

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

**Case no: RG19P50002**

**IN THE FAMILY COURT AT READING**

B e f o r e

**HER HONOUR JUDGE O'NEILL**

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**Re: Helen (A Child)**

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**The Applicant Father represented himself.**

**MR JAMES BOGLE (instructed by Beck Fitzgerald Solicitors) for the 1<sup>st</sup> Respondent  
Mother**

**MR JACK HARRISON (instructed by NYAS Legal) for the 2<sup>nd</sup> Respondent Child, by her  
Children's Guardian, AB.**

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## **Anonymised Judgment**

**Dates of the hearing: 1-5, 10 November and 16 December 2021**

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**This judgment was delivered in private. The anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.**

**Introduction**

1. The names used in this anonymised judgment are not the real names of the parties. Likewise any identifying information, such as nationality, has been anonymised.
2. This is my judgment in Children Act 1989 proceedings between a divorced couple, James and Anya relating to their only child Helen, aged 7 years. I conducted a final hearing which took place on 1 to 5<sup>th</sup> and 10<sup>th</sup> November 2021. Helen has been the subject of continuous litigation since she was 3 years and 9 months; for almost half of her life to date. The case was allocated to me after the Pre-Trial Review on 8 October 2021 (after 3 and a half years of litigation). In July and August 2020, the Judge who has had most involvement, District Judge Comiskey, conducted a “Fact Finding” Hearing over 7 days and handed down a 47-page judgment with an accompanying Chronology.
3. Anya is from a country in Eastern Europe, James British. They met in the Eastern Europe. Helen was born there but has been living in the UK and not returned to Eastern Europe since 2018. It is recorded (although Anya seeks to resile from this) that she was taken to Eastern Europe on two separate occasions without James’s consent.
4. Helen is currently living with James – she moved to live with him and was moved from Anya’s care by order of DJ Comiskey on 16 April 2021. Before that she had lived with Anya except for the six months with her maternal grandparents. Since she moved to James’s care Helen has had direct face to face at a contact centre and virtual contact with Anya on video platform.
5. Anya has legal aid and is represented by Counsel, Mr Bogle, and solicitors. James is unrepresented. The child is represented by Mr Harrison of counsel, instructed by AB, the NYAS case worker and Rule 16.4 children’s guardian.
6. There is an expert Psychological Assessment from Graham Flatman and Section 37 Reports from the child’s allocated social worker, HE. A previous social worker, JM, filed a statement/report in July 2020 which I consider below. Helen’s head teacher is GH, School Nurse is MW; Helen had a SENCO and a number of designated and duty social workers and family support workers have been involved with Helen.

7. Helen is currently the subject of a Child in Need plan which was stepped down from a Child Protection Plan in July 2021 after she had moved from Anya's care to James's care (on 16.4.21).
8. Helen's mother has been hugely affected by and resistant to the court's decision to remove Helen from her care. Her devastation and difficulty in accepting that decision is understandable; none of her appeals against decisions of DJ Comiskey have succeeded. Anya says she accepts the expert recommendation that she has therapy. She acted very promptly and set up counselling soon after she received the expert report. Like the expert, I have professional experience of parents making huge progress in therapy. I hope that Anya will be able to apply her focus and determination in therapy.
9. On 1<sup>st</sup> May 2018, a court order made by DDJ Mark started with a warning notice in bold and included a Prohibited Steps Order that "*the respondent mother must not remove the child...from the jurisdiction ...without James's written consent or order of the court*". It also stated "*neither party shall apply for any passport, travel documents of any other form of identification for the child without the other parent's written consent or order of the court.*" The penal notice in bold followed directly below those orders. On 17<sup>th</sup> September 2018, when she was represented by solicitors and counsel the court order [DDJ O'Leary] recorded the following: "Anya accepting that she took the child to Eastern Europe on two separate occasions without James's consent, however she had no intention of retaining the child there and in June 2017 she left Helen in Eastern Europe from 22 June 2017 until 17 December 2017 in the care of her parents and did not inform James that she had returned to the jurisdiction of England and Wales and that Helen had remained in Eastern Europe. James was made aware of this upon reading her statement dated June 2018". The order also records that James was not informed and not consulted about the choice of primary school for Helen by Anya.
10. This judgment must be read alongside the Closing Written Submissions of the Guardian and the chronologies/tables in those written submissions – which should be attached as Appendix 1 and which form part of the full judgment and must always accompany any disclosure of the judgment to any third parties.

