Neutral Citation Number: [2025] EWFC 4

IN THE FAMILY COURT AT OXFORD

Date: 9 January 2025

Before :

HHJ Vincent sitting as a s9 Deputy High Court Judge

- -

Between :

ST	**Applicant**
- and -	
AR	**Respondent**

- -
- -

Nichola Gray KC and Harry Nosworthy (instructed by **Penningtons Manches Cooper LLP**) for the **Applicant wife**

Richard Todd KC and Joshua Viney (instructed by **Dawson Cornwell LLP**) for the **Respondent husband**

Hearing dates: 16, 17, 18, 19 and 20 September 2024

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Approved Judgment

This draft judgment was handed down remotely at 10.30am on 18 November 2024 by circulation to the parties or their representatives by e-mail. The approved judgment was handed down in the parties' absence on 9 January 2025 and later uploaded to the National Archives. The time and date of handing down is deemed to be 10.30 a.m. on 9 January 2025.

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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 and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

Introduction

1. The husband is a seventy-year-old Country A citizen, born and raised in City X. The wife is fifty-one. She holds dual Country B and Country A citizenship, and was also born in City X. The parties met in the late 1990s at a party. They began their relationship in December 2002. By February 2003 they were living together, in City X.

2. In early 2012 they separated. However, by August 2012 they had reunited. They were married in City W on 8 October 2012.

3. A few months later they moved to City Y.

4. Their only child, was born in February 2015.

5. In 2017, they moved to County J in City Y.

6. In November 2020, in the midst of the Covid 19 pandemic, the family relocated to England. They bought the family home, in County K.

7. The wife applied for a divorce on 31 May 2023, and for an order for financial provision upon divorce on 19 June 2023. To protect their child, the parties have decided that until the financial arrangements on divorce have been resolved, they would continue living together in the family home, and not tell their child of their plans to divorce.

8. The conditional order for divorce was made on 14 December 2023.

9. The husband is the beneficiary of a large inheritance from his grandparents. The bulk of that inheritance is held in a portfolio of properties now managed by a private equity investment company. The level of the husband's income from his investments is in dispute, as are the questions of whether any of it has been 'matrimonialised', and whether the husband is able to release any of these funds. His case is that his interest within this portfolio should properly be valued at just over £12.5 million. The wife's case is that it should be valued at £126.7 million.

10. The parties' child is the sole beneficiary of two trusts that were created in December 2020, upon the family moving to England. Each trust has $10 million assigned to it. The husband is grantor of trust 1, and the wife of trust 2. The parties' child will receive 15% of the income at the age of twenty-five, and increasing amounts thereafter.

11. The parties have owned and lived in enviably stylish and spacious homes. The husband keeps a yacht in Country C, with two full-time crew. The parties have enjoyed holidays abroad, travelling business class, and sometimes by private jet. The family have staff to help them in the garden, with housekeeping, and childcare.

12. However, neither of the parties presents as particularly entranced by ostentatious displays of their wealth. I have not been poring over budgets for flowers, private chefs, luxury cars, designer handbags or clothes.

13. The husband is a sculptor. He acknowledges that he has had the freedom to pursue this career by virtue of his inheritance. He has a large studio of industrial size just five minutes' walk from the family home, in which is housed cutting-edge fabrication machinery worth hundreds of thousands of pounds. His assistant, lives in a three-bedroom family home in the grounds of the family home, with his wife and two children. His assistant has worked for the husband since 2009. He and his family relocated from Country A so that he could continue his employment with the husband. The assistant lives rent free and receives a salary of £70,000 a year.

14. The wife is not working, and has not done so throughout the marriage, nor for the majority of their pre-marriage co-habitation between 2003 and 2012. Between 2005 and 2010 she studied for and obtained a degree in architecture, graduating top of her year. She did not thereafter obtain a professional qualification and has never done paid work as an architect.

15. The parties' wealth has given them freedom to make choices almost without limitation. Until these proceedings, neither one of them had ever budgeted, nor apparently contemplated how much their life cost. The husband has been perhaps more preoccupied with ensuring that his inherited investments are appropriately managed, and that he is minimising his exposure to tax liability where possible, but the impression has been that if he wished to buy a yacht, or a house, or move to another country, or employ help, or fly at a time convenient to him, then he would be able to do so, without trouble or consequence.

16. As a result of the separation, the husband has explored the finances with more care. His case is that he has come to a realisation that his financial situation was not so completely without limits as he had perhaps first thought. He suggests that past levels of spending were not sustainable. He asserts that the case put forward by the wife at final hearing has been driven by the litigation, her 'head has been turned', and as a result she has unrealistically inflated her assessment of her needs in order to maximise her award.

17. The wife says that the husband's assessment of needs is based on a new template he has created for her, which does not reflect the reality of the life they lived together for over twenty years, nor the level of financial resource available to him, which she suggests he is seeking to minimise. She says to this end, the husband's disclosure of documents has been severely wanting, and the methodology he has used to calculate the value of his assets has created a misleading picture.

Parties' positions

18. Some time has been spent during the final hearing exploring the value of the husband's inherited assets and the extent to which any of them should be regarded as having been matrimonialised, and thus eligible for a sharing claim. However, it is accepted that I should determine the level of the wife's award by making an assessment of her needs, rather than the assessment and calculation of a sharing claim.

19. The husband contends that he should retain the family home, and the wife should be given an award to rehouse. In April 2024 he offered to settle for £11 million. That figure was reached by putting the wife's housing need at £4.4 million, offering £5 million to capitalise her income needs, £300,000 costs and a 'settlement premium' of £1.3 million to bring the overall offer to £11 million.

20. At final hearing, the offer of £11 million is maintained, although the precise figures put forward by the husband are over a million pounds short of that. The husband finally assesses the wife's needs at a £3.5 million housing fund, £4.744 million for a capitalised income claim, £250,000 costs (total £8.494 million) plus a £1.5 million contingency fund. This brings the total of £9.994 million. The husband then seeks a deduction of £500,000 for a 'Charman' payment made by him to the wife in April 2024, which he says was made on account of the eventual award.

21. In her open offer made in April 2024, the wife assessed her capitalised income needs at £18,513,651 (on the basis of income at £665,728 per annum, reducing by 25% at age 65). She sought for the family home to be transferred into her sole name, £973,590 for refurbishment/improvement works to the family home, £3.5 million for a second home, and sufficient funds to pay her legal fees (at that stage £200,000). In addition she sought child maintenance at £83,351.87 a year until their child completes education, and a school/university fees order.

22. At final hearing, the wife seeks transfer of the family home into her name, plus payment of a lump sum of £19,029,782 (£14,789,881 as an income fund, £464,501 for works to the family home, £3.5 million for a second property, and £275,400 to discharge an outstanding litigation loan). She maintains the claim for child maintenance of £83,351.87 a year until the parties' child finishes their education, and a school/university fees order. It is denied that credit should be given for the *Charman* payment, which the wife says was allocated to repay her litigation loan and ongoing legal fees.

The law

23. In *WC v HC* [2022] EWFC 22, Peel J, lead judge of the national Financial Remedies Court, encapsulated the law which I am to apply, at paragraph 21 of his judgment. I gratefully repeat and adopt his summary, as follows:

(i) As a matter of practice, the court will usually embark on a two-stage exercise, (i) computation and (ii) distribution; **Charman v Charman** [**2007] EWCA Civ 503.**

(ii) The objective of the court is to achieve an outcome which ought to be "as fair as possible in all the circumstances"; per Lord Nicholls at 983H in **White v White [2000] 2 FLR 981**.

(iii) There is no place for discrimination between husband and wife and their respective roles; **White v White** at 989C.

(iv) In an evaluation of fairness, the court is required to have regard to the s25 criteria, first consideration being given to any child of the family.

(v) S25A is a powerful encouragement towards a clean break, as explained by Baroness Hale at [133] of **Miller v Miller; McFarlane v McFarlane [2006] 1 FLR 1186.**

(vi) The three essential principles at play are needs, compensation and sharing; **Miller; McFarlane**.

(vii) In practice, compensation is a very rare creature indeed. Since **Miller; McFarlane** it has only been applied in one first instance reported case at a final hearing of financial remedies, a decision of Moor J in **RC v JC [2020] EWHC 466** (although there are one or two examples of its use on variation applications).

(viii) Where the result suggested by the needs principle is an award greater than the result suggested by the sharing principle, the former shall in principle prevail; **Charman v Charman.**

(ix) In the vast majority of cases the enquiry will begin and end with the parties' needs. It is only in those cases where there is a surplus of assets over needs that the sharing principle is engaged.

(x) Pursuant to the sharing principle, (i) the parties ordinarily are entitled to an equal division of the marital assets and (ii) non-marital assets are ordinarily to be retained by the party to whom they belong absent good reason to the contrary; **Scatliffe v Scatliffe [2017] 2 FLR 933** at [25]. In practice, needs will generally be the only justification for a spouse pursuing a claim against non-marital assets. As was famously pointed out by Wilson LJ in **K v L [2011] 2 FLR 980** at [22] there was at that time no reported case in which the applicant

had secured an award against non-matrimonial assets in excess of her needs. As far as I am aware, that holds true to this day.

(xi) The evaluation by the court of the demarcation between marital and non-martial assets is not always easy. It must be carried out with the degree of particularity or generality appropriate in each case; **Hart v Hart [2018] 1 FLR 1283**. Usually, non-marital wealth has one or more of 3 origins, namely (i) property brought into the marriage by one or other party, (ii) property generated by one or other party after separation (for example by significant earnings) and/or (iii) inheritances or gifts received by one or other party. Difficult questions can arise as to whether and to what extent property which starts out as non-marital acquires a marital character requiring it to be divided under the sharing principle. It will all depend on the circumstances, and the court will look at when the property was acquired, how it has been used, whether it has been mingled with the family finances and what the parties intended.

