



[2025] EWHC 3657 (Fam)

Case No. 1665-4069-5184-4953

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Date: 11th November 2025

Before :

Mr Justice Williams

Between :

AB
- and -
CD

Applicant

Respondent

Miriam Best (instructed by Brethertons Solicitors) for the Applicant
Alex Aspinwall (instructed by Dawson Cornwell) for the Respondent

Hearing dates: November 4th-6th 2025

Approved Judgment

This judgment was handed down remotely at on 18th December 2025 by circulation to the parties or their representatives by e-mail .

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.

Williams J:

1. The Court is concerned with the welfare of a child (“E”) (8). The parties are the child’s father (“F”) and mother (“M”) respectively. The application before the court is F’s application under Article 21 Hague Convention 1980 for contact with E. This is the final hearing (time estimate: 3 days). The matter was last before the court on 25 July 2025 when Keehan J gave directions and made interim spending time with orders.
2. The parties separated in November 2021 in country X and regrettably the family have been in dispute since. Following their separation the father had overnight contact with E, but the parties’ other child (“G”) refused to have direct contact with him. In June 2022 the father issued an application in country X (it is not clear precisely the nature of the process) to see G and the parties attended a ‘mediation’ session with 2 magistrates which seems to have led to a verbal agreement that he would see G for ½ hour when he came to collect E for contact. However, in October 2022 the mother left country X and brought the children back to England. They have been actively engaged in litigation since then because in October 2022 the mother issued her divorce petition asserting that both she and the father were domiciled in England (later amended to her sole domicile) and so commenced a lengthy and draining process of litigation in both England and country X.
3. The husband contested the jurisdiction of the English court in his acknowledgement of service filed in November 2022. In November 2022 he issued proceedings for the summary return of the children to Country X pursuant to the 1980 Hague Child abduction Convention. The mother defended the application on the basis of Article 13b (domestic abuse) and child’s objection. In that process the children were seen by

a representative of the Cafcass High Court Team and G expressed an objection to returning and gave an account of her father behaving abusively to the mother in her presence and to her. On 18 November he issued his own divorce proceedings in country X.

4. On 3 February 2023 the father's application under the 1980 Hague Child Abduction Convention was granted by Theis J and the return of the children was ordered to country X. However, G did not take this lying down and via her school found her way to Ms Janet Broadley a solicitor who applied for her joinder and to set aside the return order. On 4 April 2023 the return order was set aside by Theis J on the basis of G's strong objections and on the rehearing of that application in May 2023 Theis J refused the application on the basis of G's strong objection and E's on the basis that separation was intolerable. The Court of Appeal upheld this refusal on 1 December 2023. Consequent upon the non-return of the children the father issued an application in March 2024 pursuant to article 21 of the 1980 Hague Child abduction Convention seeking contact with the children. G was joined as a party to those proceedings and made clear via Ms Broadley that she wanted nothing to do with her father; she maintains that she had witnessed domestic abuse of her mother at her father's hands and the father in due course discontinued his application in respect of G and she was discharged as a party. The contact in respect of E was originally listed to be determined in July 2025, but this was adjourned and re-listed for the last 3 days.
5. In the meantime, the father's divorce in Country X and the mother's English divorce were proceeding although at glacial pace with the father contesting the mother's domicile. Those proceedings were contested in this jurisdiction (the citations of which are removed for the purposes of anonymisation). I am told, the courts of country X

granted a provisional decree of divorce based on the father's petition and this proceeded to a final decree in October 2025.

6. There is thus a wealth of material before me. Having heard the parties give evidence in October 2024 and again in October 2025 and having considered the written evidence in relation to the summary return application and the issue of domicile and forum my knowledge of the parties and other aspects of the evidence is fairly extensive, and this judgment inevitably draws on all that has gone before. No party has suggested that the outcome of previous litigation means I should not determine this application and given that the Court of Appeal concluded I had erred in my approach to the legal framework I saw no reason to recuse myself from hearing this case.

Background

7. The parties to the marriage are cousins by birth and both their families are citizens of country X. The mother's father (MGF) is the father's mother's (PGM) younger brother. Another sister of the MGF and PGM lives in England, and the children are close to her. The PGM is estranged from the MGF and her other sister. The father was born in England but returned to country X as a baby before being brought back to England by his mother when he was about four and he grew up here. PGM now divides her time between London and country X. The mother was born and grew up in country X. She came to England on a student visa and the parties met and married in October 2003. Her parents remain living in country X. It seems they struggled to start a family and went through 2 cycles of IVF the mother losing a baby at 20 weeks after the first and G being one of twins; the second twin (H) tragically died 2 days after birth . G was born in 2011 and E in 2017.

8. The father worked in recruitment setting up various businesses, but whilst these seem to have prospered at times enabling the family to buy properties in Nice, Tooting and Windsor, the family also borrowed significant sums from family and over the period from about 2011 they had to sell all their properties to maintain their lifestyle. The mother alleges that from fairly early on in the marriage – certainly by the time she was pregnant with G the father had become verbally and physically abusive and was possessive of her and controlling.

9. By September 2019 the parties left England intending in due course to set up home in Singapore but going by way of country X in order to build up some financial resources before moving to Singapore. Both parties evidence suggested that actually they were forced to leave England as they simply could not make ends meet and had run out of any other resources including family. The father said they fell out with his mother as she refused to help them. The fact they left debts (according to the wife) suggests a fairly dire position. Both the wife and the husband acknowledged in their evidence that there were financial problems in England where their outgoings exceeded their income from the business. Both accepted that the family home which had been bought in the husband's sole name was sold releasing equity which contributed to the family finances. It is clear on both parties' cases that a joint decision was reached to relocate to the Far East in order to pursue business opportunities there in the hope that this would bring the family financial security; there was some uncertainty about what their respective intentions were on a future return to England.

10. On arrival in country X the family moved in with the maternal grandparents for what was expected to be a limited period; there was an issue over the mother renewing her

passport of country X, but the evidence also suggests she was reluctant to move to Singapore until they had enough financial security to justify relocating there. The father was still estranged from PGM at this time. He says it was his attempts to resurrect that relationship which led to a toxic atmosphere in the home of the maternal grandparents as the mother objected to his overtures to his mother. The mother denies this. In March 2020 the Covid 19 pandemic intervened preventing any move to Singapore and by November 2020 the parties had separated. The mother says the father had continued to behave abusively to her which her parents were now aware of and as he had begun to see PGM, the mother encouraged him to spend more time at hers and eventually he left permanently. The father says he chose to leave in order to save the children from exposure to the hostility he experienced from the mother and MGPs. After he left, he continued to see E each weekend, but G refused to see him. The father made an application to the courts of country X in June 2022 in relation to his contact with G and at mediation it was agreed he would see G in a garage (it sounds more like a playroom) for ½ hour when he came to collect E for contact. This took place on a few occasions – although both G and the father say it was marred by bad behaviour; G says the fathers and the father says MGM's. On 7 October 2022 the mother left country X with both children and travelled to England and so began the long litigation road to today.

11. It had been planned that the husband would visit England in October 2024 in order to have contact with E and to attend the divorce hearing in person, but he suffered a bout of ill-health and was unable to travel. At the originally listed final hearing in January 2025 agreement was reached for the father to travel to England in Easter 2025 and this occurred. The father saw E on several occasions one of which was observed by Ms Callaghan who had been re-appointed as the Cafcass officer. There were some

initial bumps with E saying he didn't want to go again after day one , but after being seen by Ms Callaghan he resumed the schedule and although further wrinkles occurred with dates missed due to the mother needing some medical treatment and E being ill one day, the relationship was able to resume and after what sounds like a tentative start E spent some good times with the father with no repercussions. The scheduled final hearing in July 2025 did not take place and Keehan J made an order for interim contact during the October school half term holiday which did take place, and the father saw E

- i) Monday 27th 8am – 4pm
- ii) Tuesday 8am – Wednesday 4pm
- iii) Thursday 8am - Friday 4pm.

