person liable to make the payments, this is not the case with a secured periodical payments order. The matters the court is to have regard to in deciding whether to exercise its powers and, if so, how to do so, are set out in s4. The court shall have regard to all the circumstances, including:-

- (a) The income, earning capacity, property and other financial resources which (each parent) has or is likely to have in the foreseeable future;*
- (b) The financial needs, obligations and responsibilities which (each parent) has or is likely to have in the foreseeable future;*
- (c) The financial needs of the child;*

- (d) Any physical or mental disability of the child; and*
- (e) The manner in which the child was being, or was expected to be educated and trained.*

There are three points of law arising. The first is that the court has, repeatedly, permitted a personal allowance for a caring parent in assessing the quantum of periodical payments orders. This started with cases such as Haroutunian v Jennings (1980) 1 FLR 62 but has more recently been endorsed by the Court of Appeal in Re P (Child: Financial Provision) [2003] EWCA Civ 837....”

29. In *Collardeau-Fuchs v Fuchs* [2022] EWFC 135 Mostyn J noted, at paragraph 114, the discretionary nature of a Schedule 1 1989 Act child maintenance claim and set out the following at paragraph 129:

- a. When determining a child maintenance application, the welfare of the child must be a constant influence.*
- b. A child maintenance award can extend beyond the direct expenses of the children. It can additionally meet the expenses of the mother’s household, to the extent that the mother cannot cover, or contribute to, those expenses from her own means. Such an award might be referred to as a Household Expenditure Child Support Award (‘a HECSA’). The essential principle is that it is permissible to support the child by supporting the mother.*
- c. But a HECSA cannot meet those expenses of the mother which are directly personal to her and have no reference to her role as carer of the child. An example is a subscription to a nightclub. However, the award can meet the expenses of the mother which are personal to her provided that they are connected to her role as a carer. Examples are the provision of a car or designer clothing.*
- d. The reasonable level of the mother’s household expenses should be judged by reference not only to the present standard of living of the respondent but also, if applicable, to the standard of living enjoyed by the family prior to the breakdown of the relationship. The object of a HECSA is not to replicate either such standard, but to ensure that the child’s circumstances “bears some sort of relationship” to them. The standard of living in the parties’ home prior to the breakdown of the relationship is “as good a baseline” as any other.*

(As will be seen, Moor J in the later Maktoum case, expressed the test as being that the children should be entitled to a lifestyle that is “not entirely out of kilter” with that enjoyed by them before the breakdown of the marriage, and that currently enjoyed by the father and his family).

e. The HECSA must be set at such a level that the mother is not burdened by unnecessary financial anxiety.

f. When assessing the mother's budget, the court should paint with a broad brush and not get bogged down in detailed analyses. Rather, the court should achieve a fair and realistic outcome by the application of broad common-sense to the overall circumstances of the particular case."

30. At paragraph 119 Mostyn J observed that standard of living before the breakdown of the relationship "*...should not however be allowed to dominate the picture as there will be many children, particularly children dealt with under Sch 1, who will not have experienced a standard of living within a functioning relationship either because the liaison between the parents was very brief, or because the child was born after the relationship had come to an end*".

31. A child's carer is entitled to payments *qua* carer. As Peel J recently observed in *Y v Z* [2024] EWFC 4 (emphasis added):

35. *ix) Child maintenance can be interpreted sufficiently broadly to include elements referable to the claimant in his/her capacity as the child's carer; Re P (supra) at paras 48-49. For many years this proposition, or concept, was known as the carer's allowance. More recently, at para 129 of Fuchs (supra) Mostyn J has suggested referring to it as a Household Expenditure Child Support Award [HECSA]. Whatever terminology is applied, **the principle is clear, although its application is highly discretionary. It is not always easy to draw a bright line between budgetary items to which the claimant has no entitlement as being exclusively personal to him/her, and personal items which may reasonably be claimed as being necessary to discharge the carer's duties, including items which help sustain the carer's physical/emotional welfare; Re P (supra) at para 81. The court "... has to guard against unreasonable claims made on the child's behalf but with the disguised element of providing for the mother's benefit rather than for the child"; J v C (supra) at 159H.***