**Statement of Issues**

11.

- a. Should Helen remain living with James or return to Anya's care?
- b. What arrangements should be made for her to spend time with the other parent i.e. the parent with whom she is not living?
- c. Should I impose some restriction on future court applications?
- d. Should I change DDJ O'Leary's order in relation to Anya's acceptance of removal of the child twice without James's knowledge or consent.
- e. Should I make an order to stop Helen from being vaccinated?
- f. Should I make an order in relation to Helen's church attendance if she remains in James's care?
- g. Should I restrict Anya's involvement in decisions on medical and educational issues?

**Legal Principles applied in reaching my conclusions**

12. Pursuant to the Children Act 1989, section 1, in making my decision as to the upbringing of this child, her welfare is my paramount concern and I rely in particular on the factors set out in the statutory check list in section 1(3) which are referred to extensively in the evidence. The duration of this litigation, the number of applications, hearings, unsuccessful appeals, breaches of court orders, late and last-minute attempts to derail the process have not succeeded in deterring me from keeping the focus on Helen and her welfare. I bear in mind section 1(2) of the Children Act - delay in determining the decision is likely to prejudice Helen's welfare; this principle is manifestly relevant and apposite to this child at this stage. I remind myself of Section 1(2A) that the court "is to assume, unless the contrary is shown, that involvement of a parent in the life of the child concerned will further the child's welfare".

13. The legal principles on the granting of permission for experts and the admissibility of experts' report arise. Section 13 of the Children and Families Act 2014 (1) states "A person may not without permission of the court instruct a person to provide expert evidence for use in children proceedings". By section 13(6), the court may give permission [for expert evidence] only if the court is satisfied that the expert evidence is necessary to assist the court to resolve the proceedings. When deciding whether to give permission the court is to have regard to, in particular, (a) any impact which giving permission would be likely to

have on the welfare of the child concerned, (b) the issue to which the expert evidence would relate (c) the question which the court would require the expert to answer (d) what other expert evidence is available (section 13(7)).

14. The role of the Guardian was articulated by Hayden J in **Cumbria County Council v KW [2016] EWHC 26**: *“I record that the Guardian thought it appropriate not to advance any submissions on the findings sought by the Local Authority. This is a widespread practice which I would, for my part, strongly deprecate in most cases. The importance of a strong intellectually rigorous representation on behalf of the Child’s lawyer and his guardian has been emphasised regularly See GW and PW v Oldham MBC [2005] EWCA Civ 1247; Re U (A Child) [2005] 2 FLR 444; Islington LBC V Al-Alas and Rway [2021] 2 FLR 1239. These principles apply just as vigorously in my judgement to the fact-finding process. A position of neutrality motivated solely by desire to be independent and objective in the eyes of the parents loses sight of the primary professional obligation to the child. I am aware that others take a different view”*.
15. The standard of proof: In making findings of fact upon which to base my conclusions I apply the civil standard, the balance of probability.
16. Section 91(14): I set out below how I have exercised my discretion, in exceptional circumstances, and imposed restrictions on the making of future applications without leave – by reference to the authorities and the Skeleton Arguments of all parties.
17. Restrictions on the exercise of Parental Responsibility: The applications to exclude Anya from decision-making in relation to educational and medical decisions are considered by reference to the child’s welfare as the paramount consideration and the statutory checklist.

### **Summary of Outcome and Orders**

18. I do not make any order revisiting the order of DDJ O’Leary. There will be a child Arrangements Order that Helen will live with James and have contact with Anya on “safety conditions” that the contact is professionally supervised and professionally translated. Anya is responsible for meeting the costs of those safety conditions. There will be a

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Specific Issue Order that Anya's consent is not required for decisions on medical and educational issues. The application to restrict James from vaccinating is refused. No order is necessary in relation to Helen's church attendance.