(xii) Needs are an elastic concept. They cannot be looked at in isolation. In **Charman (supra)** at [70] the court said:

"The principle of need requires consideration of the financial needs, obligations and responsibilities of the parties (s.25(2)(b); of the standard of living enjoyed by the family before the breakdown of the marriage (s.25(2)(c); of the age of each party (half of s.25(2)(d); and of any physical or mental disability of either of them (s.25(2)(e)".

(xiii) The Family Justice Council in its Guidance on Financial Needs has stated that:

"In an appropriate case, typically a long marriage, and subject to sufficient financial resources being available, courts have taken the view that the lifestyle (i.e "standard of living") the couple had together should be reflected, as far as possible, in the sort of level of income and housing each should have as a single person afterwards. So too it is generally accepted that it is not appropriate for the divorce to entail a sudden and dramatic disparity in the parties' lifestyle."

(xiv) In **Miller/McFarlane** Baroness Hale referred to setting needs "at a level as close as possible to the standard of living which they enjoyed during the marriage". A number of other cases have endorsed the utility of setting the standard of living as a benchmark which is relevant to the assessment of needs: for example, **G v G [2012] 2 FLR 48** and **BD v FD [2017] 1 FLR 1420.**

(xv) That said, standard of living is not an immutable guide. Each case is fact-specific. As Mostyn J said in **FF v KF [2017] EWHC 1093** at [18];

"The main drivers in the discretionary exercise are the scale of the payer's wealth, the length of the marriage, the applicant's age and health, and the standard of living, although the latter factor cannot be allowed to dominate the exercise".

(xvi) I would add that the source of the wealth is also relevant to needs. If it is substantially non-marital, then in my judgment it would be unfair not to weigh that factor in the balance. Mostyn J made a similar observation in **N v F [2011] 2 FLR 533** at [17-19].

Needs and sharing

24. The wife accepts that her claim should be determined by reference to her needs. However, on her behalf, Ms Gray submits that in assessing those needs, the court must have regard to the scale of the wife's sharing claim. The wife asserts that through his endeavours during the lifetime of the marriage, the husband has been actively engaged in the transformation of the property portfolio that he inherited. She says that the marital acquest has been £51 million, and values her sharing claim at £26.6 million.

25. On behalf of the husband, Mr Todd says the evidence will show that the husband has been a passive investor, interested in retaining his inheritance for future generations, but not actively working to trade with it or expand it. While Mr Todd does not disagree that the source of wealth is relevant to a needs assessment, he argues that where the source of the wealth is non-matrimonial, the assessment can (and should) be conservative.

26. Mr Todd referred me to *Standish v Standish* [2024] EWCA Civ 567. Whether or not assets have become matrimonialised, and therefore liable to be shared, is a question of fact in each case. Mr Todd highlights the guidance that, *'it would be helpful to make clear, expressly, that the concept of matrimonialisation should be applied narrowly.'*

Cohabitation before marriage

27. On behalf of the husband, Mr Todd and Mr Viney have referred me to GW v RW [2003] 2 FLR 108, in which Nicholas Mostyn QC (as he then was) said:

*'[33] in my judgment, where a relationship moves **seamlessly** from cohabitation to marriage **without any major alteration** in **the way the couple live**, it is unreal and artificial to treat the periods differently. On the other hand, if it is found that the premarital cohabitation was on the basis of a trial period to see if there was any basis for later marriage then I would be of the view that it would not be right to include it as part of the 'duration of the marriage'*

"[34] By the same token I am of the view that ***it is equally unreal to characterise the 18-month period of estrangement, conducted under the umbrella of a divorce petition which alleged the irretrievable breakdown of the marriage, as counting as part of the 'duration of the marriage'.*** *In my judgment, a period of estrangement where there has been a formal separation should not count as part of the duration of the marriage."*

28. In this judgment, Mostyn J (as he later became) gave examples of particular circumstances and suggested how they might be viewed by the Court. It is helpful, but not determinative, of any other case, which must be decided on its own particular facts.

29. On behalf of the wife, Ms Gray KC and Mr Nosworthy rely upon the judgment of Williams J in *IX v IY* [2018] EWHC 3053, in which he said that the court was, *'looking to identify a time at which the relationship had acquired sufficient mutuality of commitment to equate to marriage'.*

30. I have also been referred to the cases of *MB v EB* [2019] 2 FLR 899, and *VV v VV* [2022] EWFC 41, per Peel J:

'[46] In the end, it is a fact-specific inquiry. Human relationships are varied and complex; they do not easily lend themselves to pigeon holing. The essential inquiry is whether the pre-marital relationship is of such a nature as to be treated as akin to marriage.'

31. The cases provide a useful comparison, but none tells me the conclusion I should reach about the parties' relationship in the circumstances of this particular case, or the impact my conclusions should have on the eventual outcome. Where a cohabiting relationship was found to be akin to, or equated to a marriage which immediately followed it, it would not be surprising for the court to take the years of that cohabitation into account. That does not create a rule that any other circumstance that does not fit exactly into that category should be disregarded.

Evidence

32. I have read all the documents in the core bundle comprising 719 pages, and have been skilfully navigated to a number of further relevant documents, contained within a disclosure bundle and supplementary bundle respectively.

33. I have read and considered the following reports:

    (i) tax report of Adam Smith, single joint expert, together with his responses to questions from both parties;

    (ii) valuation report relating to the family home;

(iii) Duxbury report prepared by Thomas Rodwell.

34. I heard evidence from:

(i) the wife;

(ii) the husband;

(iii) his brother, and

(iv) The Chief Financial Officer of Firm 123 which holds the brothers' investment funds.

35. The husband and wife came across as decent people, who above all want the best for their child. To date they continue to live in the same household, so their finances continue to be intermingled. Both were coming to the exercise of budgeting and analysing expense only recently, and have relied on others to prepare schedules of income and expenditure, and to analyse the figures. Neither one convinced me that they had a Firm 123 grip or interest in the details of the figures.

36. This is perhaps to the wife's greater disadvantage, because the burden lies upon her to establish her future needs. Throughout the whole period of the relationship the parties have moved in and out of new homes, from the east coast to west coast of Country A and then to England. They have done so with relative ease, in response to circumstances as they have arisen. The wife's evidence about her future plans amounted to saying 'it depends'. She is not sure where their child will be educated. She is not sure that she, or their child, or the husband will remain living in England. Accordingly, she wants to be put in funds to have the freedom to make the choices that have been available to the parties throughout the relationship, and which she considers the husband will continue to have available to him. However, the court's task is to make an award having assessed her need more particularly, by reference to the evidence of her plans and the budgets she submits.

37. Though I found the wife to be doing her best to assist me, her evidence unravelled somewhat, because she has struggled with the exercise she has been asked to do within these proceedings. She was often not able to justify with clarity or conviction many of the items that have been claimed on her behalf.

38. The husband's evidence was more straightforward, although, as I have already said, he too was somewhat vague when it came to the details. I found him to be doing his best to give frank and honest evidence. I accept his evidence that until these proceedings he had paid insufficient attention to his income and expenditure. He had a tendency to portray himself as being somewhat uninterested in the trappings of wealth and luxury, but he felt able to justify very high levels of expenditure if they were in the service of

something he regarded as worthwhile. Examples of this are the fitting-out of his studio, his yacht, and the kneejerk purchase of the villa in Country C in September 2023.

39. Both parties have complained of the other's conduct relating to disclosure. The husband was late in informing the wife that he had bought the Country C property and put up some resistance to providing other disclosure, on the grounds that the requests were disproportionate or unreasonable. Disputes about this were resolved properly through solicitors – the husband filled in the omissions in his Form E in the questionnaires provided in November 2023 - or at case management hearings in court.

40. The wife accepts that while the husband was away in Country C, she went to his studio and removed twelve boxes of paperwork. In UL v BK (Freezing Orders: Safeguards: Standard Examples) [2013] EWHC 1735 (Fam) Mostyn J said at paragraph 56:

    i) Whatever the historic practice (and however alluring the arguments for pragmatism and practicality) it is simply and categorically unlawful for a wife (for it usually is she) to breach her husband's privacy by furtively copying his documents whether they exist in hard copy or electronically. There may be factual issues about whether the documents are actually in the husband's private domain; but if they are (and they almost always are) then it is wholly impermissible for the wife to access and copy them.

    ii) If a wife does access such private documents she is not only in jeopardy of criminal penalties but also risks being civilly sued by the husband for breach of confidence and misuse of his private material."

41. There is no reasonable excuse for the wife to have conducted herself in this way. I have not been invited to make any specific findings or to visit any particular consequences on the wife in response to this. However, in closing submissions the husband raises this as a matter to take into account when considering the wife's credibility, *'we have gone very softly on this but are astonished at the insouciance of her attitude to this very serious criminal matter; a matter which reveals a skilfully concealed character trait bordering on ruthless.'*

42. I have found the wife's case to be unrealistic in many respects, and there appears to have been a tendency to build the needs case to match her expectations of a sharing claim. However, I did not find the wife to be ruthless or dishonest, as was alleged.

43. The respondent's brother gave evidence about the family inheritance; how it had been managed over time, and the roles that he and his brother had played. His evidence was clear, consistent with his written testimony. It was corroborated by the husband, and the Chief financial officer. I found the husband's brother to be a reliable, straightforward and convincing witness.