Analysis

Periodical Payment Applications

32. It is helpful to begin with the judgment of Bodey J dealing with his reasons for making a periodical payments order on 1 March 2013 in the annual sum of £ 204, 000 adjusted annually for inflation (“index linked” – see paragraph 98 (4) and see the formulation at paragraph 9 of the order of 1 March 2013)). Bodey J spelt out his reasons at paragraphs 88 to 93. I have studied them. He was careful to ensure the Applicant was not provided for as if she were a former wife of the Respondent. Bodey J was characteristically careful to alight on an annual budget focused on the Child’s needs and the mother’s role in being the principal carer, appropriately calibrated to the enormous wealth of the Respondent, given he is a member of a very wealthy family. At paragraph 90 Bodey J scrutinised the Applicant’s then proposed budget and in particular he considered both a driver/bodyguard and holidays. He took the view a driver/bodyguard was not required and also significantly trimmed down the Applicant’s budget on holidays. Bodey J described the award as a “colossal” sum of money for a five year old.
33. I also remind myself that Bodey J gave careful consideration to the length of the periodical payment order. Paragraph 8 of his order deals with this. The periodical payment was ordered to be made until “ [the Child] attains the age of 18 years or, if later, [they] complete [their] full time education (including up to one academic ‘gap year’ between the completion of [their] secondary education and the commencement of [their] tertiary education) to the end of a first undergraduate degree or equivalent or further order.” No party seeks to vary the length of the order, only the amount. It follows that Bodey J carefully scrutinised the periodical payments for the period of school education, the gap year and during university years. He did not vary the quantum of the orders. This seems to be entirely in keeping with the discretionary and broad brush nature of the periodical payment award, having appropriate regard to the wealth of the Respondent.
34. On 11 December 2013, Bodey dismissed an application by the Applicant to vary the quantum of the periodical payments award.
35. The periodical payment orders were the subject of an appeal heard on 7 November 2014. Macur LJ (with the agreement of Lewison LJ and Sir Stanley Burnton) dismissed the appeal. Macur LJ set out her reasons for dismissing the challenge to the periodical

payment order at paragraphs 31-33. She noted the judge's "faultless" exercise of his discretion. Lewison LJ conclude the award was very generous but did not interfere in the exercise of Bodey J's discretion.

36. I remind myself that I am looking at matters afresh in 2025. I must have regard to all the circumstances of the case. The periodical payment now stands at £ 283, 733 per annum. I remind myself that school and university fees, a car and property repairs etc are all additionally provided for in the order of Bodey J. I note the terms of the statute do not require the court to find any change of circumstances. I am not bound to find a change of circumstances from March or December 2013 to May 2025. Rather I must look at all the circumstances and exercise my discretion on the evidence presented to the court in May 2025.

37. Since 2013, the Child has grown up and their circumstances have evolved with their developing age. However, their relevant circumstances have changed very little. The Child lives in the property Bodey J arranged at the trust property and lives with the Applicant mother. As Bodey J anticipated the Child is at school, will take a gap year and will likely attend university. I detect nothing in the Applicant's or Respondent's evidence that the Child's mother's caring role has changed. Rather it has simply evolved as Bodey J would have anticipated. It seems to me wrong to conclude that because the Child is seventeen, the mother's caring role has very significantly diminished. That is not her evidence and indeed she seeks an increase in the periodical payment and refutes the Respondent's application her role *qua* carer has reduced. The Respondent's evidence is not focused on the Child and their needs as a seventeen year old and how the Applicant mother meets her child's needs as a caring mother. The Respondent's evidence tells me nothing or very little about the Applicant's caring role. I am not prepared to assume just because the Child is seventeen, and is almost an adult, that it follows the Applicant mother's caring role is very much reduced. I have almost no evidence of the Child's emotional state or dependence on the mother. I note Ms Pollock's evidence is that a gap year: "*is usually considered part of the experience that [the Child] learns to stand on [their] own two feet.*" With respect to Ms Pollock, she knows nothing or very little about the Child and their relationship with the mother as their carer. For example, I do not know whether the Child will become homesick (albeit they are a weekly boarder) if travelling alone on the other side of the world. I

do not know if they will need to regularly see their mother and as a result she will plan to meet them at regular and frequent intervals. The Respondent's written evidence, through his solicitor, is speculation and not rooted in the Child and their needs.