12. Both the parties agree that this went well, and the mother says E was happy to go on each occasion and was fine upon his return. Significantly G's anxiety seems to have abated to some extent as she did not insist on accompanying the mother and E for handovers.
13. This hearing commenced on 4 November – 5 days after the father saw E and spent the night with him. Both the mother and father have been well represented by Ms Best and Mr Aspinwall respectively. I have received Skeleton Arguments, two Bundles of documents, heard evidence from Ms Callaghan and the parents, and have heard submissions. There was some discussion about whether evidence needed to be heard in relation to the allegations of domestic abuse; Ms Best submitted that as E was spending time with the father and there was an agreement in principle that it should continue and be expanded, no purpose was served in undertaking any sort of fact-

finding. As the father sought contact in country X in the future, where if the father were to be in a relationship, E might be exposed to domestic abuse if it were a feature of the father's character; and where the father said the mother was obstructive of contact and limiting it for no good reason; and where G continues to refuse contact and is an important figure in E's life it seemed to me that (as indicated in January 2025) that findings were appropriate to ensure that decisions were informed by a determination that there had been or had not been domestic abuse perpetrated by the father on the mother.

14. Given the allegations of domestic abuse, I gave directions relating to participation directions. The mother gave evidence screened from the father and she was screened from him when he gave evidence.

Parties Positions

15. The most significant issue I had to determine ultimately was in relation to domestic abuse as the parties' positions on the arrangements were save in respect of country X a matter of degree rather than principle.
16. By the conclusion of the case, the arrangements the father sought were as follows:
 - i) Contact with E in the UK during the Easter (2 weeks), Summer (4 weeks) and October (1 week) school holidays. In the event such visits become unfeasible, such contact to take place in alternative school holidays within the same calendar year.
 - ii) Contact dates to be agreed at least 28 days in advance of proposed travel.

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iii) In the event F is unable to travel to the UK for contact, F shall inform M at least 14 days in advance.

iv) Build-up of overnight contact as follows

Easter 2026

v) Wk. 1 as per October 2025; Mon, 8-4, Wed /Thu, Fri/Sat

vi) Wk 2: M/T, W/Th, Fri/Sat

Summer 2026:

vii) Wk 1: as per Wk 2 Easter

viii) Wk 2: 4 overnights (2 separate 2 consecutive)

ix) Wk 3: 5 nights

Oct 2026

x) Monday – Sunday : 6 nights

Easter 2027

xi) Wk 1; 6 overnights

xii) Wk 2: 3 or 4 nights (or reverse)

Summer 2027; across the 3 weeks 2 full weeks split with $\frac{3}{4}$ days in week 2.

xiii) October 2027: all thereafter full 1, 2 or 3 weeks

Country X:

- xiv) 2028 onwards. Just summer
- xv) F wants an order as it won't be agreed
- xvi) Framework in place: accompany, funding, exequatur process, I-CARE form,

School:

- xvii) Order for school, shared PR, communicate, mailing list,

Passports

- xviii) F will pay for solicitors to hold them, and a solicitor is agreed.
- xix) 4 video calls per week to continue for a minimum of 10 minutes every Tuesday and Thursday at 6am (UK time) and a minimum of 15 minutes every Saturday and Sunday at 9am (UK time)
- xx) Video calls on Father's Day, Christmas Day, Boxing Day, New Years Day and E's birthday;
- xxi) F may continue to send letters, cards and gifts for E to M's address. M must make such items available for E.
- xxii) Handovers to continue to take place in a public place between the parents;
- xxiii) Parties to continue to communicate via WhatsApp;
- xxiv) M to continue to send F updates in respect of E's health, welfare, interests and education on alternate months;
- xxv) M to facilitate direct contact between E and the paternal grandmother twice per year;

xxvi) Cross-undertakings that neither party denigrates the other parent to or within earshot of G or E or instructs or encourages anyone else to do so;

xxvii) F shall undertake (on the basis of no admissions):

- a) Not to expose E to any age-appropriate video content or games;
- b) If E becomes unwell during contact, he will seek medical help and inform the M immediately;
- c) Not to remove the child from the jurisdiction of England and Wales without the M's written consent or order of the court;
- d) To provide M with details of the address at which he is staying in London during his contact with the child at least 21 days in advance of the trip.

17. The Mother agrees with much of the foregoing but in particular;

- i) Disputes the progression of contact. For the purposes of the order each week of contact should include
 - a) Monday 8-4, Tues 8am – Wed 4pm and Thurs 8am – Fri 4pm.
 - b) No provision for a holiday in country X without agreement.

Legal Framework

18. In determining the issues raised I apply the following legal framework. Sections 1(1), (2) and (3) of the Children Act 1989 apply to the approach to the order which should be made. Section 1(2A) also applies as I am asked to make a section 8 order. I must

therefore presume, unless the contrary is shown, that the involvement of both the mother and father in the children's life will further their welfare. Involvement means direct or indirect but not any particular division of time. The children's welfare is my paramount consideration. Delay is likely to be prejudicial to their welfare, and I must apply the welfare checklist. Furthermore, I must not make an order unless I consider it would be better for the children than making no order. In determining what order to make, to the extent that it infringes the Article 8 rights of the mother, father or the children the court must be satisfied it is proportionate.

19. PD12J and the learning on domestic abuse is relevant and incorporated into my thinking.
20. A fuller exposition of the legal framework in relation to domestic abuse and fact finding is appended to this judgment.

The Evidence

21. After hearing the mother give evidence in October 2024, I said this of the mother (redacted for the purposes of anonymisation).
22. The mother's evidence is contained in her 3 statements C19, C189, C226 although they refer back to her statements in the Abduction proceedings which contained much of the detail of the allegations of abuse. She gave evidence over the course of about half a day with the father behind a screen. She was composed and focused – although clearly anxious with a tendency to speak over the questioner but this was not a display of dominance, but I thought nervousness. The stakes are obviously high for her and the content of her evidence was potentially highly emotive. She is clearly operating at full capacity what with raising the children, getting them out of the home very early to

travel across London to school before going into work, collecting them and dealing with domestic chores. She gets very limited financial support from the father, and she appears to take all this in her stride although it must be a significant burden. She would therefore appear to have a degree of resilience. She was measured, polite and calm with occasional flashes of humour and only rare passages of defensiveness. She was surprisingly upbeat about how well the contact had gone for E over half term; he had expressed no concerns, and she had no concerns about him. This I thought was sincerely said and when asked about the father's qualities – after some uncertainty about what she was being asked – she put forward some positive observations about his ability to engage E and play with him at his level as well as complimenting his skills as a cook. She was also not hostile to the father's mother (her aunt) which seemed inconsistent with the fathers' case that it was his resurrection of this relationship which created the toxicity in country X. Her evidence about the bonds of family seemed to demonstrate a sincere belief in how important they were and what an obstacle they created to addressing the fathers abuse. Throughout her evidence she appeared to me to be sincere and seeking to answer the questions sought of her. In the main her answers were factual and delivered in language and demeanour that if anything tended to self-deprecate and under-emphasises even when giving detail about incidents of alleged abuse. Although she was prepared to stand firm in her evidence and to 'advocate' a point, in general she seemed to be lacking in self-confidence and rather compliant. She seemed genuinely dismayed that she had not had the courage to do more to protect the children and embarrassed that her daughter had criticised her for not being stronger for them and said she was ashamed she had asked G to sleep in the bed as a means of protection. She was not prone to over-dramatise, to hyperbole, to exaggerate and build on earlier accounts. She clearly sees