19. There will be a Section 91(14) order for four years to run from the date of approval of final orders. I will recite that the expert evidence accepted by the court suggests that a further report from an independent fully instructed expert would be expected in any application of leave and that all applications are reserved to me, for judicial continuity or alternatively that any judge dealing with the case must have the order and judgment (including appendices).
20. The outcome is based on unanimous and overwhelming professional and expert evidence plus the actions, statements and evidence of Anya and father which I have had an unparalleled opportunity to observe.

**Summary of Findings**

21. I adopt the six findings outlined in the Guardian's closing written submissions as a summary of the very detailed findings and conclusions below. They are:
  - a. Anya has been unremittingly dishonest throughout the proceedings.
  - b. Anya has chosen to engage in destructive conduct towards the court, all professionals and James.
  - c. Anya has tried to manipulate and influence Helen against James.
  - d. Anya applied for an Eastern European Country's passport for Helen although she knew that she was not allowed to and would be in breach of an Order. She did this to undermine James' position within the proceedings
  - e. Anya lacks insight into the concerns of professionals and into the reality of this situation. She does not accept any responsibility.
  - f. Helen has suffered significant harm in the care of Anya. There is a likelihood that such harm would continue if Helen were to be placed in her care, as Helen's emotional welfare would be at risk.

22. In addition, I find that there is a very real risk of harm that Anya might remove Helen from James’s care and from this jurisdiction i.e., Anya is a flight risk.

**Background and Chronology**

23. I insert my own working chronology at this stage as a reference point for my findings. It is not intended to be agreed by any party as it is my document. It is not a litigation chronology and does not include every hearing or court order. The Guardian’s chronologies on various points are attached as appendices and essential reading in conjunction with this judgment – the chronology which deals with Anya and her solicitors’ assertions about Anya having Covid.

24.

1985	Dob Father – British national
1988	Dob Mother – Eastern European national born in Central Asia but moved back to Eastern Europe during childhood; only child of parents who live in a city in Eastern Europe.
2012 approx.	Parents meet – F living in Eastern Europe
1 February 2014	Marriage
2014	Helen born in Eastern Europe
April/May 2015	James moved to UK; Anya and Helen remain in Eastern Europe.
November 2015	Anya and Helen join F in UK
April-June 2016	Anya takes Helen to Eastern Europe
June 2016- November 2016	Anya and Helen back in UK

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November 2016 -March 2017	Anya takes Helen to Eastern Europe
March 2017 – June 2017	Anya and Helen back in UK
June 2017	Anya takes Helen to Eastern Europe (order recites it to be without F knowledge or consent).
June 2017	Anya leaves Helen in Eastern Europe with maternal grandparents and returns to UK without informing James.
October 2017	James applies for child’s return under Hague convention
June 2017 to October 2018	Helen has no contact with James
December 2017	Anya returns child to UK
2 March 2018	James’ application Child Arrangements Order and Prohibited Steps Order.
1 May 2018	Court order: PSO on Anya and both parents forbidden to apply for passport, travel documents or any other form of identification for the child.
17 September 2018	Court Order: Fact Finding not pursued; Contact to begin. Recitals that Anya accepted that she had removed Helen from the jurisdiction without James’ consent twice.
2 November 2018	Single Assessment in relation to allegation that Anya had racially abused and physically assaulted a child (Kenyan family in shared accommodation); Assessment determined that Anya and other parent unlikely to be able to resolve their acrimonious relationship and as a result Helen and other children would be likely to be exposed to conflict” but case closed.
17 December 2018	After first unsupervised contact, Anya made allegation that Helen returned with bruising to her arm. Medical report opined non



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	accidental. Single assessment determined that Anya and her housemate had a physical altercation on the day Anya reported the bruising when Anya was holding Helen.
11 January 2019	Helen on Child Protection Plan on physical abuse and changed to emotional abuse in September 2019.
4 May 2019	Anya drafts a document and provides it to James for him to “give permission for my daughter to be able to travel to Eastern Europe with Anya... permission to go to Eastern Europe in May 2019.... Due to family circumstances know Anya & Helen will stay in Eastern Europe for some period of time” [document in “committal bundle” referred to by Mr Bogle]
July 2019	James’ app for “live with” order on basis that M is emotionally abusing the child and sabotaging his relationship with her.
August 2019	Anya applies for an Eastern European Country’s passport and issued 13 August 2019.
4 October 2019	Rule 16.24 Guardian, AB appointed from NYAS
10 December 2019	First NYAS report
31 July 2020	Social work report by EF
July – August 2020	Fact Finding on cross allegations of domestic abuse DJ Comiskey
15 September 2020	Part 25 Expert directed
1 October 2020	Core Group meeting told that Helen’s SENCO NM was told by Helen that “mummy is doing documents...because daddy wants to take me away. Mummy doesn’t want to share me. I will live with whoever had more documents”.
5 November 2020	Change of expert to SG.