38. Neither party has presented any proper evidence about the Child and their needs as a seventeen year old young person and their relationship with their mother and her role as the 'carer'. The Child, as a young person, is almost invisible in the evidence. That is how the parents have chosen to present their cases. I draw the inference that much of the mother's motivation in pursuing the application is driven by her own financial interest. I also draw the inference that the Respondent does not really know the Child and the relationship with the mother but has, understandably enough, taken the opportunity to reduce the payments in response to the Applicant's application. This is the background context, but my task remains to consider the applications and to assess all the circumstances to consider whether the payments should be varied up or down for the reasons suggested by the parties. I must adopt that principled approach to each application.

39. The mother's request for an increase is driven by: (i) security; (ii) the need for a driver; and (iii) increased holidays. I have considered the totality of the evidence and there is no evidence to demonstrate the order of Bodey J is insufficient to meet the Applicant's role *qua* carer to her seventeen year old child. I find there is no evidence that demonstrates either the Child or the mother need a bodyguard or other further security measures which require expenditure. There is no evidence from the Child's school that their safety is at risk. The mother's written and oral evidence falls well short of demonstrating this, on the balance of probabilities. She told me in evidence there had been seven attempts on her life in the last few months and all had been reported and all were being investigated by the Metropolitan police. There is no objective contemporaneous evidence to support this. Much like Bodey J concluded twelve years ago, it may be the case the Applicant believes these 'attacks' have happened, but I conclude she has not discharged the burden that is on her to demonstrate this and thereby demonstrate the need for payments to be increased to provide for security. There is no need therefore to increase the payment to provide for security.

40. The Child is a weekly boarder. The mother's evidence is that she cannot drive because of a recent knee procedure. I was not addressed on the issue of whether the Child has a driving licence or soon wishes to obtain one. The Child does not require a driver for 'emotional support' as the mother suggested. Nor does the Child and/or the mother as carer, require a full time driver. The award made by Bodey J fully and generously covers the cost of taxis or occasional drivers. If transport by applications like Uber is also required, this too can easily be met by the generous 2013 award. There is no requirement to increase it for a full time driver.
41. Mr Glaser took the court to the Applicant's evidence on holidays and submits she has not been spending the money on holidays for the Child. The Applicant states she forgot to include some holidays in the list provided in her evidence. She also seeks a payment of £ 750, 000 for the gap year. I have no doubt the generous Bodey J award more than covers the appropriate level of a periodical payment, now, on the gap year and at university. The sum claimed for a gap year is an incredible one. Looking at all the circumstances and having particularly in mind the Respondent's wealth and his likely luxurious travel, I conclude the 2013 award continues to meet the relevant needs for travel and holidays and need not be varied.
42. Those are my reasons for dismissing the Applicant's application for a variation upwards.
43. The Respondent applies to reduce the periodical payments. I have firmly in mind what was said by Mostyn J in *Collardeau-Fuchs* at paragraph 129 (c) and that the periodical payments must not include an element directly personal to the mother without reference to her role as a carer of the child (or young adult in education). Peel J rightly observed in *Y v Z* that in the exercise of the discretion it is not always easy to draw a bright line between budgets for discharge of the caring role and purely personal budgets for the claiming parent.
44. Chief amongst the Respondent's reasons for a reduction is the fact the mother married. She gave evidence she married her husband in an Islamic ceremony in 2023 and they separated in 2024. She was given a car and £ 360, 000. This is her personal money and need not be used to care for her child. I must, however, have regard to her financial resources. I have done so. The Applicant's overall evidence nonetheless is that she