44. The Chief financial officer is based in State O, and was somewhat discombobulated by the time-difference and jet-lag. He recovered himself well to give clear evidence, emphatically delivering a message about the relationship between investment fund managers and their investors. I mean that in the sense that there was no mistaking his understanding as to the reason he had been called to give evidence, not that he had been coached or was giving evidence only as the husband's mouthpiece. His statement and words were all his own, and obviously derived from his extensive knowledge and experience of the business.

Section 25 factors

(a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;

Property, bank accounts and personal investments

The Family Home

45. The parties jointly own the family home. Together with the grounds and the Lodge, in which the Husband's assistant and his family live, it is worth £3.6 million. The husband seeks an order for it to be transferred to him, the wife for it to be transferred to her.

46. Less costs of sale, its ultimate value is **£3.492 million**. I have not applied the further £40,000 discount proposed by the husband to reflect that the Lodge may not be sold with vacant possession. A sale of the property is unlikely given that both parties want to live in it with their child now, the husband says if he keeps it, he will provide for the parties' child to inherit it. The wife says that if she chooses to live elsewhere in due course, she will give the husband an option to buy it. Anyone living in the lodge is likely to be there because of a connection to either one of the parties. If the house is eventually sold, I find that it is more likely than not that it will be with vacant possession.

The Country C Property

47. The husband bought the property in September 2023 for €2.35 million. He failed to mention this in his Form E, although its acquisition was imminent, but did mention it in his replies to questionnaire on 14 November 2023. In his statement he says that he bought this as a knee-jerk reaction to the divorce. His initial idea was that he would live there and when he was in England, stay in the family home with the parties' child, either as part of a nesting arrangement, or staying with the wife and their child in the house, as they do now.

48. Upon reflection, he has decided he does not want to live abroad, but will choose to live where the parties' child is. He placed it on the market in August 2024 for an asking price of €3.35 million.

49. I have been taken to bank statements which show the husband spent £210,195 on the property since he purchased it, including the sum of $62,139 on 30 July 2024 to a construction company in Country C. It is not clear to me whether other money spent has been for renovations or furniture or other costs, which may not impact on the eventual house sale.

50. It is difficult to see on what basis the husband could expect to make a profit of €1 million. Given the recent expenditure, the high asking price, and that the husband only placed the property on the market eleven days before signing his section 25 statement, I am not persuaded that he does intend to sell it, but I am satisfied that it could be sold if needed.

51. Doing the best I can with the information I have got, I apply an uplift of €200,000 to reflect rising property prices and the money spent by the husband since he purchased it for €2.35 million. Reducing by 5.5% for costs of sale, and then a further 19% tax on the estimated €200,000 capital gain, I arrive at a valuation of €2,371,750. Using the parties' exchange rate, I have converted that to £1,998,673, which I have then rounded up to **£2 million**.[1]

Bank accounts/cash

52. The husband's figure is based on the most recent statement (12 September 2024) I find that the bank accounts/cash amount to £1.695 million. The husband says that he has recently paid £200,000 in legal fees, which reduces the amount on the statement to **£1,694,293**. I accept this figure as the most accurate.

53. The wife has **£202,436** in her accounts (in part monies received from an inheritance, some from the 'Charman' payment).

54. There are joint bank accounts which have either £10,244 or £10,752 in them, depending on which of the parties' schedules is preferred. It is disproportionate to investigate this further. I have split the difference, **£10,500**.

Investments

55. The husband has investments with JP Morgan. His valuation is £14,202,738, the wife's figure is £14,305,769. I understand the difference again to be the dates of the

[1] Sale price €2,550,000 – €140,250 sale costs - €38,000 CGT = €2,371,750 (x 84.27% to convert to £)

statements. The wife says it is a clearer picture if the valuation all derives from one date, the husband says apply the most recent statement valuation in each case. I prefer the approach which uses the most up to date figures, so use the husband's figure of **£14,202,738**.

Summary of liquid assets (before liabilities)

56. Table 1 sets out my conclusions on the liquid assets:

Table 1: summary of liquid assets (before liabilities)				
	Husband	**Wife**	**Joint**	**Total**
The family home			£3,492,000	£3,492,000
House in country C	£2,000,000			£2,000,000
Yacht	£2,106,750			£2,106,750
Joint bank accounts			£10,500	£10,500
H's bank accounts	£1,694,293			£1,694,293
H's investments	£14,202,734			£14,202,734
W's bank accounts		£202,436		£202,436
Total liquid assets	**£20,003,777**	**£202,436**	**£3,502,500**	**£23,708,713**

Business interests

(i) in husband's sole ownership

The Husband's Business

57. This is a UK based company in which the husband is the sole shareholder and director. It was incorporated to hold his art studio which is five minutes' walk from the family home, and to sponsor his assistant, so that he could obtain a visa to come and work in the UK. The husband's assistant has worked with the husband in various studios since 2009, first in City X, then City Y, and now in England.

58. The only asset of the company is the studio, with an agreed valuation of **£1.2 million**.

A LLC

59. This is a US company of which the husband is the sole shareholder and director. The purpose of this company is to own a yacht. The husband purchased it through a company in the summer of 2020 for €2.9 million. The yacht is berthed in Country C. The husband put the yacht on the market in August 2024, the day before signing his section 25 statement. The asking price is €3.495 million. There will be 4% commission if the agent sells it, and 8% if another broker is involved.

60. Again, I am somewhat sceptical that the boat will be sold. It is four years' older than when the husband purchased it. I do not understand him to have spent a lot of money on refurbishment. I have no expert valuation and no general knowledge to draw on in respect of the international yacht market. The husband has two full-time employees to maintain and take care of the yacht, which leads me to conclude it is unlikely to have depreciated substantially in value since its purchase.

61. On balance, I accept the husband's evidence from his witness statement that if sold, he would expect to receive €2.5 net, after commission, and he doesn't anticipate taxes to be payable. I take that as the valuation of this asset. That converts to **£2,106,750**.

S LLC

62. This is a US company. The husband is its sole shareholder and member. It owns a 12.36% minority interest in a commercial investment property in State P. It is managed by Firm 123.

63. My understanding is that the funds used to purchase this interest came from the sale of the husband's second home in City X. He owned this property before the marriage and when the parties lived together in City X, both before and after their marriage, they would stay there very regularly. Once they moved to City Y they visited less often. They rented out the property from 2017, and in 2018 and 2019 would visit twice a year but generally for the purpose of sorting things out at the beginning and end of the summer rental season.

64. It is the husband's case that the funds in this investment are non-marital and essentially illiquid. Firstly, because he is a minority shareholder and would not be able to divest himself of his interest without the consent of all the other shareholders. Secondly, he says that because the fund ultimately derives from the property in City X purchased many years earlier, it carries with it a significant capital gains tax liability which would virtually extinguish any funds that could be released.

65. The husband invested $4.3 million, but says his interest is $3.7 million. There is no evidence to gainsay this, I assess at $3.7 million. This is included elsewhere as part of the husband's personally held LLCs.

P LLC

66. I accept the husband's evidence that this is a dormant company with no assets. When he first sold the City X property he used the funds to purchase an interest in this LLC and its underlying asset . He then exchanged it for his interest in the investment property owned by S LLC.

(ii) LLCs held with the Husband's brother and/or other third parties

67. The husband and his brother have given clear and consistent evidence about the inheritance left to them by their grandparents.

68. The grandparents' story is a remarkable one. The grandfather emigrated to City X from Country D in 1901 without even a pair of shoes to his name. He worked hard and obtained an engineering degree. The grandmother also grew up in poverty in City X, and, equally spirited, she eventually qualified as a lawyer. In the 1920s they opened a shop selling ties, and later became textile manufacturers. In the 1940s they joined other investors in acquiring interests in three buildings in City X; (i) the 'P', an apartment building in City X, (ii) the 'B', another apartment building, in City X, and (iii) a hotel, in, City X.

'The P'

69. The husband's grandfather purchased the share in the 'P'. After his death in 1977, the interest was placed into a trust. The beneficiary, during her life, was the husband's mother. The building was managed by Firm 456.

70. When the first trustee retired as trustee in 1997, the trust was terminated, and the property was transferred to the Brothers LLC. Firm 456 continued to manage the 'P'.

71. In the 1990s the area where the P is located was regenerated and gentrified. The value of the property soared.

72. Over the years the brothers received tempting offers to buy the building, but they were receiving a good income from it, and were concerned that the capital gains tax payable on an asset that had been held since 1947 would all but extinguish the proceeds of sale. However, as time went on, it became clear that the 'P' would require substantial investment to fit in with the surrounding, revitalised neighbourhood. The brothers lacked the cash, expertise or energy to do this.

73. In or around 2013 they were introduced to Firm 123 and subsequently entered into an exchange of the 'P' for a portfolio of buildings, using a tax measure called a '1031 exchange', which defers federal and state capital gains taxes. The 'P' was sold, raising $139 million gross of tax (the husband's share was around $70 million). That sum was then invested into Firm 123. The liability for capital gains tax travels with the new investment. The new portfolio of properties is managed by Firm 123.

The 'B'

74. The ‘B’ was held in a partnership called T R LLC. The husband’s grandmother purchased a minority interest in the partnership in 1947, which was inherited by the husband and his brother upon her death in 1988. The building was managed by Firm 789 a large City X management company and later by Firm 101.

75. In 2015 the B was eighty-four years old, in need of extensive capital improvements, but nonetheless receiving extremely attractive offers to buy it. The other partners chose to sell, and the husband and his brother say as minority shareholders, they had no choice but to agree. In order to avoid extinguishing any profit by paying capital gains tax, they again did a 1031 exchange, investing in properties managed by Firm 123. The sale of the ‘B’ produced $102 million (the husband’s share is $51 million).