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5 November 2020	Anya’s application to “stay” section 37 report asserting “DJ Comiskey MUST not be referred to any application or hearing in this case. Two major orders of DJ Comiskey dated 5.8.20 and 15.9.20 made during her brief and erroneous involvement in the case are under appeal with an imminent hearing. Key ground include abuse of process, acting outwith her remit and actual and/or a real danger of bias”
7 November 2020	James applies for “immediate change of residence”
9 November 2020	Anya applies to discharge AB on the basis that the Guardian is “ethnically black British while the child is Jewish Eastern European-British white Caucasian” alleging that AB is “trying to shape child in racial manner” and “open reversed racism and inculcation of racial differences on a child”.
	GH writes to mother suggesting SENCO can advise on who could do dyslexia assessment, but that guidance is that child needs to be 7 years old (Helen 6 at the time)
26 November 2020	Hearing before HHJ Sweeney with ex tempore judgment commenting on the regrettable duration and voluminous papers in the litigation and the disproportionate amount of court resources which have been used, and refusing permission to appeal.
5 January 2021	Section 37 Report CD
17 March 2021	NYAS application to court – Anya had gone to Dr CV who had not diagnosed dyslexia .
	Order HHJ Lloyd Jones – Anya to disclose terms of her instruction of expert – non-compliance by mother.
? April	CD writes s.37 report.
13 April 2021	Anya applies to discharge SG as expert.

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16 April 2021	Hearing – “change of residence” - Helen placed in father’s care and professionally supervised contact with translator
23 April 2021	Order – refusal of permission to appeal.
11 April 2021	NYAS second report.
10 June 2021	Committal Hearing – did not proceed as Anya did not attend and was unwell – ordered to produce medical evidence but none produced.
7 July 2021	Case Conference – CP plan reduced to CIN
27 July 2021	Order DJ Comiskey including parents’ final evidence by 27 September and list PTR 8 October
19 August 2021	GP makes referral to Children’s services as Anya contacted her to pursue issues of ASD/ADHD with CAMHS. Anya not responding to AB efforts to meet her.
	Anya goes to Eastern Europe.
5/6 September	Dates Anya says (in oral evidence) she returned to UK.
16 September 2021	Mr Flatman’s report
17 September 2021	Helen has contact with Anya
24 September 2021	Date of Anya statement in committal proceedings
	Email from Anya’s solicitor asking for extension of time
29 September 2021	James’ Position Statement (stands as evidence per order 8/10/21)
8 October 2021	PTR DJ Comiskey grants Anya further extension of time to file evidence until 4pm on 15 October.
29 October 2021	14.05 Bundle with M’s 84-page witness statement delivered to Court

**The evidence**

25. I have read the trial bundle which was filed on 29<sup>th</sup> October after 2pm. However due to the lateness, I had already read the previous bundles filed for April and October Hearings and have several boxes of court papers/files which I have also read. I have not read the report of SG, an expert who was taken off the case. Another expert, Mr Flatman, has undertaken the Psychological Assessment. I have read the Report of EF (31//7/20), the reports of CD (5/1/21), 15/4/21 and 22/9/21, the NYAS case worker's (AB) reports (10/12/19)(11/5/21) and 4/10/21 and Mr Flatman's report dated 16/9/21. I have, of course, read the parents' witness statements, position statements and skeleton arguments.