requires an uplift. Whilst I have rejected that application, I have the Child's welfare firmly in mind and do not consider after having regard to this brief marriage and the money provided to the Applicant that the periodical payment should be reduced for the 5-6 years that the periodical payments will likely continue. The marriage is over and the financial resources this provided have stopped. It would be wrong for the Child's future welfare to be disadvantaged going forward simply because of the financial benefits of this short marriage. The Respondent also submits the mother can obtain employment. Her evidence is that she has a business but it is not financially successful. I have had regard to the fact she could earn, but having regard to all the circumstances and the Child's welfare, I conclude the Respondent has not made out the case the award should be reduced for this reason. There is nothing to suggest Bodey J did not have the Applicant's future ability to obtain employment in mind. The award is a very generous one, but this has already been upheld on appeal. The mother's business may in the future make profits. Furthermore, the Child may be impacted by pressures on the mother and overall exercising my discretion with the Child's welfare in mind the Respondent has not made out a case the award should be varied.

45. Secondly the Respondent submits the monies have not been spent on holidays and much of the money has not been spent generally. The Applicant says she forgot to add certain further short holidays. Mr Glaser invites to conclude this is untrue. I give the benefit of the doubt to the Applicant that she may have failed to list some holidays that have taken place, in the context of the fairly disorganised presentation of her evidence and case generally. The Child is likely to want to travel more as they become more independent and wishes to explore with developing age. It would be wrong to reduce the periodical payments now.

46. I have Mr Glaser's helpful spreadsheet which contains a comparative analysis of three budgets. First, the Applicant's proposed budget (which I have dismissed) which amounts to an annual sum of £ 1, 070, 617 (Applicant and household £ 674, 631 and £ 395, 986 for the Child). Second, the Respondent's reduced budget proposal of £ 138, 000 (applicant and household on £ 81, 000 and the Child £ 32, 000). Thirdly is the Respondent's analysis of the 12 months of disclosure which was ordered by the court based on the Applicant's bank statements. This amounts to £ 231, 703 in total with £ 185, 048 spent on the Applicant and household and £ 46, 665 spent on the Child.

47. It is also on this basis, that the Respondent seeks a reduction. I am however cautious about using the one year snapshot to make important decisions for the Child and the household over the next five to six years. I am not suggesting further disclosure is required, but a 12 month snapshot is just that. The snapshot is not the firmest prediction of needs going forward. The £ 231, 703 is not far from the Bodey J order. In any event, the Applicant's evidence was that her then husband provided her with cash and this was used to pay for various things, including holidays. Therefore, paying due regard to the expenditure analysis as part and parcel of all the circumstance, the spreadsheet budget does not persuade me the order should be varied.

48. Although Mr Glaser has logically broken down the future payments into distinct periods: school; gap year and university, I am not persuaded the Respondent has demonstrated the carer's allowance should be reduced as is proposed for those three periods, or at all. First, Bodey J carefully considered these matters and considered (and predicted) the future life path of the Child. Secondly, the Respondent has no proper evidence of the Applicant's current or future predicted caring role. The Applicant's role in caring for the Child, the 17 year old school child; the 18 year old gap year traveller and the 20 year old university student, has not been identified in the evidence to justify a variation of the periodical payment. I reject the contention that the Child's mother's caring role can be so easily compartmentalised and identified through her bank statements. To take such a short cut would be to underplay the importance of the Child's welfare in the overall discretionary exercise having regard to all the circumstances in 2025. For these reasons I reject the Respondent's application for a variation of the Bodey J order.

Specific Issue Orders

49. I can deal with these issues shortly.

50. The Child is habitually resident in England and Wales. The mother exercises parental responsibility over the Child. The Respondent father does not exercise any parental responsibility in respect of the Child, as per the order of Bodey J. The Child will turn eighteen in ten months. The mother's bundle of rights and responsibilities has

diminished significantly given the Child's maturity and age. There is nothing in the evidence to suggest the Child is anything other than *Gillick* competent in respect of these relevant decisions.