things differently to the father in some respects and her evidence about E returning from contact and threatening to kill everyone and his exposure to Squid games seemed to reflect a very protective viewpoint but also perhaps an ability to interpret events in a way which was critical of the father. Experience suggests many three-year-olds might talk about killing everyone – for a range of reasons not all of which indicate inappropriate exposure to violent programmes. Although she clearly has a degree of antipathy to the father she did not appear to be overtly hostile to him and did not seek to denigrate him at all costs. She has clearly not given full support to the maintenance or re-establishment of the relationship between E and his father – she would not go out of her way to support it, witness the inability to ensure the fathers package got to E but if she is right about the abuse she suffered why should she be expected to? However, she has obviously not actively campaigned to ensure E does not have a relationship with the father although on her case he has treated her appallingly, as E has remained open to a relationship with the father and now is actively enjoying it. Had the mother’s motivation been to get the father out of her life or to avoid a return to country X by making the allegations of domestic abuse it seems improbable that she would not have sought to draw E into that narrative whilst actively coaching G. Her answer when it was suggested she had coached G had a very child centred feel to it “*What mother would do that – it is unfair to do that to a child ... you don’t do that*” which both illustrated how child centred she is but if she had coached her, indicated a level of duplicity to a very high degree which was not evident in the rest of her evidence.

23. The mother’s evidence about domestic abuse was consistent with her previous statements – she did not add or embellish; although some small details emerged but those, I thought, were broadly within the margin of consistency of a person recalling

an event long after the event. Her account of getting a nose bleed through stress when pregnant because the father started a fight over her not doing the washing was spontaneous and felt connected to a lived experience as did her account of the incident when she said the father pushed her over, her father's reaction when he heard the father hit the mother, and the incident when she had bruises at the school fair and blamed it on E. The only documented example of her berating the father was to call him a 'stupid boy etc' and her use of language and her temperament in her written and oral evidence suggests a woman who is in the main gentle, even tempered, calm and kind although willing on occasions to argue her point of view. To describe someone as 'mental' when they have hit you would not be unusual. Her mother may well have used some choicer language in the incident recorded by the father but even that does not demonstrate a high level of conflict. It is difficult to see how a toxic atmosphere would be created by the character of the mother.

24. Her evidence about E and the father's contact and how it should progress was similarly measured and mainly child centred although was to some degree influenced by her own anxieties. If she is right about the abuse, she has good reason to have some worries about how the father might be in contact. Although the abuse she describes was primarily aimed at her –G also says she was treated abusively by the father. She is also aware G regards her as having let her down and she said she has found courage since she left country X, and I thought that a desire to be seen to be making sure she protected E was part of her presentation. In relation to ensuring indirect contact occurred and that the father received information her evidence suggested she was doing her best to hold contradictory feelings and pressures– her antipathy to him, her desire to abide by the law and an acceptance that E should have his father in his life together with managing a very hectic schedule. She was able to

recognise that it takes time for people to move on and her evidence about she and G now moving on was I thought insightful, and she was able to accept that events have reduced the risks she previously perceived.

25. Overall, I found the mother to be a generally honest, frank and direct witness who did her best to give a truthful and child centred account. There were few inconsistencies in her account, and her character suggests a person who would be incapable of constructing a wholly false account and imbuing her teenage child with it. She is too honest, and child centred to do so. Insofar as I previously detected evasion this was related to protecting those left behind in country X from possible repercussions of helping her to leave and there was no detectable repetition of evasive behaviour. The mother presented as more confident and more focussed than previously and this may have been a function both of her being represented and better prepared but also, I think, a growing self-belief. Given I still considered her overall to be lacking in confidence and self-belief, although she said she was now more courageous, I wondered how she might have been 5 years ago.
26. The father's evidence is contained in his 3 statements C1, C155, C212 and C226. He gave evidence over the space of ½ a day also. The stakes for him also are high in terms of domestic abuse and how extensive his relationship with E will be and I take this into account in assessing his evidence and his demeanour. After hearing the father give evidence in October 2024, I said this of him (redacted for purposes of anonymisation).
27. In his evidence the father presented as assertive and confident right from the off, there was little nuance or shading in his account. If something was right, it was "absolutely" right. When asked about how contact was, he said it was brilliant. This tendency

suggested both a lack of objectivity or reflection but also had a presentation component in ‘selling’ the strength of his evidence. He categorically refuted all claims of abuse or misconduct and maintained over the 20 years he had consistently acted with kindness, thoughtfulness and respect and that the breakup of the family had emerged from his reconnecting with his mother. This would make him almost unique as a husband and would absolve him of any responsibility for the separation. The furthest he went in accepting any criticism was that the heated arguments should not have happened in front of the children and they would have been affected by hearing them; although this was finessed by his assertion that he was the one who would ask the mother not to argue in front of the children; hence the messages he produced. Given he accepted they had heated arguments in front of the children there was inconsistency here. He was keen to emphasise what a large percentage of his earnings he was paying in child maintenance although it amounts to no more than £400 pcm and his costings for 7 weeks contact in England at the Hilton and 3 return flights seemed very modest at £8,500 and I wondered whether he was downplaying the true cost. As he readily agreed to pay £750 (2 months maintenance) to have his passports held this reinforced the impression that the child maintenance he was paying was not quite such a large proportion of his earnings as he suggested. His evidence about the family finances was also presented in such a way as to downplay the real financial difficulty that they had faced over many years; spending all their accumulated capital, selling their family home to fund their lifestyle, borrowing or seeking to borrow from relatives and leaving the country with significant debts owed both personally and in relation to his liquidated companies. As he had fallen out with his mother because she refused to lend him more money, I was unsure why the mother and Maternal family should have created a toxic atmosphere when he sought to reconnect with her. He

said he and E had done quite a lot of play fighting. Given the nature of the hearing was about violence and aggression and previous concerns about E returning from contact and acting aggressively this seemed a strange opening observation. Was it deliberately targeted to irritate the mother or was it unthinking and lacking emotional intelligence? The father is clearly an intelligent, energetic and vigorous or restless man. He was more impulsive and less measured in how he gave his evidence and eager to refute the allegations of abuse and to explain and justify himself. His account that the heated arguments in front of the children arose primarily after he sought to reconnect with his mother in country X sought to place responsibility with the mother and her family for them and seemed improbable in any event given the very long-standing financial problems they had experienced in England, and which had led them to leave the UK. Whilst I can see that reconnecting with an estranged family could cause friction a more usual source of argument would be raising two little children after complex and traumatic pregnancies whilst under financial pressure. The father's answer that he and the mother worked well as a team at this time was unconvincing.