**The expert evidence**

26. As regards Anya, Graham Flatman concluded: she has significant personality characteristics in terms of being histrionic and narcissist:

*“Being histrionic and narcissistic are not criticisms of Anya but are descriptions of her personality with implications as to how she functions”. It is not suggested that Anya has a personality disorder or a diagnosable psychiatric or mental health difficulty. She does have significant personality features in terms of being histrionic and narcissistic, which are relevant to Helen and the present proceedings.”*

As regards James, he states:

*“6.15. James is somewhat histrionic although not excessively so. He is a highly opinionated man who has been provoked into long term, determined and for him, hopefully effective means, in order to ensure Helen's safety, security and the long-term meeting of her needs. It may be therefore that he has become somewhat histrionic due to the demands of his dealings with Anya and the ongoing legal proceedings. He is opinionated. He largely explains that he will state his own opinion and can be quite condemning about a*

*range of institutions and professionals, but on the other hand, leaves room for the opinion of others. James has presumably felt that he has had to state his opinion, clearly, strongly and persistently. He has been absolutely determined to see that Helen's needs are met. He did not set out to gain the residence of Helen but, through the course of events, has come to her realisation that this is necessary because of his interpretation of Anya's behaviour and the effects on Helen.*

*6.16. James did not loosely criticise Anya but did describe her limitations in parenting and the nature of some of her conduct, as highlighted in the legal proceedings. There were no indications that he criticises Anya to Helen. James is careful to be considerate towards Anya and mindful of some of her reasonable wishes, including fortnightly attendance at an Eastern Orthodox church and paying for weekly Slavic language lessons for Helen. He would be content to go to Eastern Europe with Helen, as long as he can ensure that her needs are being met there.*

*6.17. Therefore, one significantly positive feature of the present proceedings and family situation is that neither parent is mindlessly critical and condemning of the other parent and can be generally supportive of each other as parents in relation to their communications with Helen. It is clear that this has not always been the case and Anya's previous allegations with regard to James are noted, as have his allegations."*

27. I was struck by the clarity and congruence of his conclusions in relation to each parent and the child. After over three and a half years of litigation the behaviour patterns speak for themselves. I accept and rely on his evidence, but my conclusions are based upon all of the evidence including that of the parties, social worker and the Guardian as well as the patterns I can identify in the litigation. My role is to apply the Children Act and make decisions to

promote Helen's welfare. The relevance of assessments of the parents is insofar as they inform the court as to parenting capacity, risk and other child focussed issues. It is the recognition of long-established traits and the consequences for Helen that are relevant.

28. As regards Helen, Mr Flatman states that she "has experienced chronic stress due to all the changes in her life and the ongoing parental conflict". In his opinion there "have probably been times, when living with Anya, when even her daily needs were only being marginally met with Anya being under stress and feeling that she had to centre on the meeting of her own needs". His opinion is that "Helen has suffered emotional harm because of the significant changes and lack of consistent attention to her needs including emotional and sometimes basic, educational and social needs when living with Anya. It is clear that her needs have been far better, consistently and appropriately met whilst living with James".
29. The psychologist says "it is difficult to assess Helen's attachment to Anya given that there is now strictly limited and supervised contact. The impression gained from the present assessment, including the observation of Helen with Anya, is that Helen is attached to Anya but that she has an anxious attachment, based on perceived previously chronic levels of unpredictability with regard to the meeting of her needs. There may also be aspects of an ambivalent attachment with, essentially, Helen posing herself the question as to whether she is worthy of Anya's long term consideration love and care". At 6.20 "Helen would seem to have a secure attachment to James. There is some level of anxiety in the attachment".
30. Most important, in the court's view, is paragraph 6.21: "On assessment, Helen is portably [*sic*] of above average intellectual ability. In my opinion there are no characteristics of ASD or ADHD. There is no suggestion of autistic traits in Helen. Helen is active but it is clear that she can concentrate and reflect as she did in the present assessment and as she can do in school. Helen is making progress at school. Her reading age is now about six months below her chronological age. The school are confident that she will catch up with support from school and home. My opinion is that she will catch up and that her most basic need is for long term, stable secure and appropriate all round care within a stable family unit for the rest of her minority".

31. He goes on: “From the psychological perspective, [James] does have the capacity to keep Helen safe from emotional harm. From the psychological perspective, [Anya] has not been able to keep Helen safe from emotional harm principally because of her personality issues but could probably do so if she makes progress in this regard.... [James] is more able to naturally prioritise Helen’s needs, whereas Anya easily gets out of her depth in parenting and becomes egocentric and reactive”.