The hotel

76. The hotel was also part of T R LLC. It was leased to a large hotel operator, who had complete control of its management. In 2009 the lease expired and a new 75-year ground lease was negotiated with another hotel operator. The hotel is currently occupied by a well-known hotel chain.

Source of assets

77. The source of all the husband’s wealth is his share of the inheritance from his grandparents.

Passive investor or active manager?

78. The wife has suggested that the husband and his brother were involved in the day-to-day management of the ‘P’, the ‘B’ and the hotel, and that after the 1031 exchange, the husband shifted from building management to ‘active real estate investing’, and that he ‘partnered’ with Firm 123.

79. She suggests the husband is an active investor, *‘constantly involved in negotiating purchases of new buildings or selling, re-financing or leveraging the buildings that he owned an interest in.’*

80. Having regard to the evidence I have heard and read, and being impressed in particular by the husband’s brother as a witness, I find that the husband is best described as a passive investor in the jointly owned business interests. I shall explain why.

81. The evidence put forward by the wife amounts to a very few emails from many years ago, in which the husband and his brother were seen to be taking an interest in some practical aspects of the refurbishment or management of the buildings. Post-2015 she

relies on a very few emails which suggest that the husband and wife visited buildings called ‘the V’ and ‘the L’, were shown plans for redesign of another property.

82. This is in keeping with the brother’s credible description of some isolated attempts to engage with the management companies over the years. He was shown an email discussing antique brass lights for the ‘P’. He said in evidence (my note so words may be missing):

‘yes this is very typical of this process – the lights at the front of the building looked like hooked up by a high school – really terrible - we were considering marketing the building – we asked if they would do something – we said why don’t we just get involved and get a nice light fixture put in – it took them forever – finally we went and bought the light ourselves and a year later – the building was still not sold and the lights were sitting in the basement of the building and nothing had been done. We were rarely involved and when we did [get involved] it was genuinely ineffective, and I think our involvement was generally resented.’

83. The brothers’ feelings about the heritage of their investments comes across strongly. The principal was invested by their grandparents, and the income used for the benefit of their family. In the past there has been the potential to sell or invest to create more profit, but the brothers’ response has been one that appears to be in keeping with their grandparents’ intentions, which is to maintain the integrity of the original investment as much as possible, to invest in stock of a similar nature to the original investment – residential multi-apartment buildings – and to rely upon management companies and agents to look after those buildings. The husband described how his grandparents instilled in him and his brother the importance of preserving wealth for future generations, not to draw down on their capital resources, but to live only from the income produced by that capital, and to reinvest any excess back into the funds.

84. Given their wealth, it is not surprising to hear that Firm 123 takes some time and trouble to keep the husband and his brother informed as to the progress of their investments, has in the past flown them out to see particular buildings in which they were hoping to secure investment, or had conversations with them about their investment options and sought their approval for a particular course of action. There are a very large number of properties in the portfolio and many of them have separate management agreements which need to be signed off by the investors. In the circumstances, Firm 123 is likely to have many more contacts with the husband and his brother than a much smaller investor who receives an annual report from his stockbroker or trust fund manager. However, this does not mean that either the husband’s brother (who has been much more actively engaged and interested than his brother), or the husband should be regarded as having attained status above or in any way different to the other nine-hundred Firm 123 investors that the Chief Financial Officer told me about. He was emphatically clear that they are all passive investors.

85. Neither the husband nor his brother are real estate developers. They have played no part in identifying properties for development or investment, they have no overall investment strategy, or investment targets, they are not involved in the design, construction, refurbishment, management or administration of any of the buildings in which they hold investments. They do not work with their co-investors.

86. Again, I rely upon the brother's evidence that the brothers did seek to be somewhat involved with Firm 123 when they first started investing with them, but this was largely to get to know Firm 123 as an organisation. The husband's brother said that after a while they stopped visiting buildings or otherwise getting involved as it was a waste of time and money. He said that Firm 123 had been running the properties without any input from him or his brother, and what efforts they had made, *'did nothing to contribute to the finances of that building.'*

87. The significance of this issue is whether it could be said that these co-owned interests have been generated by the husband's efforts and are therefore part of a marital acquest which should be taken into account in my analysis. On the wife's part it is said that they should, the sum generated during the relationship is just over £50 million, leading to a sharing claim of around £26 million.

88. Having regard to the facts of this case, the husband's 'business' interests cannot be said to have been 'matrimonialised'. They stem from his inheritance, received by him long before the start of this relationship. The brothers' joint efforts have been to preserve as much as possible the inheritance, to exchange, but not to intermingle, or to be used for entrepreneurial purposes.

Current value of LLCs

89. There has been some dispute about the true value of the husband's LLC's interests. The wife complains that there has been insufficient disclosure, and the disclosure that has been given is misleading.

90. Given my conclusion that all these assets are non-matrimonial, I do not consider it necessary or proportionate to delve more deeply into the disputes over precise valuation. I have adopted the valuations in the final ES2, which derive essentially from the husband's Form E.

91. The value of the husband's interest in F R LLC is $65 million (£49,653,500). The value of the husband's interest in T R LLC is $54 million (£41,250,600). The husband's interest in the hotel is $12.5 million (£9,548,750). Total **£100,452,850.**

Husband's personal interests in Firm 123 equity funds

92. The husband has personal interests in further Firm 123 equity funds, some of which have already been described above, amounting to $24,922,806 (**£19,038,531**). These assets also have their origin in his inherited wealth, and his intention is for them to be passed on to their child. Nonetheless, they are relevant as being of value to him in themselves, for the income they generate for the husband, and the potential they have to enable him to make capital purchases by swapping his investments within a wrapper, as he did to fund his studio and yacht.

Liquid or illiquid?

93. I accept the husband's evidence about the source of the business investments, the time and manner in which they increased value, and that there would be a consequential impact on the brothers' liability to pay capital gains tax if they were to be realised. I accept his evidence that the funds in the LLCs are essentially inaccessible for a number of different reasons; because his brother and co-investors have ultimate say over their release, because of the shared intention to preserve the inheritance intact, because the capital gains liability would so dramatically reduce their value, and because there would be further tax consequences of remitting funds to the UK.

94. This potential liability, combined with the brothers' intentions to be trustees of their inheritance for future generations, in keeping with their grandparents' ethos, places the vast portion of these business interests as effectively illiquid. I accept the brother's evidence, consistent with the husband's, that the husband would need to obtain his brother's consent to sell any of the jointly owned property, and he would not give his consent.

95. I accept the husband's case that if realised, these assets would be dramatically reduced by the associated tax. He has produced calculations which suggest his tax liability in respect of the jointly owned LLCs would be somewhere around $80 million, and his brother's liability is even higher at $101 million. The personal interests in Firm 123 equity funds will also be subject to significant capital gains tax should they be realised.

96. However, I am not persuaded that I should value the combined business and personal LLCs at around £12 million, i.e. net of projected capital gains tax, as the husband invites me to do.

97. The husband is not equivalent to a person who holds £12 million in an investment fund. His investments are worth substantially more than that. They are not going to be sold. The LLCs can be exchanged or held as they are. They generate substantial income, much of which is reinvested. The intention is that they will continue to provide funds for the husband for the rest of his life, and for his child, their children and their children.

98. Although they may not be easily converted into tax-free cash, the husband's inherited investments provide the husband with a mammoth financial resource. He has had the ability to purchase freely by setting up holding companies (he did this to acquire the yacht, buy and fit out his studio, or to purchase the house in Country C). Secondly, the fact that tax is payable on an asset once realised does not render it wholly illiquid. The husband understandably seeks to minimise his tax liability, and it is something to be taken into account, but the court is not required to find a solution that does not expose him to any tax liability at all.

Other property

99. Each of the parties is the grantor of one of their child's trusts.

100. The wife has a car, jewellery and artwork valued at £37,000. It is agreed that these should not fall within the pot of matrimonial assets.

101. The husband owns a sculpture by Rodin (£120,000) and a sculpture by Paul Thek (£73,000). Both these are inherited from his family and are non-matrimonial.

102. There are some dormant LLC's ascribed no value by either party in the schedules.

Summary of illiquid/non-matrimonial assets

103. I set out my computation of these assets in the table below:

Table 2: summary of illiquid/non-matrimonial assets				
	Husband	**Wife**	**Total**	***Paragraph***
The Studio	£1,200,000			*57*
F structure	£49,653,500			*89*
T structure	£41,250,600			*89*
Hotel	£9,548,750			*89*
Personally held LLCs	£19,038,531			*60-64, 90*
H's art works	£193,000			*106*
W's car, jewellery, artwork		£37,000		*105*
Total illiquid/non-matrimonial	**£120,884,381**	**£37,000**	**£120,921,381**	
Percentage	99.7%	0.03%		

Liabilities

104. The husband asserts that deductions need to be made for capital calls that will be made upon him for his investments in T & P, a personal tax bill for 2025 of £916,680, and a loan he says he is required to repay to the trust in the sum of £1,398,383.

105. I deduct the tax liability which has been quantified and in respect of which a demand for payment has been made. I also take into the account the liability to repay the loan to the trust (£916,680 + £1,398,383 = £2,315,063).

106. I have not taken future capital calls into account because (i) I have got the husband's estimate, but no evidence of a demand or formal calculation; (ii) the T call will be met by T LLC; (iv) the E and P calls relate to the husband's personal investments, but can be offset against the value of those investments. These liabilities are likely to arise over the next few years, by which time the value of the husband's investments and income received will likely have increased his available capital. It is inequitable to take into account future anticipated liabilities, but not give credit for future anticipated gains.