28. The father often acted as his own advocate in his answers subjecting both the mother and G's accounts to a forensic analysis of inconsistency, lack of detail, inability to remember. His dissection of G's evidence in particular was painful to listen to; querying why she could not remember details about which eye was blacked if she was telling the truth and questioning why she didn't mention physical abuse (she did as he must well have known) and asserting she was inconsistent (in fact she was broadly consistent) demonstrated a wholesale emotional disconnect from his daughter who was somewhere between 11 and 13 when she gave her accounts. Whilst I appreciate his need to refute her account his approach showed no sensitivity to her but was dominated by his need to exonerate himself. It suggested a marked inability to put

himself in his daughter's shoes, but this was also evident in relation to E. The tenor of his evidence was that when he saw E for the first time in 2.5 years E immediately reconnected ("the connection was automatic, and it was if we hadn't been apart") and very rapidly their rapport was as good as ever it had been. This was inconsistent with the report of the contact supervisor which noted marked reluctance and anxiety to start with which was also noted by Ms Callaghan the following day but more importantly he seemed unable to really grasp how complex a position it was for E and the range of competing and confusing feelings he was experiencing. It also overlooked what is said about E – he is more compliant and malleable, reluctant to speak up. Although he said he understood E was in a difficult position I am not at all sure that he really did grasp it. This lack of emotional intelligence or ability to mentalise E's position or G's was in distinct contrast to the mother's far more insightful approach. He was unable to explain why G had cut him off other than to say she was cross he left, and he was unable to offer any real explanation for why the mother had not poisoned E if she was really aiming to obstruct their relationship.

29. As his evidence progressed and he was challenged he became more agitated – somewhat belligerent and cocky, becoming argumentative with counsel, at times condescending ("So what's the question?") and it was not difficult to visualise him in a domestic context becoming irritated, becoming sarcastic and condescending and beyond. He is a physically large and imposing figure who is loud and determined to be heard (literally and metaphorically) in stark contrast to the diminutive, passive and soft-spoken mother who could barely be heard in court at times.
30. He did demonstrate an ability to engage with E, and one could see the playful, enthusiastic and in some ways child-like side of his character at times which would no

doubt lend itself well to rough and tumble and boys times with his son. His confidence, positivity and swagger would no doubt lend themselves to being a good deal maker, a generous host and at times one had a glimpse of the charm and mischievous nature which could make him good company and an entertaining companion.

31. Overall, the fathers evidence amounted to a wholesale rebuttal of the allegations of abuse and a confident assertion of how much E would benefit from reconnecting. He showed little insight or willingness to reflect on any matter which might show him in a poor light and absolved himself of any responsibility for the breakdown in the marriage and what has happened subsequently. His lack of visible concern over his estrangement from his daughter suggested a coldness or ability to detach himself from his emotions which was worrying. I did not find him a convincing witness – he was more intent on selling his version of events than really trying to answer questions or to engage with the facts which was a repeat of aspects of his evidence in October 2024. His evidence lacked substance in many ways compared to the mothers; in its insight into the children’s position, its coincidence or disconnect with common sense or likelihood, its engagement with the facts, or its objectivity.

32. Ms Callaghan had first seen the children in January 2023 when she interviewed them for the purposes of the Abduction application. She was re-appointed for these proceedings. As the issues for me to determine in relation to welfare matters are now more limited in scope and the fact finding more significant Ms Callaghan’s evidence has been of less significance than it might be and I do not intend to refer to it extensively. I shall refer to what G said to her later. She considered that G was closely aligned to her mother but that her views were authentic, that she was articulate and

confident and of a maturity congruent with her age. The context of the interview was of course whether she should be returned to Country X . She did not consider there was evidence of her being coached. The school said;

G is a lovely child who has settled in well and has excellent social and interpersonal skills. She has established herself well in class making lots of friends and showing herself to be a studious and engaged member of the class

At that time E was 5 and he engaged only to a limited extent. The school also considered him to be a lovely child who had settled well and was full of life and energy, was popular, kind and considerate. Ms Callaghan found E to be an excitable child who was less mature than his age. He would not directly engage with her, but he made occasional interjections including that he went to his dad's house on a Saturday and seemed to have a nice time there; he smiled when talking about it.

33. Ms Callaghan saw E again on 6 August 2024. G attended with him although she was a party to the proceedings in her own right and Ms Callaghan was not tasked to report on her views or her welfare. Ms Callaghan again found E to be energetic, interested in playing and not easy to engage with or to focus on issues relating to contact. He was non-committal about seeing his dad and she thought he was avoiding the subject and that his awareness of G's rejection of his father was affecting his position, but he showed no anxiety about seeing his father. He asked several times for G to join them and when she was there, he paid considerable attention to her. G remained firmly opposed to her father. E had contact with his father in April with a supervisor present. The note of the supervisor makes clear that E was anxious and that it took time for him to relax and enjoy spending time with the father. The father behaved appropriately and got E to engage. Ms Callaghan was due to observe contact in April

2025 it was expected she would observe contact. She was contacted by the mother before the 2nd contact because E was reluctant to go. When she saw him, he was positive about the contact he had the day before but after seeing G and his mum his demeanour had changed. She did not think they were actively saying anything to deter him, but their presence was having a negative influence. After some exchanges with his father in the Cafcass office they went to the park and contact went well thereafter with E being comfortable with physical contact. Ms Callaghan was planning on seeing him again but the mother's back condition and E being ill precluded this.

34. The most significant components of Ms Callaghan's views from her reports and her evidence seem to me to emerge as follows;

- i) There were benefits to E having contact with his dad and he has positive memories of him and does not appear to have directly experienced domestic abuse. There was no evidence of abusive behaviour by the father in relation to the recent contact.
- ii) His experiences of his father may be different to G's due to age although he would likely have been aware of conflict at home and his mothers' distress but his experience of his father after separation appears to have been positive.
- iii) E was in a difficult situation given his close bond to his sister and his awareness of her position, but he did not seem anxious about his father per se. His anxiety appeared more linked to being caught between his sister who rejects his father outright and his mother who is not undermining contact but is clearly not positive about the father and his own positive memories. He may experience feelings of disloyalty to his sister.

- iv) The school are concerned he has learning needs, and they are developing an EHCP for him.
- v) It will be a challenge for him spending significant periods of time away from his mother and sister and changes in the length of time he spends away should be modest and his response monitored. He is likely to be reassured by being able to go home and know that his mother and G are ok (and for them to see he is ok).
- vi) He is a malleable and compliant child who does not easily make his wishes known. If over time he has experienced good contact, he might be able to express himself more clearly and in particular say if he wants to travel to Country X .
- vii) The recent overnight contact was a reasonable start, but it was early days, and progression needed to be gradual and what he could be expected to cope with. Increasing by one overnight per week of contact might work although it is quite difficult to predict over 2 years how he will cope and whether that is consistent with his needs. He needs to spend time with his mother and sister at holidays but if his mother is working anyway then spending time with his father is appropriate. With the allegations of domestic abuse, one might not have been looking at starting contact, but it commenced after separation and has been maintained and extended and if findings were made it would be detrimental to him now to stop contact. It may tend to support a slower approach to moving contact on. It may depend to some extent on how the father responds. Returning him after each contact re-exposes him to the possibility of his mother and G's anxiety affecting him but it also reassures

him (and them). As time passes with successful contact it will become less vulnerable to breakdown. The long periods between October and Easter may mean – certainly this year but perhaps afterwards that the first week of Easter may need to be calibrated to give him time to re-acquaint himself with it.

- viii) There are too many uncertainties to be able to say it would be in his interests to go to country X in 2027 or 2028. He has only just spent two nights with his father after a gap of 3 years. In theory it will benefit him visiting country X and connecting with family and his heritage but that will have to be judged when his relationship with his father has developed much further. There would need to be a protective framework in place to ensure he returned. He does not currently understand the issues around not returning and I am not sure how one would reassure him in the future.
- ix) The mother remains anxious about contact but is not undermining or obstructing it, but she is not prioritising and promoting. If she was it would not be happening as it is. He has lots of opportunities to reject his father but hasn't. She thought neither the mother or G had actively sought to adversely influence him and that if they had wanted to they could have. G should not be there at handovers.
- x) The father will need to be sensitive to E's needs and if he is not happy to be ready to see this.
- xi) The parents should not have direct contact with each other in handovers.

xii) Four video contacts a week is more than I would recommend. It introduces the possibility of conflict as if E doesn't want it one day it may lead to complaint by the father. It is an intrusion into the mother and G's home.