**Mr Flatman Oral Evidence**

32. Mr Flatman gave evidence for almost three and a half hours. He is a very experienced clinician and expert in his field. As befits such a professional, he was reflective and considered in his oral presentation. He was asked many questions in relation to the issue of risk of abduction and the passport issue. Anya’s case is that everyone got it wrong about the facts surrounding the period in 2017 when Helen was in Eastern Europe, the facts surrounding her obtaining an Eastern European Country’s passport in 2019 and that Mr Flatman relied on unfounded/erroneous views and assessments of the Guardian and other professionals.

33. It would be surprising if a psychologist who had undertaken psychometric testing and a full psychological assessment would have relied on disputed past events. However, I allowed the extensive cross examination in that respect to ensure, as I have done throughout, that no stone is left unturned in dealing with Anya’s case. It was put that he had relied on the Guardian (who stated that the grandmother had been involved in abduction) and on false information. It was put that the Guardian had been “completely unfair” and it was an over-reaction for which there was no evidence. Mr Flatman repeated that it did not specifically influence his recommendations and brought us back to his conclusion where he had responded in a “rolled up way” because of the complexities of disputes. Mr Flatman stated that he was aware that the factual background to these events was disputed and it formed no part of his analysis as a psychologist. He said: “My opinion was not based on the passport issue which I took to be unresolved”.

34. In both his written and oral evidence, he was at pains to stress that the characteristics he had identified in Anya – the histrionic and narcissistic traits – were not intended to be

criticisms of her. He clarified – towards the end of his evidence – that this did not eliminate or exclude that she was dishonest and/or manipulative and/or disingenuous. People with her traits can be dishonest and manipulative. Life gets confusing for them and then they start to lie and manipulate to get out of those “jams”.

35. He said that Anya is “very, very short on shame. She regresses to being self-centred and focusing attention on details. She is very limited on empathy and understanding. She becomes self-centred and not looking at what others may be experiencing or perceiving. He had read Anya’s most recent statement and considered the many exhibits and the timing to be examples of her relentless pursuit of her agenda without regard to the views or the experiences of anyone else. This lack of insight, lack of empathy and lack of shame are the behaviours he would expect from someone with the personality traits he had identified. He used the word relentless several times and that chimes very well with the wider picture of Anya’s behaviour throughout the litigation. When asked about how other people were supposed to manage these patterns of behaviour, he stated that Helen needs to be distanced from it. He gave a clear analysis of why someone with those characteristics gets themselves into difficulties to which they respond by resorting to egregious and manipulative behaviour.
36. As regards James, he had also diagnosed histrionic traits. Mr Flatman was clear that the use of the word “opinionated” was not meant to be pejorative. James is direct, clear and determined. He has also been through years of stress and pressure. He is very straight-talking.
37. The expert’s evidence was crystal clear that Helen should remain in James’s care with the long-term stability that would provide. He stated: “stability is crucial now”. He said that she has had instability. He stated that James has “genuinely attempted to make Helen both readily and happily available for contact with Anya and has attempted to encourage and reinforce Helen’s cultural background”. He was equally clear that contact with Anya should be supervised (and by inference with a translator) and gave his rationale for that view. He stated that supervision is needed to ensure that the child is not in receipt of confusing, manipulative or undermining statements. Even if Anya did not deliberately say something unsettling, she is so highly needful [*sic* - needy] to attend to her own needs that there may be times that inadvertently she would affect Helen and make her unsettled. He gave the



example about the birthday party where Anya had persisted in questions to the child and put her under stress.