107. The wife has augmented her assessment of the available assets by allowing potential for borrowing from the Trust (created solely for estate planning purposes in Dec 2020) which has substantial liquid capital in JP Morgan accounts of $6.479m. This is a loan facility, not an available asset.

108. The husband owes £170,000 in outstanding legal fees, which are considered separately.

109. The wife has outstanding costs of £270,000, and she owes her sister £11,251, also considered below.

Impact of liabilities

Table 3: impact of liabilities on liquid assets				
	H	W	Joint	Total
Total liquid assets (table 1)	**£20,003,777**	**£202,436**	**£3,502,500**	**£23,708,713**
Liabilities (excluding costs)	(£2,315,063)			
Total liquid assets	**£17,688,714**	**£202,436**	**£3,502,500**	**£21,393,650**
Percentage	***83%***	***1%***	***16%***	

Income

110. The wife's current income is de minimis, last year she received £316 from investments. The husband contends that she could obtain work and earn around £80,000 a year. This is over-optimistic and unlikely in all the circumstances. The wife has not worked since 2006 when she worked as a freelance proofreader. She has a degree in architecture but is not certified to practice in either the UK or Country A, and has no experience of working in that sphere. Her main focus at this time is on the parties' child, who she is supporting to go to school by attending with the child.

111. The parties' relationship during 2003 to 2012 has some bearing on this. They were not married but living together. The wife was studying for her degree in architecture between 2005 and 2010. Thereafter she was hoping to start a family, the husband was not so sure. This is what led eventually to their separation in 2012. There does not seem to have been any expectation throughout that whole period that the wife should be working. She was wholly financially dependent upon the husband from an early stage in the relationship.

112. The wife is now fifty-one. She is well capable of training or learning a new skill, but she has been out of the workplace for a long-time. Her current preoccupation is the parties' child, and while she supports their child to get to some form of education with a view to transitioning to mainstream education, the wife is not going to be looking around for work. In due course she says she hopes to teach art, which may in time bring in an income but, is likely to be a career chosen primarily for fulfilment and enrichment rather than financial gain.

113. There is a dispute between the parties about the husband's income. The wife says that it should be taken to be £3,792,977 a year, the husband says it is £252,579.

114. In the last year the husband has had access to funds well in excess of £252,579. A combination of monies from the clean capital account, rental income and other investment income, has given him sufficient funds to maintain the yacht, the household, the studio, to pay for substantial renovations to his house in Country C, and to pay his assistant's wages.

115. The husband's income comes from the LLCs, rental income from the hotel ($50,000 a month) and his personal interests in his Firm 123 funds and his JP Morgan investments. His declared income has been the amount drawn down from his investments in any given year in order to fund the expenses of that year.

116. The tax returns give some idea of gross income:

2022	$1,343.449 (£1,031,375.20)
2021	$2,383,661 (£1,829,953.24)
2020	$14,798,901 (£11,361,219.89) (this reflects proceeds of sale from the City Y)

2019 $2,375,649 (£1,823,802)
2018 $3,428,752 (£2,632,276)
2017 $4,722,734 (£3,625,667)
2016 $2,604,744 (£1,999,680)

117. The husband says these figures misrepresent the true position, because they do not consider state or local taxes, capital losses, net operating losses or business income losses. However, the gross figures in the accounts do not represent his true income, because they do not include those amounts received by him and then reinvested. For example, the 2022 tax return includes income from the hotel, but not from any of his LLC interests.

118. Since he has been resident in the UK (November 2020), the husband has been able to shelter his non-UK income and gains from the UK tax regime because he has not remitted funds to the UK beyond the 'clean capital' fund brought over initially, used to buy the family home and then set aside for other expenses. This has both suppressed his need to draw down income from other sources, but on the other hand, it can be anticipated that once the amount in the clean fund is expended, and the time limit on remittance runs out, monies remitted to the UK will be subject to tax.

119. The husband's work as a sculptor brings him purpose, reward and acclaim; he has held successful exhibitions. However, it is not at present a lucrative business, and it is not likely that he will make enough from art sales to recoup the outlay on his studio.

120. Ultimately, I am not able to put an accurate figure on the husband's income, save to say that the evidence I have seen suggests it is comfortably in excess of £1 million a year. Whether that figure is right or wrong, it does not have a significant impact on my determination, because it derives from a non-matrimonial source, and because the wife's needs can be assessed independently of consideration of the husband's income.

(b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

Principal home

121. Each party needs to live in a house which can be a home for their child. Both of them invite me to consider that they should retain the family home for themselves, and the other should have a house of similar size nearby. Both have put forward the Manor House as an option for the other. The family lived in the Manor House for a time while the family home was being renovated.

122. The Manor House has previously been on the market for somewhere around £3 to £3.25 million, but there is some confidence that it could be purchased for £2.75 million (it is in probate). The wife's other two properties were a Farm at £3.85 million and a property in County L, £4.3 million. The husband's other proposed properties ranged from £2.6 million to £3.25 million.

123. The wife argues that she should retain the family home because this is the place that her child regards as home. She says the husband is likely to be spending a great deal of his time abroad, which means their child is likely to be displaced from their home for no good reason.

124. She cites the husband's record of travelling significantly in the past two years, his purchase of a house in Country C, and discussions his brother said they were having about moving to Country E. It is noted that in his very first open offer, the husband said that he did *'not yet know where he will live in England when he is here and seeing [the parties' child]'.* A proposal was made for a 'nesting' arrangement, with the husband asking if he could stay in the family home *'when he is in England'*, and proposing that his child could also spend some of their holidays with him in Country C, *'or wherever he is living at the time.'* In March 2024 the husband was seeking tax advice asking how much time he could spend in the UK without becoming resident.

125. It is only more recently that the husband has said that his intention is to live in England, and his preference would be to live in the family home.

126. Whether it is the wife or the husband that retains the family home, the other party should have a housing fund that enables them to buy a house of equivalent size and value.

Second home

127. The wife's answers were genuinely given, but her plans were unclear and unformulated. To a certain extent, this is consistent with the choices afforded by the family's wealth; they have never had to plan ahead meticulously, because they have been able to respond almost instantaneously to their wishes and circumstances as they arose.

128. In her witness statement she said that if the parties agreed that their child should go to secondary school in Country A, then she would return to Country A with their child. However, in her oral evidence she agreed that their child was thriving in England, and that neither she nor the husband envisaged a return to Country A being good for their child at that point. She seemed to suggest that if their child went to university in Country A, she might too relocate back to Country A. Even if their child remained in England, she thought it might be a possibility that she left and went to Country A, but

to City X, closer to her own family, rather than State O, which is the case that was put forward on her behalf.

129. In those circumstances, she had no clue what she might do with the family home if she and their child were living there, and was even less clear about what might happen to a second property.

130. The wife gave evidence that depending on their child's schooling, she would make plans accordingly. It is not far-fetched to consider that the parties' child may well end up at school further afield than the county, and that may include another part of the country, or London or Country A. It is foreseeable that in those circumstances, the wife may well move with the parties' child to a property close to their school, while maintaining a home in the town where their child would have spent the majority of their childhood up to then.

131. However, this is not the wife's case. If a move was needed for the parties' child's school, something that was only touched upon very briefly in the evidence, she envisaged this would be an expense covered by the child's trust fund.

132. The wife's case is that she needs a fund to purchase a holiday home for her and the parties' child. She has put forward property particulars of two beautiful and large family homes in County M, one on the south coast and one on the north, and a property in Country C.

133. The wife has said that if the husband maintains a house in Country C or elsewhere in the world, then she would want to be able to buy a house in the same place, so that she could be there when their child was to spend time with the father. Once the parties are separated, it is unclear why the wife would be travelling with the parties' child when she would be spending time with the father. This proposal is unrealistic, and this plan was not pressed during the final hearing.

134. The County M properties are substantial and on any view well in excess of the wife and the child's needs. RR is on the market for £3.5 million, and BC for £3.2 million. Stamp duty, renovation costs and furniture would add around £0.5 million.

135. I note that the husband has a yacht moored in Country C, and employs two full-time members of staff. The yacht could be regarded as equivalent to a holiday home. It is moored in the same place, and has been used by the family regularly for holidays.

136. I am somewhat sceptical that the husband will in the end sell both the yacht and the property in Country C. If the final award I make is in the region of the figures he is offering, he would not have to sell both, and could continue to have a home in England and a place to spend time with their child during holidays. A second home would enable the parties' child to develop a strong connection to another place, through the pleasure

of returning repeatedly over the years, building relationships with others who live or return to the same place regularly, and a love of knowing its culture, traditions and customs, so that it takes on the mantle of a second home.

137. On this basis it could be arguable that the wife should have that opportunity too. However, again, I must assess her case on the evidence that is before me, not speculate as to what evidence there might have been.

138. Based on the evidence I heard and read, I was left unconvinced that the wife has any intention of purchasing a house in County M, or anywhere else, let alone a substantial family home similar to the ones put forward. They would require a huge amount of upkeep and commitment.

139. In cross-examination the wife accepted that she and the parties' child had visited County M only twice, and that she had taken a trip there herself with a friend in 1999. Neither she nor the parties' child have friends, family or any particular interests in County M. They have not apparently been in the habit of travelling for weekends away within the UK or spending time in the school summer holidays in County M or anywhere else in the UK. The wife's budget includes seventy days of travelling abroad every year, it is not clear where she envisages having the time to spend in a second home with the parties' child.

140. A second home has not been a significant feature of the family's lives since they had their child. The house they had in City X was a hangover from the husband's pre-married life in City X, but they barely used it once they had moved to State O. They rented it out in 2018 and 2019, then sold it in 2020.