51. The Family Court may make orders restricting a parent's parental responsibility in respect of an application in respect of a child's passport. Obtaining a passport is dependent upon citizenship. I can see no reason why the court cannot make orders in respect of whether applications are made for citizenship in circumstances where a parent exercises parental responsibility. The grant of citizenship, however, is a matter for the immigration authorities generally, and in this case for the authorities of the country in question. The Respondent does not exercise parental responsibility in respect of the Child's citizenship or in respect of any other issues. I am not clear what order I am being asked to make. I am clear I do not have jurisdiction to make orders against the country's authorities to grant the Child citizenship and/or a passport.
52. Furthermore, the court has no properly admitted expert evidence in respect of immigration law in the country in question.
53. Even if I were minded to consider making a declaration the Respondent should consent to citizenship in his country of nationality, I am very far from persuaded on the Applicant's evidence, that citizenship is in the Child's best interests. I know very little about their wishes and feelings. I know little to nothing about the extent to which citizenship in that country may impact on their US citizenship, either from an immigration perspective or a taxation perspective. It may impact on their British citizenship, if the Applicant is correct and they are a British citizen. I also consider questions of the Child's nationality go to the root of their identity and the Child would need to be heard on these issues. For all these reasons, I am far from being persuaded the Applicant has discharged the burden of proof that citizenship and a passport in the country in question is in the Child's best interests, even if there are any relevant order I can make as against the Respondent.
54. Aside from those issues, the Child is seventeen. I do not consider it appropriate, that absent some compelling circumstances, a parent should be exercising parental responsibility in respect of nationality and citizenship for a *Gillick* competent young

adult, who may make their own application within a matter of months. The Child may well choose to obtain appropriate legal advice on issues related to tax and citizenship and resolve what decisions they wish to make in respect of pursuing citizenship. The Child can make the appropriate application when they turn eighteen shortly. I see no role for this court to make an order at the behest of the Applicant mother in respect of citizenship of another country. I dismiss the 'passport' aspect of the application for a specific issue order for these combined reasons.

55. I am provided very little evidence about the registration application. It appears to be some part custom and practice in the Middle East. It may be part of sharia law. I am not clear. I have seen a reference to this concept in Arabic in the letter obtained by the Applicant from the law firm. The Applicant has put very little evidence before the court. This court has already made a declaration of parentage under English law. It seems quite likely that by making any declarations or orders in respect of registration, I may well be trespassing on aspects of sharia law. The Applicant has fallen a very long way short of explaining her case. Similar issues arise in respect of whether any court, even if it has jurisdiction, should make any order on such profound matters of identity in respect of a seventeen year old. Noting as I do, the declaration of parentage made by Bodey J, I also dismiss this aspect of the application for a specific issue order.

The Respondent's intermediary's undertaking

56. The Respondent's case is that his intermediary is ill and the matter is urgent. The intermediary is a regulated solicitor of the Senior Courts. I accept he is ill. After having carried out his role he now asks to be discharged from his undertakings. The Applicant opposes this until a full financial audit has taken place into his professional role. It is not part of this court's role to carry out a review or assessment of the intermediary's roles in the respect of the various orders made by Bodey J. Determination of the Schedule 1 and specific issue orders does not require this. I am not considering other applications. From this limited perspective, I can see no reason why an audit is required before the undertaking is discharged. This does not prevent the Applicant seeking such relief in another court or before another forum should she wish to, although from what I have heard and read I can see no basis for this and nothing said in this judgment is to be used as basis to encourage further litigation.

57. As directed, the Respondent summarised this issue and provided it to the Applicant on Thursday 15 May 2025, the day after the contested hearing. That document summarises the application as follows:

[The Respondent's intermediary] is now very seriously unwell and is in hospital. The Security Deed and the order of 11 December 2013 confirm that in the event of [The Respondent's intermediary's] death, the Respondent was to make arrangements for the replacement of [his intermediary] with another 'similarly suitable' individual who would hold the fund in this jurisdiction and to enter into an identical agreement to the Security Deed. [The Respondent's intermediary and firm] would then be discharged from their obligations. However no provision was made for what would happen in event of [the Respondent's intermediary's] incapacity or retirement from practice.