35. G sought to be involved in both sets of proceedings and has been seen by Ms Callaghan twice and by Ms Broadley a specialist in representing children, on several occasions. No party sought for G to give evidence. She had made clear through Miss Broadley that she wanted the father to accept her position that she did not want to see him, and he did so and so she was discharged as a party on the basis he sought no order. Her evidence remains in the Bundle in the form of what she said to Ms Callaghan in the Hague proceedings and in what she said to Ms Broadley in the Hague set aside and re-hearing and in these proceedings. It is hearsay evidence from a young person who has not been tested on her account and whose account was given initially in support of seeking to avoid being returned to Country X and thereafter in seeking to deter her father from seeking child arrangements orders about her. The weight which I can attach to it therefore has to be looked at in the light of this context. However, that is not to say I cannot give it any weight. It must be subjected to scrutiny in the same way as any evidence to ascertain whether it is likely to be reliable, affected by memory issues, influenced by others or whether any motive might be driving it. Ms Callaghan considered her to be sincere and authentic in what she said, Ms Broadley said she is determined, felt let down by her mother and had found her own way to seek legal support. The mother describes her as obstinate and determined. She sought out Ms Broadley not at the instigation of her mother but via her school as she felt her mother had not done enough. Extracts of what G has said over time include the following.

i) Ms Callaghan: Jan 2023

G then mentioned her father, describing an incident that had taken place in country X, 'once my dad took me and E from my aunt's place, we had been having a nice time and he just came and took us. Then he sat me down and screamed at me, he is like that even when he is on the phone, he would get angry and make me scared. I would shut myself away after seeing his scary face'. G continued, 'a few times he hit my mum, I saw him do it and she got a black eye, it made me really scared. My mum was near the stairs, and he hit her, and I was worried that my mum was going to fall, I was terrified'.

G stated, 'always when he was on the phone, he would get angry, and I would put the phone down. It is not nice to be like that; my mum is everything to me. If I had a choice I would never see or speak to him again'.

I would have to see him, and he might do something to me. While we are here, he won't be able to do anything and that makes me feel safe. He used to come and see us in the garage, but I didn't want to go but I had to and when he got angry, I would run away'.

. I suggested to G that it sounds as if she felt angry toward her father, to which she replied, 'not angry, but I think why someone would do that. A few times a week it would happen and even after he left, he would get angry on the phone'. G continued to tell me, 'Once when I saw him in the garage, he talked about twisting nipples and the Squid game, which was banned by my school, he was talking about it and saying don't tell mummy.

ii) G sought out her Head teacher in February 2023. The head records

G started to become visibly distressed, she was shaking and panicking with her eyes rolling with stress and unable to focus..... She pleaded with me desperately to do something to help her and protect her. She took from her pocket a letter she had written addressed to the NS PCC/Child protection. She asked me if I could help her find someone who protects children. She told me how she had seen her father beating her mother, shouting and swearing at her that he would also shout at her and frightened her. She felt the need to protect her mother from her father and does not feel that her mother can protect her and E from her father.

iii) March 2023:

G describes her father as a man of two characters, one where he is pleasant and polite to people and another when he is frightening, angry and loses his temper and shouts and hurts her mother and he frightens her. G is unable to comprehend how someone can behave the way her father does.

When I suggested her mother may have been shielding her from court proceedings, she refused to accept these describing times when she has felt the need to protect her mother from her father's, at times, violent and abusive behaviour..... She has witnessed her mother being beaten slapped shoved and pushed, shouted out and sworn at by her father over a sustained period of time. She described the slaps and punches were with force and that he did not seem to care that she was there. She herself describes being the focus of his anger outbursts and later he behaves normally as if nothing has happened which also frightens her.

She recalls her father shouting at her mother all the time and there being frequent occasions when she would see her father slapping and beating her mother swearing at her and pushing her. When I asked G how frequently this occurred, she immediately answered all the time every week. She describes seeing her father hitting her mother as hard as he could and with force. She describes him using disgusting rude words, swear words and she prayed all the time that nothing would happen to her mother. She often thought her mother might die and prayed for God nothing would happen to her. On occasion she would see her mum get black eyes. This was frightening for G and even more so when her father would turn on her in his anger and start

shouting at her. She recalls running to her room crying, scared of his angry face staring at her but she was young, and it is only in recent years starting to question why a person would want to hurt her mum in that way.

The shouting, swearing, hitting, pushing and beating was normalised in their household and her mother just let it happen and did not appear to defend herself. G is fiercely protective of her mother in this regard but equally she is fiercely protective of her brother questions her mother's ability to protect her and her brother from harm. G recalls that when her father shouted at her angrily her mother did little or nothing to protect her so she would run to her room praying to God nothing would happen and blocking out his shouting.

G describes feeling scared at home even when there was no shouting or violence; it was the anticipation, wondering when her father would lose his temper that caused G to have this feeling of fear inside her.

G describes her father's abusive behaviour is getting worse and more frequent in country X. She recalls her father frequently losing his temper at her mother and her and she felt frightened. G remembers crying a lot. Her grandparents would ask him to stop but he would turn his anger on them telling them to mind their own business. G felt protective of her grandparents as they were elderly and to grandpa was ill, they all lived in fear of her father.

In November 2020 her parents separated which brought mixed feelings, partly relieved that the fear of having him around all the time had gone but that it did not stop his abusive behaviour from continuing or her fear of him.

G views her father's behaviour is unacceptable, unfair and in kind not just her mother but the whole family. She should not be compelled to spend time with him if she does not want to. Her mother might put up with his bullying unkind and angry behaviour, but G will not do so, she concedes there may have been times that they appeared a normal happy family, but she has always been frightened of her father. She explained that a video or even photos tell only a small part of the story.

G describes short periods of time that she would spend with her father and E in the family garage. She felt unhappy and uncomfortable during these periods and felt angry her mum made her spend time with her father. G describes him shouting at her during these visits and feeling petrified as he swore at her and demanded she look in the eye when he shouted at her

iv) August 2024 Ms Callaghan:

With regard to E spending time with his father, G said, 'I don't want him to be with that person, I am worried about what might happen. When him and mum had a fight, he was wanting to push her down the stairs. I am scared about what could happen to E. I reminded G that E had spent time with his dad in country X and she replied, 'yes but he showed him stuff meant for adults'.

v)_ August 2024: Ms Broadley:

G felt and feels that her father just ignores her and her feelings and refuses to acknowledge why she feels that way-which for G is the most troubling aspect of her father's behaviour; his lack of insight or refusal to accept that he has behaved in an abusive way towards her mother (in her presence) and to a lesser extent towards her. G describes been frightened of her father and it is a feeling that will not go away

she believes that her father will never accept his behaviour and will always insist that he has done nothing wrong and it is primarily because of this that she does not want anything to do with him.

She does not want to be forced to see her father or have a relationship with him. She also instructs me that these wishes and feelings are her own and she has not been influenced by her mother. For G the position is quite straightforward; the way her father has frightened and intimidated her in the past is not the way any human being should speak to or behave towards another, never mind a father to his daughter, or a father to his wife in front of his daughter. G is quite insistent on this point and as I previously observed when I took her instructions in March 2023, the abuse she describes she was exposed to in the family home has had a profound impact on her. She thinks her father will never accept his behaviour and does worry about E's well-being if contact is ordered in relation to E. She does not share her feelings about her father to E, but she observes that the older he gets his likely to ask more questions.