141. For all these reasons, I have not made an allowance for a second home for the wife.

The child of the family

142. The parties' child is the adored only child of devoted and loving parents. Their joint instinct to protect their child and safeguard their child's emotional welfare is understandable. In seeking to shield their child from difficult feelings and emotions, the parties appear to have created some parenting challenges for themselves. The issues seem to be that the parties' child does not yet sleep on their own, but sleeps in the mother's room; their parents have had some difficulties in telling the child to go to bed; the child does not go to school if they do not feel able to, and when the child does, the mother accompanies them and sits outside the classroom. For the past year the parties have concealed their impending divorce from their child, and have continued to live in the family home, so there will be some work to do to prepare their child emotionally for the changes that are about to come.

143. Other than this, there is no evidence that their child has any physical or mental health issues, or any particular needs over and above any other child of their age. It was evident that the parties have differing views about how best to parent their child, but it is to their credit that they have found a way through those difficulties and worked together in the child's interests for the past year. They both have their child's welfare as their top priority in life, recognise the importance of the other parent to their child, and are both committed to a shared care arrangement in the future.

144. The parties' child will want for nothing financially in life. Their child is the beneficiary of combined trust funds worth $20 million, and will inherit the father's share of his grandparents' legacy.

145. Nonetheless, the parties' child will be living with the mother as well as the father. There will be expenses related to the child that are not necessarily covered by the trust, and which form part of what the wife would wish to provide for their child over and above the expenses of daily life.

Income needs

146. The wife has submitted different budgets over the course of the proceedings. In August 2023 she estimated hers and the child's needs at £309,716. In her Form E, submitted a month later, she put current expenditure down as £449,475 a year, and anticipated future expenditure of £698,205. This was broadly based on the figures from the 'Pennywise' report, exhibited to her section 25 statement, which analysed the family's expenditure when they lived in State O in 2019, resulting in an annual figure of £742,379. At final hearing, it is this report that the wife has settled on as best representing her needs. The report identifies that the family as a whole spent £969,236 in 2019. It is submitted that this is the best indication of the marital standard of living and should be the standard against which the wife's future needs should be assessed. She suggests that she should receive maintenance for herself at £666,000 a year, plus £83,350 for the child's 's maintenance (excluding costs relating to the child's education and medical insurance which the husband will pay directly).

147. The husband suggests the starting point for the wife's needs is £213,000 a year, and that such a figure is more in keeping with the family's annual expenditure since they have been living in the UK, which is somewhere around £20,000 to £25,000 a month.

148. The wife says the years following 2019 do not give a true reflection of her income needs, because 2020 and 2021 were distorted by the covid pandemic, and by 2022 and 2023, she says the husband was restricting her spending, including her ability to travel abroad, thereby artificially suppressing the wife's true and realistic needs.

149. I have not found it helpful to use 2019 as my starting point. The parties were living in State O in a property that was sold for $14 million. Their lifestyle was different to the one they have chosen in the UK, where they moved with the shared intention of raising their child in a less lavish and materialistic environment.

150. The wife's evidence that she will ultimately return to live in State O was not convincing. In her oral evidence she accepted that she was perhaps more likely to return to City X than State O once the parties' child had finished their education. There are members of the parties' child's paternal family in State O, but no family on the wife's side. The wife said she has some friends in State O with children the same age as the parties' child, but it is a stretch to think that these friendships are such as to draw her to return to live in State O when the parties' child is an adult.

151. Having regard to all the evidence I have heard and read, I do not find that the husband has been financially controlling or has sought unduly to restrict the wife from travelling or spending money. It is not unreasonable of him post-separation and in the discussions around the divorce to ask the wife to put forward a budget. Nonetheless, in setting his budget for her he is applying a different standard than he does to himself. In 2023 he spent £416,833 on keeping and staffing his yacht, and over £250,000 on his studio. His use of private jets was not exclusively during the pandemic, and the reason given for the most recent one; that he believed he needed to get back for a parents' evening at the parties' child's school, demonstrated that he can spend disproportionately and impulsively, with no thought of impact on his finances as a whole. He does not need to be on top of timetables and itineraries or book ahead; he wants to return home at a moment's notice and therefore charters himself a jet.

152. Further, I do not accept that the husband established the 'clean capital' account of $8 million in order to set a budget for the family of around £250,000 a year, as has been suggested. Rather, the evidence suggests that this was determined as an amount that could reasonably be remitted upon the move to the UK tax-free and would cover expenditure including purchase of a house, fitting out of the studio, as well as daily living expenses for an initial, but undetermined settling in period. The husband has added funds to this as and when required, as he would do with a current account used by the parties when they lived in Country A. I am not satisfied that the husband either regarded this fund as ceiling for the family's expenditure or told the wife that this was to cover all expenses for their future lives together.

153. I accept that the years of the covid pandemic could give a distorted picture, although this is a family that does not seem to eat out habitually or entertain in great quantity, or shop for luxury items, so not a vast alteration to the income needs. There were more private jets chartered during covid, and perhaps fewer holidays.

154. These matters give some context to my more detailed assessment of the wife's income needs, to which I return in my conclusions.

(c) the standard of living enjoyed by the family before the breakdown of the marriage;

155. The parties' wealth has enabled them to have access to the funds they needed to make whatever choices they wanted without having to do paid work. Their riches are not wholly without limits, and it is not their choice to live the life of the fabulously wealthy. In this way, they have been able to live extremely comfortably within their means.

156. They have lived in lovely houses, taken luxury holidays, enjoyed the use of a private yacht, and had staff to assist them.

157. The level of resource available is such that they will both be able to continue to live as comfortably as they did during the marriage.

(d) the age of each party to the marriage and the duration of the marriage;

158. The husband is 70, the wife is 51.

159. The marriage lasted ten years, but the parties were in a relationship for nine years preceding the marriage. There has been some debate about how the pre-marriage cohabitation should be viewed, although I am not convinced it makes a great difference to my overall assessment.

160. This is not a cohabitation that passed 'seamlessly' into marriage. There was a nine-month separation during which the wife had a relationship with another man, and the parties decided to separate permanently. They remained in close contact with one another throughout, and were engaged in intense discussions about the end of their relationship and at times the possibility of reviving it. When they decided to get back together, it was on the premise that the relationship would be on a completely different footing; they were to be married, and they planned to start a family.

161. Nonetheless, the period of cohabitation is relevant because in many ways it set the dynamic for the parties' financial relationship. The wife studied for an architecture degree but did not pursue paid work. The husband provided for her financially by transferring funds into a bank account as and when needed. The parties lived together and shared their lives, travelling abroad, including on private yachts, and investing in the homes in which they lived.

(e) any physical or mental disability of either of the parties to the marriage;

162. There are no relevant factors to consider under this head.

(f) the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;

163. Each of the parties has made a full contribution to the marriage to the best of their abilities.

(f) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;

164. Neither party raises any issues of conduct that would be relevant to my determination.

(g) the value to each of the parties to the marriage of any benefit which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring.

165. Not a relevant consideration on the facts of this case.

Conclusions

166. I have considered the available assets, whether they are matrimonial or not, looked at issues of liquidity and tax, and I have weighed the section 25 factors in the balance. My determination of the level of award is driven by my assessment of the wife's needs. That assessment is informed by the level of resource available to the parties throughout the marriage and which will continue to be available throughout their lifetimes. The standard of living during the marriage was not ostentatious, but was one in which no questions ever had to be asked about affordability. I have taken into account the length of the marriage. A relevant circumstance is the period of cohabitation pre-marriage, which was different in nature from the marriage itself, but did establish patterns within the relationship which continued thereafter, most particularly, that the parties pursued fulfilling and worthwhile vocations, but did not work for financial gain.

167. All this has led me to assess the wife's needs with what I regard to be a realistic but generous perspective, having regard to the standard of living during the marriage as a reference point.

The Family Home

168. I have decided that it is the husband who should retain the Family Home.

169. The wife herself has not been entirely convincing about her attachment to the property. The location was chosen because it was ten minutes' drive from the child's prep school, but the parties' child didn't stay there for much more than a term. The wife

has envisaged moving elsewhere if she is not awarded the Family Home, as set out in solicitors' correspondence:

'I write to attach particulars of the properties that [the Wife] considers are suitable to meet [the husband's] or her housing needs for a principal home near to the [the family home]. However, in the event that [the wife] is not able to stay in [the family home] with [the parties' child], she will reconsider where she lives based on [their child's] longer term emotional and educational needs. [The wife] is not certain that she would stay within [the town where the family home is located] or its surrounds but at present is unable to say where she would go and so no alternative particulars are provided.'

170. The wife suggests that if she stays at the family home, she would require a further £465,000 to renovate it. The husband does not see the need for any further renovation. The parties spent £1.2 million refurbishing it before they moved in. There are some outstanding bits and pieces of work to be done, but this is clearly in the category of snagging – tidying up wires which did not in the end have a light fixed to them – rather than essential refurbishment. A project to upgrade the garden might be in contemplation at some point, but that would be an investment that increased the value of the house, it is not an essential need before it can be regarded as habitable.

171. The husband's evidence about wishing to stay in England was persuasive. He acknowledged that he had travelled a lot in the past year, but this was in part due to the difficulties of maintaining the current situation, and he thought he was playing his part in helping the parties' child have the experience of being parented by one or the other of their parents, as a prelude to their eventual separation into two households. I accept his evidence that he had initially and impulsively thought it would be a good plan to live in Country C, but that he has come to consider that he would be best placed to live where their child is.

172. Even though the husband may well end up spending large amounts of time abroad, and may yet retain the house in Country C, I find that he will spend the majority of his time in England.