As [the Respondent's intermediary] intends to retire from practice completely now and to close down his practice, in line with the Security Deed and order of 11 December 2013, the Respondent has nominated that Russell- Cooke hold the security fund instead. Russell-Cooke are willing to take over the holding of the security fund and to provide undertakings and to be covered by the court orders with identical provisions to those currently in place. This has been confirmed in the Deed of Novation (already signed by the Respondent and to be signed by Russell-Cooke if approval is received from the Court) and the draft order provided.

There will be no impact upon the Applicant and [the Child] of the transfer of this fund to Russell-Cooke. On a practical level, it will make the administration of the fund and payments to the Applicant more efficient as they will not need to be transferred from [the Respondent's intermediary's practice] to Russell-Cooke, and then on to the Applicant. In addition, given that Russell-Cooke is a large law firm, the operation of the fund will not be reliant upon one solicitor remaining in practice and the administration will be undertaken by the firm's accounts department. A ledger will continue to be provided to the Applicant on an annual basis.

Transferring the fund from [the Respondent's intermediary's practice] has now become urgent to prevent what could be a significant delay if [the Respondent's intermediary's] health worsens. We understand that if [the Respondent's intermediary] was to become incapacitated, the SRA may choose to intervene in [the Respondent's intermediary's practice] and take over the closing down of the firm. For the Applicant's reference, this is because [the Respondent's intermediary's] practices as a sole practitioner, so there is not another solicitor there to continue running the firm. We understand that this would mean that the [the Respondent's intermediary's practice] client account, including the security fund held on it, would be frozen and payments would not be able to be made from it until it is released by the SRA. This could cause a significant delay in the security funds being transferred or payments from it being authorised. This is why Russell-Cooke have agreed to take over the fund and have made the application accordingly.

58. The Applicant filed a written response on Monday 19 May 2025. Her previous written communications appeared to have consented to the Respondent's application to release the Respondent's intermediary from his undertaking. The recent response opposes it

because the Applicant wants a full financial audit of transactions which have taken place. She is also concerned that the Respondent's intermediary will continue to "act behind the scenes" to block her access and to 'manipulate'. She is concerned there has been a breach of a trustee's fiduciary duties and "the court risks enabling the continuation of concealed mismanagement."

59. I note there appear to be some applications which have been filed at court which may touch on this issue. For example a request by the Applicant to see a sealed envelope in the court file related to the Respondent's intermediary's firm. I am not dealing with those applications as they have not been listed by the court to be determined at the hearing.

60. Nonetheless, I have acceded to the Respondent's application and will release the Respondent's intermediary from the undertakings given to Mr Justice Bodey in 2013. I do that because I am told he is gravely ill and wishes to retire from practice as a solicitor. I will accept an undertaking from Russell-Cooke LLP to hold the security fund in the interim. The relevant documents shall be served on the Applicant so she understands the changes in the arrangements made. The order will provide her with permission to seek to vary the undertaking or apply for it to be discharged and alternative arrangements to be made, if so advised. I can currently see no basis for this but I am responding to the urgent application to release the Respondent's intermediary, given his ill-health. If there are any issues with his historical dealings with the security fund, this can be considered in the future. It may be that Russell-Cooke can provide information to the Applicant which will satisfy any questions she has in respect of the role the Respondent's intermediary has historically carried out. There may well be costs consequences of unmeritorious applications.

Conclusion

61. The Applicant's closing submissions accused the Respondent, the Respondent's intermediary, partners at Russell-Cooke and others of breaches of the Equality Act, Human Rights Act and various unincorporated international conventions. There are no pleadings in these proceedings in respect of any of these issues. They appear to be baseless complaints, which should not have been made.

62. I release the Respondent's intermediary from his undertaking given to Bodey J. I will accept undertakings in similar terms from Russell-Cooke LLP. All other applications are dismissed. I ask Respondent's counsel to please draft an order giving effect to these decisions.