Parties Submissions.

36. In support of the fathers' position Ms Best made the following essential points;

Domestic Abuse

- i) The mother cannot discharge the burden of proving any of the allegations on the balance of probabilities.
- ii) The court is not determining financial or sexual abuse although the mother strayed into evidence on this.
- iii) In relation to the allegations of physical abuse there was ; very little detail; no corroboration from any third party or contemporary evidence apart from G; little detail of incidents; G hasn't given evidence; the evidence to Ms

Callaghan –and that of Ms Broadley was Hague related not welfare based and that must influence the weight given; there is inconsistency between accounts F gave to Ms Callaghan and that given to Ms Broadley – she ups the seriousness to advance a stronger case and so the evidence not sufficient.

- iv) The allegations of verbal abuse are not substantiated; the father says this arose from reconciliation attempts; he accepts ordinary level arguments and there is no corroborative evidence indeed he is the one who asks for denigration of him not to take place in front of the children.
- v) The evidence of coercive and controlling behaviour is weak; her not allowed to see friends and him accompanying her on driving lessons has to be seen in the context of them having an active social life and her not wishing to pursue driving after an accident.
- vi) If there had been abuse as described, would she have agreed contact for E after separation and would indirect contact have continued. G was cross with him for leaving and that is why she didn't go.
- vii) The mother's evidence was not consistent with her being a victim of abuse. She was confident and headstrong – she didn't appear nervous or fearful. Her presentation and what she said were not consistent with each other.

Welfare

- viii) Ms Best reiterated the arrangements now set out above and emphasised that they were now aligned with Ms Callaghan's recommendations.

37. In support of the mother's position Mr Aspinwall made the following essential points;

Domestic Abuse

- i) Physical and verbal abuse are inter-linked although pleaded separately.
- ii) Both children were exposed to it and are victims
- iii) The evidence shows tension points over money, with family connections exacerbated by financial links. There was strain before country X and father's case that heated arguments only developed in country X is not sustainable.
- iv) Arguments degenerated into father shouting, becoming verbally abusive and physical violence
- v) The Schedule covers a broad range – you can make granular findings or make a broad finding.
- vi) It is one person's word against the other – there is no contemporaneous evidence – there often isn't – it is explicable even more so in this case given the close family connections – mother's evidence on this was persuasive.
- vii) G's evidence should be given weight because; accounts given have significant detail from a child's point of view; broadly consistent over time; G was not particularly aware of the court process prior to the return and she got involved because the mother hadn't prepared the children for a return; Allegations made to 2 separate professionals; she has acted on her views by refusing contact – if she was coached – one questions whether she would have adopted that extreme position up to today.

- viii) Father's explanation that there was no Domestic Abuse and G is coached is not probable and neither Ms Callaghan or Ms Broadley identify coaching.
- ix) His observations about play fighting are illustrative of his attitude to the mother – it was a cheap hit.
- x) Controlling behaviour is relationship specific – this is coercive and controlling

Welfare

Country X

- a) The court shouldn't make an order there are too many known unknowns.
- b) DAPP work needs to be done.
- c) There needs to be evidence of conclusion of proceedings in country X.
- d) The exequatur needs dealing with.

UK contact

- e) It is a question of degree as to how quickly it moves forward.
- f) Safety measures in place are agreed
- g) E is in difficult position – he needs time to develop relationship – he is torn.
- h) F is too optimistic and moves too quickly.

- i) Until October 2026 – contact should be interspersed with contact with mum and G with shorter blocks of time starting with a repeat of the October 2025 contact in Week 1 of Easter 2026 and increasing to a block of 4 days by October 2026.

Evaluation

38. Given the developments prior to the commencement of this hearing and developments in the parties' positions following the completion of Ms Callaghan's evidence the issues relating to the detail of the child arrangements orders whilst important are not matters of principle so much as decisions on the degree of progress and scheduling in a way which maximises the benefits to E whilst minimising the potential risks. The bulk of the time in the hearing has been spent on the issue of domestic abuse and the precise details of scheduling child arrangements.
39. In determining the mothers' allegations, the burden lies on her to prove her case on the balance of probabilities. The father does not have to disprove her allegations or G's. The Schedule of Allegations contains components;
 - i) Physical abuse: violent outbursts, hitting or pushing the mother resulting in bruising/black eyes sometimes in the presence of the children.
 - ii) Emotional abuse; verbal abuse in the form of profanities such as "bitch", "lazy bitch", "ass hole", "Fuck you".
 - iii) Coercive and controlling behaviour; controlling the mother's activities and social opportunities.

- iv) Emotional abuse of the child; failing to inform the mother of the child falling ill; exposing the children to age-inappropriate television resulting in aggressive behaviour by E.
40. Coercive behaviour means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim. Controlling behaviour' means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.
41. In determining whether the mother has established these allegations on the balance of probabilities I am undertaking a panoramic survey of all of the material that bears upon the determination. In this case there is almost no contemporaneous evidence whether in the form of reports to 3rd parties or digital footprint material. The mother says that there was one photograph which the father deleted and that she never felt able to report the abuse to any external agency or to take any active step because of the sensitivity of the position created by the fact they were cousins and the knock-on impact on the rest of the family. The father relies heavily on the absence of reports but the absence of reports to external agencies or third parties or of contemporaneous material is not proof that the abuse did not occur. It is a common feature of domestic abuse that victims do not feel able to report the abuse. The absence of such evidence places a greater focus on the evidence of the parties themselves. However, determining such allegations based primarily on the word of one party against the other is not uncommon. The court must evaluate the evidence of each considering the consistency of their evidence, matters of credibility arising from other evidence, the

inherent plausibility or implausibility of evidence, the extent to which evidence fits with other external evidence, the extent to which one can gauge from presentation whether the account appears sincere and reliable and a host of other matters.

42. In this case as I have explained earlier the mothers' evidence in broad terms appears to be generally more reliable than the fathers. Of course, proving a negative creates its own problems for the father but he does not have to prove a negative but his overall response to the allegations is material to the determination of the probability of them being true. Forensically the comparative weakness of his evidence means that the strength (or weight) which might lead to a balance of probabilities conclusion that domestic abuse occurred does not need to be particularly compelling or strongly corroborated to make that outcome more likely than not. In comparing the accounts, one must also take into consideration the personalities of the main participants. The father is physically large and imposing, loud, ebullient, assertive, insensitive, proud, intolerant of disagreement and brittle. Could one envisage the father becoming irritated, being sarcastic and dismissive, angry and snapping? The mother is diminutive, kind, child-centred, mild mannered. Is her character such as to be capable of fabricating such a root and branch account of abuse and inculcating it in her daughter. Was the situation that the family faced one where there was long-standing stressors which might be consistent with long-standing conflict or did conflict only emerge in any significant form when the father sought to reconnect with his mother?
43. The only third-party account which goes to inform the outcome is that of G. The mother did not seek to adduce evidence from her family; she seemed surprised at the suggestion that they might have given evidence in support. I have identified earlier that there are limits on the weight which can be given to G's account given the

circumstances in which it was given she was seeking to persuade the court not to return her to county X and that it has not been tested. Although the father may be right that there are some inconsistencies in how it is conveyed (was the abuse constant or sporadic for instance) the general narrative is broadly consistent. The fact that G recounts incidents which are also recalled by the mother (the slapping by the stairs) might suggest coaching but both Ms Callaghan and Miss Broadley were of the opinion that G had not been coached. That she was introduced into the bedroom as a ‘barrier’ to abuse – which both she and the mother speak of, and the father does not dispute her presence also lends support to her being put in a protective position. Reading the totality of her accounts to Miss Callaghan, Miss Broadley and to her head teacher supports the conclusion that the fear and anxiety she expressed were genuine. Perhaps more importantly the way in which she gave her accounts and how she described the impact of the abuse on her view of the father lend weight to the likely truth of her account. The fact that she has, and has since separation, broadly refused to have anything to do with her father and has explained her reasoning more than anything else suggests that her feelings are genuine. Genuine feelings are far more likely to emerge from lived experiences than from G either knowingly giving a fabricated account or having digested a false account and adopted it as her own.