173. I find that the husband should stay in the family home for the following reasons:

(i) It is a five-minute walk to his studio. The studio is bespoke to his needs and not easily transplanted to another location. The husband does not have a UK driving licence so it suits him well to be able to walk to the studio;

(ii) The husband's assistant and his family live in a house in the grounds of the family home. The husband's assistant has worked for the husband for nearly twenty years. It makes sense for him and his family to remain there. I appreciate that the assistant and his wife and children have strong relationships with the wife and with the parties' child, but the connection

through work with the husband is stronger. In her evidence, she says it would be 'nice' if they were to continue to live there, but their occupation is not a reason for the husband to retain the family home;

(iii) If she remains at the house, the wife says she needs nearly half a million pounds to renovate it, the husband does not consider this to be necessary;

(iv) There is a tax saving to the family if the wife transfers her share in the house to the husband and receives funds from him to purchase a new home, rather than him transferring his share to her and having to remit further funds into the UK to purchase a new property. This argument is not determinative for me, as it is arguable that the husband could use the proceeds of sale of the yacht, which will not be subject to capital gains tax if there has been no gain, together with the remaining funds in the clean capital account to buy a new property. Nonetheless, it holds some weight as it does represent a saving;

(v) The husband's intention is to retain the family home until his death and thereafter to bequeath it to their child. The wife's plans are less certain, she has at the least not ruled out a return to Country A within a few years, in which case the family home would be likely to be sold.

174. This means that the wife needs a sum to rehouse. The Manor House is eminently suitable, but she is entitled to funds to buy a property equivalent to the value of the family home. Building in an allowance for stamp duty, renovation, furniture etc, I find that an appropriate sum to rehouse is **£4 million**.

The wife's income needs

175. My assessment of the capital sum needed to meet the wife's needs is **£8 million**.

176. As is customary in such an assessment, I have arrived at that figure through a combination of art and science. I start with a line-by-line evaluation of the items on the wife's schedules. The approach I have taken is to generously assess those needs, having regard to my conclusions in respect of the section 25 factors above.

177. I have annexed to this judgment my annotations and conclusions on the composite schedule prepared by the husband's counsel. I have arrived at (rounded up) £320,000 for the wife's needs and an additional £30,000 for the parties' child. In summary:

Table 4: summary of wife's income needs	
EXPENDITURE	**HHJ JV CONCLUSIONS**
Housing	**108,625.50**

Housing (second property)	**-**
Housekeeping	**30,480.00**
Clothes and Footwear	**21,623.47**
Car	**21,200.00**
Employment Expenses	**4,800.00**
Insurance and medical care	**19,040.00**
Personal Expenditure	**25,050.00**
Holidays, Entertainment, Sports, Hobbies	**83,680.00**
Miscellaneous	**6,000.00**
Expenses specific to children	**27,820.00**
TOTAL ANNUAL (with children)	**348,318.97**
TOTAL ANNUAL (without children)	**320,498.97**

178. In line with the husband's proposed approach, I have then applied a 10% uplift to that figure for contingencies, taking me to **£385,000** a year.

179. The figure will reduce once the parties' child reaches majority, and again post-retirement age (67). The wife suggests a 25% reduction is appropriate. The husband says the figure should be reduced by a third. I consider the figure should be closer to 25% than a third. I note that the husband has passed retirement age, but continues to live an active life and (apart from the move from State O to the England, which was motivated by the family's values rather than his age), he has not noticeably reduced the level of his personal expenditure.

180. Thomas Rodwell, single joint expert, has carried out a number of *Duxbury* calculations. He has calculated eight different scenarios based on four alternative annual income requirements, and two alternative approaches to tax – one assuming that she returns to live in State O, which has higher tax rates, the other not.

181. The parties have contended for different lump sums, with reference to Mr Rodwell's calculations, but have not put forward specific arguments about the multiplier or the formula I should apply having settled on the multiplicand. In closing submissions it is suggested by the husband that Mr Rodwell's 'straight-line' multiplier of 24.6 is appropriate to cut through the various alternative scenarios. I have started my calculations using that number.

182. The wife's life expectancy is 36 years. She will be 67 in 16 years' time. So 44% of her fund will be for pre-age 67, and 56% for life post-age 67. Splitting Mr Rodwell's Duxbury multiplier of 24.6 in those proportions, I apply 10.8 to the first tranche (£385,000 a year) and 13.8 to the second (£385,000 x 0.75 = £288,750).

183. (10.8 x £385,000) + (13.8 x £288,750) = £4,158,000 + £3,984,750 = £8,142,750.

184. I have then reduced that figure down to £8 million, to reflect (i) that I consider it unlikely the wife will relocate to State O when the parties' child is 18; and (ii) as a cross-check with Mr Rodwell's figure of a £7.9 million lump sum, which would provide the wife with £320,000 for her whole life, or £400,000 dropping by a third at 67. This is broadly consistent with the assessment I have carried out.

185. The evidence in respect of social security payments which the wife may or may not be entitled to in Country A ultimately was speculative. I have not made a deduction for this.

Enhancement/contingency award

186. To the figure of £8 million for capitalised income, I add an enhancement figure of £1.5 million. This is more art and less science, but is in keeping with the view expounded by Lord Nicholls in *Miller v Miller: McFarlane v McFarlane* [2006] UKHL 24, that the concept of fairness is elastic. At paragraph 4:

''Fairness is an elusive concept. It is an instinctive response to a given set of facts. Ultimately it is grounded in social and moral values. These values, or attitudes, can be stated. But they cannot be justified, or refuted, by any objective process of logical reasoning. Moreover, they change from one generation to the next. It is not surprising therefore that in the present context there can be different view on the requirements of fairness in any particular case.'

187. On my assessment, the wife will comfortably have what she needs to meet her needs with a housing fund of £4 million and a Duxbury fund of £8 million.

188. However, compared to her, the husband will remain in possession of funds and investments well in excess of £100 million, which he will not be able to realise as cash (and does not wish to, but seeks to preserve intact for future generations), but which will enable him to continue to make choices involving substantial financial outlay at a moment's notice, and with little or no impact upon the scale of the resource that would still be available to him.

189. An additional lump sum of £1.5 million for the wife gives her an element of choice and freedom akin to what the husband has as a result of the vast pot of non-matrimonial assets he holds, and the opportunities it provides to him. It is a non-mathematical but conceptual sum designed to accord the wife some of the ability that the husband enjoys to ride out financial bad luck, or make the odd impulsive or even bad decision.

190. I note that the husband was willing to offer a similar sum as a 'settlement premium', and at final hearing described as being out of pure generosity in order to achieve a fair outcome (expressed to be £1.5 million but apparently put at £2.5 million).

191. In awarding this sum, I have also had regard to the percentage split of assets. I consider that the adjustment I have made brings a fairer apportionment between the parties.

Costs and the 'Charman' payment

192. The husband's Form H, dated 16 September 2024, declares a total costs bill of £793,889.43, of which £624,525.34 has been paid (£169,364.09 outstanding).

193. The wife's Form H, of the same date, declares a total predicted costs bill of £728,342.57, of which £577,244.74 has been paid (£151,097.83 outstanding). However, in the schedules provided to me, it is agreed that the wife's outstanding liability for costs is £270,000, and she owes her sister £11,251. The wife's liability for costs is larger than the outstanding amount on the bill, because she has taken out a high-interest litigation loan.

194. The wife seeks a payment of £275,000 to meet her remaining costs.

195. She has been able to pay previous costs bills largely due to receiving a payment of £500,000 from the husband in April 2024. This was described by the husband as a 'Charman payment'.

196. The husband includes in his analysis a further £250,000 to meet the wife's outstanding liability for costs. However, he contends that she should give credit for the £500,000 'Charman' payment.

197. I have been referred to Coleridge J's decision at first instance in *Charman v Charman* [2006] EWHC 1879 (Fam):

'52. On 11 February 2005 I refused the husband's application for a stay of the English proceedings and I also dealt with the wife's application for maintenance pending suit. I gave the husband the option of paying at the rate of £360,000 per annum or of paying £5million on account instead. He chose the latter course and this is source of the sum of capital which the wife still has. In my judgment this optional approach is the best way of dealing with interim provision in these very large cases.'

198. The circumstances that gave rise to the Charman payment in this case were that the wife had asked the husband for money to enable her to continue to instruct her lawyers, with a view to preparing for an FDR. On 3 April 2024, the husband's solicitors

emailed the wife's solicitors, saying, *'[the husband] would like to provide [the wife] with a Charman payment of £500k from clean capital, which will be offset against her eventual award.'*

199. The wife's solicitors replied by email on 15 April 2024. It was made clear that the wife intended to use £200,000 to pay off her litigation loan, and the remainder to fund her ongoing legal costs. Clarification was sought of what was meant by the term 'Charman payment'. The solicitor wrote, *'I agree that the fact of the payment will be taken into account in the determination of [the wife's] eventual award but I do not believe it is correct to say that the payment should be 'offset' against it.'*

200. The husband's solicitors replied as follows:

'The payment of £500,000 is unfettered in that [the husband] continues to fund the household expenses as usual through the clean capital account pending the conclusion of the proceedings. [The wife's]'s intention re the use of the funds to discharge the Level loan in full and meet fees going forward is as we expected. Of course we hope this case settles before a trial and she doesn't need to use up the whole £500,000 only for legal fees. She is once again invited to attend mediation – please to revert on this being possible now.

A Charman payment is a payment on account of her claims/entitlement generally – it is taken into account in her eventual award, as you say.'