44. Taking the mother’s account and G’s accounts together and putting them against the father’s account taking into account their characters, the circumstances which existed across their marriage and surveying the totality of the landscape leads me to the conclusion that what it shows – accepting some parts are less well-lit than they might be – is that a pattern of physically and emotionally abusive behaviour by the father persisting over time is more likely than not. In broad terms that abusive conduct is as described by the mother and G encompassing abusive, demeaning language and

attitudes, significantly aggressive and frightening language and behaviour escalating to physical violence most likely when the mother stood her ground or argued back. This amounted to coercive and controlling behaviour as it was largely built on the father getting his own way rather than emerging from alcohol misuse or pure loss of control. I found it harder to determine the issue of him controlling the mother's social life. The closeness of the family links meant isolation from family was not possible. The mother's life I think revolved around the children and her evidence about the father limiting her social opportunities was fairly thin. I accept that he was possessive of her but beyond that I am unable to reach a determination on the evidence and nor does it add much to the conclusion I have reached relating to the context of the physical and verbal abuse. In relation to the allegations about emotional abuse of the children relating to non-notification of illness and exposure to inappropriate material on the evidence these appear to me to be more expressions of quite different approaches to parenting with the mother being at the sensitive end of the spectrum and the father being at the robust end.

45. Turning then to the welfare issues and what orders will best promote E's welfare in respect of child arrangements the welfare checklist yields the following harvest.

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

46. At the time Miss Callaghan saw E he had only seen his father once since October 2022. She was not asked to provide an updated report when the case was rescheduled in July 2025 and indeed only learned that E had stayed overnight with his father on two occasions when she came to give her evidence. That being so, his views have not been expressly ascertained on the extension of the time he should spend with his

father and how much time he should spend overnight with him. Given his age and his reluctance to express views it is hard to know whether he would have said much had Miss Callaghan had the opportunity to see him after he had spent the night with his father. We do know from the mother, from Miss Callaghan, from the father and from E himself that he appears to have enjoyed spending time with his father and working on the basis that the father will act appropriately there is no reason why E should not want to spend more extended periods of time with his father. I think it is also reasonable to infer that he would wish for this to be a gradual progression where he can return to his mother and sister at times so as to reassure himself that they are fine and say that any anxiety he might feel about spending time with his father is minimised. It seems likely that he has little if any active memory of his father behaving abusively to his mother or to his sister given that they separated when he was only three years old and when they left country X he was only five years old but he may have a subconscious imprint relating to the father's abusive behavior and he is aware that his sister will not see his father and that both his sister and mother see his father as presenting some danger.

His physical, emotional and educational needs;

48. There does not appear to be anything unusual in relation to E's physical needs, he is an eight-year-old boy who appears to enjoy activities as well as cultural excursions. Emotionally he needs his life with his mother to remain stable and secure and for her to be able to provide for him with from which he can grow and develop. It is important to him that his mother is able to function to her best capability and that she should not feel anxious or have bad memories of abuse reawakened so as to

undermine her own emotional security. It is also important for him to develop a relationship with his father which is a safe and secure relationship. G's emotional development has been significantly impacted by the father's abusive behaviour towards the mother and to her. It is imperative that E's emotional development is not impacted. The situation which caused G harm cannot be replicated for E because his mother and father are not living together but he needs to see his father as a safe and nurturing parent. In the context of contact in England where no partner is present this should be achievable. As E grows older the risk of him becoming more defiant will perhaps emerge; although he is noted to be more malleable and passive, perhaps more like his mother than his father. If the father were to respond to E disagreeing with him or becoming defiant by the sort of anger and loss of control he displayed to the mother and G it will be harmful. However, the father does have an emotional side to him which will benefit E if it is focused and kind. E appears to have some educational needs and anything which makes him anxious or unsettled will exacerbate his learning difficulties and so this will need to be supported by both the mother, and the father in particular will need to understand that E may not be so adept at learning as his sister.

The likely effect on him of any change in his circumstances;

50. An increase in the time that E spends with his father as a result of an increasing pattern of staying in contact will represent a significant change in the pattern of E's life. Since he was three, he has not spent more than one night away from his mother and sister, and it is likely that he will find spending significant periods of time away from them as unsettling. As Miss Callaghan notes he is unlikely to verbalise this, but it may come out in his behaviour or physically in his well-being and the father and the

mother will need to be alert to this. Extending the time, he spends with his father in a gradual way, which balances that extension with maintaining the security of his connection to his mother and G will be important.

His age, sex, background and any characteristics of his which the court considers relevant;

51. E is fortunate in having a diverse background with roots in different cultures and countries. His mother and her family will nurture this but in due course the ability to know more of his country X roots will be of benefit to him.

Any harm which he has suffered or is at risk of suffering;

52. The research on the effects of domestic abuse on children demonstrates that it is likely to be harmful to their development even at a physiological level. Whilst E may have no active memory of his father assaulting his mother or behaving aggressively to his mother or sister it is likely it has left a psychological imprint on him. Indirectly he has been harmed by the detrimental impact that it had on his mother and her self-confidence and her ability to focus on her children. That it undermined her ability to protect them is a form of indirect harm to E.
53. If the father is able to acknowledge his behaviour and to take steps to address, it the risk of E being exposed to similar behaviour in the future will likely diminish significantly. If he does not though there will remain a significant residual risk. Acceptance and risk reduction work is not mandatory for the risk to reduce because although the father may not be able to externally recognise and accept his behaviour, he may internally adjust his thinking and thus his behaviour. If he remains in full denial there is clearly a risk of E being exposed to abusive behaviour in the future

either in the context of a new relationship that the father may embark upon or as a product of E growing older and finding himself in conflict with his father.

54. In relation to country X there appears to me to be a risk - albeit the level is indeterminable at present, that E would not be returned from country X. The father retains a high level of hostility to the mother albeit it is seemingly fairly well hidden from E but as the father and E's relationship extends, and as the time they spent together elongates and as E grows older, the risks of the father letting his hostility show increases. This could result either in E confronting the father, refusing to continue with contact or aligning himself with the father and putting himself in conflict with the mother. Although a strong protective framework can be put in place to minimise the risk of E not returning from country X were he to visit, even the most robust legal framework cannot provide a complete guarantee. If the father continues to bear a grudge in relation to the mother's removal of the children from country X and her success in retaining them in England there remains a risk of non-return from country X. That risk may significantly abate as time passes. The father may move on; the mother may move on; the relationship of E and his father will develop, and it may be that a position will be reached where there can be no residual concern about a visit to country X.

55. The protective measures agreed between the parties will reduce this risk.

Too rapid a progression of contact would heighten the risk of an adverse reaction by G which would undoubtedly impact on E's approach to contact. A progression which makes either the mother or G overanxious is counter-productive. This is likely to be most significant in the first year. If that goes well it is likely to significantly reduce

the anxieties that the mother and G may have; that already appears to be evident in the mother's state of contentment about the October half term contact.