201. In August 2024, the wife's solicitors wrote to the husband's solicitors explaining that of the £500,000, £203,345 had been paid towards legal fees and to meet some household expenses, including £3,000 for a car service, riding lessons, and the cost of the wife spending a few weekends away to facilitate the husband spending time with the parties' child. It was said that there remained only £68,150.45 in the account. It is unclear how the relatively small amounts of expenditure described led to over £230,000 being spent in less than four months.

202. Anticipated further legal fees to conclusion of the proceedings were said to be £360,000. A further payment of £265,000 was requested to meet those fees, and to avoid taking out a further litigation loan.

203. The husband declined to pay more. It was noted on his behalf that the wife had savings of £137,653 in her JP Morgan sole account, which could have been remitted and used to pay legal fees, together with the remaining £68,000. Further, it was noted that the husband had offered the wife £11 million. In those circumstances it was hard to conceive that her solicitors would have refused to do any further work, or that disbursements could not be met from existing funds, without the need to take out a further litigation loan.

204. The first question is the amount that should be given to the wife to meet her outstanding costs' liability.

205. I will award £250,000, because I am not persuaded that the wife needed to incur the additional costs associated with a litigation loan. She was given £500,000, with the intention of it being used for costs, but in August 2024 she was in a situation where her liability was likely to be £360,000. She could have used her own savings, or sought an arrangement for part or deferred payment with her solicitors but she chose not to. She has not given a satisfactory explanation of how she depleted the £500,000 by a further £230,000 within four months between April and August. I do not consider the husband should make up a shortfall caused by her choice to take out an expensive loan.

206. The next question is whether the wife should repay the £500,000 received in April 2024 by setting off that sum from her ultimate award.

207. There is a difference between payments on account of a substantial maintenance claim (a Charman payment), and a payment (as I find it was in this case) akin to one made pursuant to a legal services payment order, for the purpose of meeting the wife's costs to put her on an equal footing with the husband in the litigation.

208. As agreed by the parties, the payment of £500,000 is to be taken into account in determination of the award in all the circumstances, but it does not trigger a strict offsetting rule.

209. My reading of the whole correspondence has led me to conclude that there was a tacit acceptance in the email on behalf of the husband that monies intended to meet costs of the litigation were unlikely to be offset in the final analysis, but if settlement came before the fund had been exhausted, then the remaining sums may well be regarded as an interim payment for maintenance, for which credit should be given. If that was not the husband's position, it is nonetheless one that I would suggest is consistent with the court's approach in *Charman.*

210. As it turned out, the parties were not able to settle, and their respective costs bills increased further.

211. The husband argues that the wife's 'immensely hostile approach' to the litigation should be marked by the court, and she should be required to repay the £500,000. On his behalf it is said, *'she has gambled her money on an unreasonable position. She has refused to deploy her own resources in meeting her legal fees and instead sought that H incur additional tax in making further advance payments to her. This is W's cost to carry.'*

212. I have not been taken to evidence of the tax consequence to the husband of paying the £500,000 to the wife when he did.

213. The husband had the ability to access and free-up the £500,000 for the wife, but the starting point is that the money came from a pot that belonged to them both. As the husband has been able to pay his legal fees, so should the wife be able to pay hers. The fees incurred by each of them are broadly comparable.

214. The submissions on behalf of the husband are that a Charman payment once paid, should be paid back once the award is made. However, the submissions are framed in the language of an application for an order for costs. In family proceedings the usual rule is that each party bears their own costs. Costs orders are made exceptionally, where it has been shown that a party's conduct of the litigation has been unreasonable or reprehensible.

215. The husband has expressly not sought to press for costs consequences in respect of the wife's conduct in taking the twelve boxes of papers from the husband's studio. It is said that she has acted unreasonably in pursuing a claim based on sharing of the non-matrimonial assets, pursuing a claim for a second home and putting her needs unreasonably high. I am cautious about judging conduct of the whole litigation only by eventual outcome. There may have been a time when it was reasonable to explore and to seek disclosure of information in order to present a case in a particular way, only for it to become unreasonable to continue to argue for a position that was not tenable. I have not heard more focused arguments about this, and the wife has not had a full opportunity to respond, because the issue has been raised only as offsetting the Charman payment.

216. Had the parties reached agreement at a point before the £500,000 had been spent on costs, the remaining amount could well have been regarded by me as an interim payment of maintenance and subject to offsetting. In the particular circumstances of this case, I do not consider that the £500,000 should be offset against the ultimate award. It was clearly earmarked for costs, which the Form H tells me have been incurred.

217. I therefore add an additional amount of £250,000 to enable the wife to settle her outstanding costs bill. I have not made any deduction in respect of the 'Charman' payment.

Summary of wife's award

218. I award the wife £13,750,000, comprised of the following amounts:

Capitalised income fund:	£8,000,000
Housing fund:	£4,000,000
Enhancement:	£1,500,000
Payment towards cost liability:	£250,000

Net effect schedule and cross-checks

219. The distribution of wealth between the parties before implementation of my decision is as follows:

Table 5: distribution of assets before final order				
ASSET	**HUSBAND**	**WIFE**	**TOTAL**	***Para.***
Liquid assets				
The family home (50%)	£1,746,000	£1,746,000	£3,492,000	*46*
House in country C	£2,000,000		£2,000,000	*51*
A LLC	£2,106,750		£2,106,750	*59*
Joint bank accounts (50%)	£5,250	£5,250	£10,500	*54*
H's bank accounts	£1,694,293		£1,694,293	*52*
H's investments	£14,202,734		£14,202,734	*55*
W's bank accounts		£202,436	£202,436	*53*
	21755027			
H's liabilities (excluding costs)	(£2,315,063)		(£2,315,063)	*97-102*
Total liquid assets	**£19,439,964**	**£1,953,686**	**£21,393,650**	
Percentage	91%	9%		
Illiquid/non-matrimonial assets				
The Studio	£1,200,000			*57*
'F' structure	£49,653,500			*89*
'T' structure	£41,250,600			*89*
Hotel	£9,548,750			*89*
Personally held LLCs	£19,038,531			*60-64, 90*
H's art works	£193,000			*106*
W's car, jewellery, artwork		£37,000		*105*
Total liquid assets	**£19,439,964**	**£1,953,686**	**£21,393,650**	
Total illiquid/non-matrimonial	**£120,884,381**	**£37,000**	**£120,921,381**	

Total ALL assets	**£140,324,345**	**£1,990,686**	**£142,315,031**	
Percentage	99%	1%		

220. The net effect of my decision is set out in the table below:

Table 6: net effect asset schedule				
ASSET	**HUSBAND**	**WIFE**	**TOTAL**	***Para.***
Liquid assets				
The family home	£3,492,000		£3,492,000	*46*
House in country C	£2,000,000		£2,000,000	*51*
A LLC	£2,106,750		£2,106,750	*59*
Joint bank accounts	£5,250	£5,250	£10,500	*54*
H's bank accounts	£1,694,293		£1,694,293	*52*
H's investments	£14,202,734		£14,202,734	*55*
W's bank accounts		£202,436	£202,436	*53*
	23,501,027			
H's liabilities (excluding costs)	(£2,315,063)		(£2,315,063)	*97-102*
Wife's award	(£13,750,000)	£13,750,000		
Total liquid assets	**£7,435,964**	**£13,957,686**	**£21,393,650**	
Percentage	35%	65%		
Illiquid/non-matrimonial				
The Studio	£1,200,000			*57*
'F' structure	£49,653,500			*89*
'T' structure	£41,250,600			*89*
Hotel	£9,548,750			*89*
Personally held LLCs	£19,038,531			*60-64, 90*
H's art works	£193,000			*106*
W's car, jewellery, artwork		£37,000		*105*
Total illiquid/non-matrimonial	**£120,884,381**	**£37,000**	**£120,921,381**	
Percentage	*99.7%*	*0.03%*		

Total liquid assets	**£7,435,964**	**£13,957,686**	**£21,393,650**	
Percentage	*35%*	*65%*		
Total ALL assets	**£128,320,345**	**£13,957,686**	**£142,278,031**	
Percentage total assets	*91%*	*9%*		

221. The wife's share of the liquid assets has increased from 9% to 65%.

222. The cross-checking by reference to percentage of the overall assets is perhaps of limited value. These assets are illiquid, carry a significant future tax liability, and are non-matrimonial. Nonetheless, they enable the husband to fund the lifestyle he chooses where money is no object.

223. The award that I have made to the wife does not give her parity with the husband. Of the total pool of liquid and illiquid/non-matrimonial assets, she receives only 9%. This reflects the source of wealth in the marriage comes from the husband's inheritance. The outcome preserves that inheritance for him, and he holds those assets in the same proportion as he did before. However, looking at the assets as a whole, the dial has been moved significantly, from 1% to 9%, in recognition of the section 25 factors as they apply in this case. The award puts the wife in a position to meet all the needs that she could reasonably expect to have, commensurate with the standard of living during the marriage, together with a substantial cushion to cover contingencies, and to put her in the same position as the husband so far as being able to make choices around spending without having too much regard to the consequences.

Undertaking regarding the child's Trust

224. The husband has expressed a concern at the submissions made on behalf of the wife that the Trust can be used as a loan facility. The husband invites her to give undertakings to protect the parties' child's 's position in respect of the trusts, and says that he will offer cross-undertakings in the same terms. The wife appeared to accept this in principle, but I do not understand a draft document to have been presented for her consideration.

225. It would be helpful if it were produced in advance of a hearing to hand down judgment so that any issues could be resolved and the undertakings from both parties formally taken by the Court without the need to list an additional hearing.

226. I invite the parties to draw up an order that reflects the decisions I have made.

HHJ Joanna Vincent
Family Court, Oxford

Draft judgment sent: 18 November 2024

Approved judgment handed down: 9 January 2025