56. I do not consider there is any real risk of the mother or G seeking to actively undermine or obstruct the contact. That has not been the history to date. If that emerged it would likely be connected with some real concern as to how the contact was going and so would need evaluating in that context.

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

57. The mother appears to be a capable and child-centered mother who is broadly speaking capable of meeting all of the children's needs. She has in the past been too passive in protecting them from the abuse that their father perpetrated. I fully understand how difficult it is to deal with that in the context of the father being a cousin and thus the family relationships being so close that it makes disclosure and protective responses problematic. She seems still to lack the strength to put her foot down and to insist on parameters to protect herself; her willingness to continue four times per week indirect contact and face-to-face handover is an example of this. The children both need her to be firmer in insisting on what she considers to be best for them and actively advocating that.

58. The father has a significant weakness in his capability to meet the children's needs. That he has behaved abusively to the children's mother in the children's presence and to G directly is a major concern. He has compounded that weakness by attacking his daughter's account in a highly unattractive and insensitive way, which is an additional concern. So far, he has been wholly unable to reflect on his behaviour and to put the children's well-being at the centre of his thinking rather than self-protection. Within

the context of contact in England of the sort that is contemplated, and over a period of time when E is unlikely to start to question the position in any active way, the risk of that lack of capability is of less significance. As E grows older it may become much more of a problem with consequential risks. It seems that the father is sufficiently child-centered to make contact for E of the sort contemplated, a success. The father would appear to be well able to manage E's physical and emotional needs during even extended periods of contact during holiday periods at the beach, or at activity centers or city-based contact. He will need to ensure that he remains in close touch with what E wants rather than with what he might want so that contact remains positive

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

59. E will live with his mother for the foreseeable future and so a lives with order should be made.
60. Child arrangements orders with conditions, prohibited steps orders and specific issue orders are all available to put in place a framework around contact which will address the risks which have been identified, and which will manage progression at E's place.

Conclusion

61. I will start with the issue of domestic abuse as it is relevant to the subsequent child arrangements issues.
62. In relation to domestic abuse to the extent that it is relevant and possible for me to reach a balance of probabilities determination on the evidence before me I am satisfied that;

- i) I prefer the evidence of the mother and G in respect of domestic abuse. The character of the mother and father and the likely dynamic between them is far more supportive of an abusive relationship than the mother fabricating wide ranging allegations and coaching their daughter. Her evidence – as much about how it makes her feel about her father as what he did is corroborative also. That she verbalises him being a bully and not understanding how he can behave like that and acts on it by cutting him off is telling. Coaching and fabricating to avoid a return are both improbable given the characters concerned and the accounts given.
- ii) The father has two sides to his character; one of them is the ebullient, confident, extrovert, charismatic deal maker who can be great company, a good salesman, an expansive host and a generous and loving father and husband. The other though is much darker; self-centred, arrogant, brittle and intolerant of opposing views, determined to get his own way regardless of the needs of others. In the relationship with the wife this converted into a domineering and aggressive man who did not respect his wife as an equal. At times of stress – and much of their married life must have been lived under the stress of trying for a family, trying to maintain a lifestyle which was really beyond their means – this converted into abusive behaviour towards the mother and in the presence of the children. That abusive behaviour at its worst took the form of abusive and degrading language designed to make the mother feel of less worth and to undermine her confidence and on a significant number of occasions – probably when the mother tried to stand up for herself – enraged the father to such an extent that he hit her and pushed her causing injury in the form of a black eye and soft tissue injury. In that it was intended

to ensure he got his own way and that he was dominant in the relationship, it amounted to controlling and coercive behaviour. The abuse took place in the presence or hearing of the children on a number of occasions. The mother was very child focussed and engaged in their lives and the family links were such that isolation and control of her support networks and friends were of limited significance. The father clearly is possessive. What the balance was between the mother self-limiting her activities due to her knowledge of his behaviour, the demands of childcare and his exerting direct control is not possible to determine. He also exhibited aggressive behaviour directly to G and his behaviour to both of them has resulted in her cutting him out of her life. I do not consider it necessary or possible to make further findings relating to controlling the mothers' social engagements and I do not consider the allegations relating to toy guns/failure to report ill health amount to more than a difference in approaches to child wellbeing.

- iii) The mother therefore has good reason to want to limit her engagement with the father, but she is more child centred in her thinking and so has a more balanced view of the father. The father has not reconciled himself to the mother defying him and breaking away from him. He still holds strongly negative feelings towards her although he does not seem to allow them to show to E – or has not so far done so.
- iv) The father will need to look very deep inside himself to see whether he can accept this. If he does not it is unlikely that he will ever have a reconciliation with his daughter during her minority. If he does not it is conceivable that as E grows and becomes more aware of his mother and G's experience of his father

that he may align himself with them and in the absence of an acceptance by the father of his behaviour and demonstrable contrition that it will introduce strain. That is probably not going to occur in the next 3-4 years but as E reaches his teens and as G reaches adulthood it may start to intrude.

- v) Despite those findings, E has a relationship with his father and there are benefits for him in extending it further.

63. That extension requires a balance to be struck that incorporates what will benefit E directly in the nature of his relationship with his dad but also addresses the anxieties the mother and G and E have (of different sorts);

- i) The right balance will be as proposed by Father save that the proposal for summer 2027 shall remain in place so that
 - a) Summer Week 1 – 7 nights – week 2 – 3 night -week 3- 7 nights
 - b) October : 6 nights Friday from school to Thursday 4pm
 - c) Easter: 7 nights from Friday school – Good Friday; week 2 5 nights

E to have his device and to call M each day. If no other person can be involved in Handovers it will need to be mother, but I'd prefer she not be forced to deal directly with father.

- ii) MGM can have contact when Father is – he will be responsible for ensuring she does not say anything hostile to mum or G. On the evidence before it

seems the PGM and her sister are estranged and that means contact in Mitcham is improbable until that relationship is mended.

64. I do not regard the path ahead as a necessarily smooth one moving seamlessly to a position where contact could move to country X. On the one hand it may be that E and the father continue to deepen and strengthen their attachment and develop a relationship which is relatively speaking trouble free. The mother may continue to develop confidence in the father and the time he and E spend together. This will be function of how E reacts to that time – if he is relaxed and confident in it so will she be. E is a malleable and compliant child at present – he has that easy going nature from his mother – but as he moves into adolescence there is as with many children the possibility of disagreements with his father over a whole range of issues. How his father manages that will be critical as it will impact on 3 significant individuals. First of all, E to some extent, this may depend on how his life develops but also it will depend to some degree on how the father deals with financial support, and communication.
65. Given the findings I have made and the uncertainties as to how the relationship will develop over the coming years and how the mother, G and father move forward it is impossible to reach a conclusion that visiting country X will be in E's best interest in 2027/28. If things go well – even absent the father accepting his abuse, undertaking work on himself and seeking to make amends – the contact could be in E's best interests, and a framework should be put in place as discussed, such that if both parties agree it should occur and E wants it then it can happen.
66. I do not consider the mother, and father should be in direct contact if she finds it intrusive. She is perhaps too accepting. An App should be used – paid by the father.

67. I do not think four times per week indirect contact should occur – it is a significant intrusion into the family home by a man who has behaved abusively. Once during the week and twice at weekends on a device to be provided to E and funded by the father to limit the mother’s involvement would be a more child centred outcome. Contact on the other significant days as agreed.
68. The other aspects of the details relating to contact including conditions and a framework of PSO and SIO’s are agreed and will need to be incorporated into an order which is capable of registration under the exequatur procedure in country X should contact be agreed. Undertakings will not be appropriate given the contents of the expert advice.
69. That is my judgment.