38. He opined that Anya feels others are “jointly misguided”, but she has not got an explanation for herself as to how this has occurred. He stated that Helen was at risk of “internalising the message of conflict with professionals which might undermine her with regard to professionals”. He considered it is harmful to a child to have a parent pursue unwarranted diagnoses of physical conditions or learning disability.
39. He said he had hope “but was not hopeful” – an illuminating turn of phrase - indicating that he would hope that Anya could make progress, develop insight and change by accessing counselling but he was not “full” of hope. In response to an inquiry by the court, he was very clear that progress should be measured through a psychological reassessment i.e., by himself or someone of equal expertise, as an independent professional and not by the therapist.
40. I note James has reservations about the expert and I understand why. He originally felt that a remote assessment was inappropriate. I do not think that was an unreasonable concern. He also feels that the expert has been overly sympathetic to Anya. Again, there is a clear basis for his view – the expert is at pains to emphasise how he is not seeking to “criticize” Anya; this sits ill with James who must feel that the consequences of Anya’s conduct must merit some criticism. However, the expert’s role is not to criticise but to provide a professional opinion on the questions asked. It is about asking the right questions and the expert was very clear, when asked, that his findings as to histrionic and narcissistic traits meant that Anya was capable of the dishonesty, manipulation, disingenuity, deflection, dissimulation which her relentless pursuit of her own issues involves.
41. Mr Flatman did not have the same advantage as the court and the Guardian of seeing Anya give evidence over 2 days, nor of a full forensic analysis of the chronologies and patterns of behaviour identified in this judgment and in the closing written submissions and chronologies on behalf of the child.

## The social workers

### Written evidence

EF

42. I have read EF's statement/report of 31/7/20. EF was a very experienced social worker and highly qualified (certificates in psychology and, counselling and psychotherapy as well as a background as a Cafcass Officer and social worker since graduation with a degree in social work in 2007). He sets out the background for involvement (which is also detailed in the extensive records in the Supplemental Bundle). Helen been known to the local authority since 17<sup>th</sup> December 2018 and was made the subject of a child protection plan on 11<sup>th</sup> January 2019. The original involvement was due to the child having bruising. However, there were "also concerns around [Anya] poor working relationship with professionals, her attempts to sabotage James's contact and relationships with Helen, struggling to manage Helen's behaviour and instil appropriate boundaries as well as a fixation in Helen having a diagnosis after she reported her to have been under psychiatric care in Eastern Europe as a toddler. Further concerns related to Anya's refusal to share information with professionals" [paragraph 2].
43. At paragraph 6 he refers to school, reporting that Helen's academic performance was below age expect levels, she has fewer social skills and peer group relationships than her peers, she is guarded and avoids talking about her home life and is described as selective with the staff she engages and interacts with as she finds it hard to trust people".
44. He goes on to state: "*8. The school has reported to have a good working relationship with James who they say always shows an interest in his daughter. However, the school continue to express difficulties in working with Anya who has been reported as 'challenging' and not heeding advice given about how to improve Helen's school attendance. At the RCPC, the school headteacher informed that Anya has made a complaint against the school and alleged the Head teacher was racist This mirrors similar allegations made by Anya against this social worker in an email and in core group meetings where she has claimed professionals were discriminating and prejudicing against her. Her other allegations against the school and the social worker have been that they do not support her allegations*

*of domestic abuse by James and that they were siding with him. It has been noted her allegations have taken place when professionals have sought clarification, challenged her opinion, or offered constructive criticism.”*

45. The context of EF’s statement was that Anya had sought to change schools, without consulting James, and had given “shifting accounts” as to her reasons. When EF visited Helen to speak with her, he was thwarted by Anya’s refusal to allow him to speak with Helen, recording him openly on her mobile phone and trying to hide the phone under Helen’s pillow. She stated in front of Helen that the social worker and other professionals were fabricating information. This created an awkward atmosphere. EF states that Anya was oblivious to the impact and the message she was passing to Helen. He comments that, when Helen was asked about James, she would go quiet and refusing to answer any questions, at some point stating that she did not want to talk about him.
46. EF goes on to opine: “It was also very concerning to watch Helen who would look up to Anya, as if to get permission for cues on what to say, even when the social worker attempted to reassure her that it was okay to talk about James”.
47. James told EF that initially he agreed with the Independent Social Worker (Ms Bushell) about shared care, but he has since changed his position. He “would like Helen to live with him and for Anya to have supervised contact once every two weeks at a contact centre” – on 19<sup>th</sup> December 2019.
48. Anya stated that she did not oppose [James] spending time with Helen but was “concerned about Helen’s safety given the history of domestic abuse and Helen sustaining bruising when she returned from contact” [i.e. Anya alleged that James had caused bruising by physical abuse]. She told EF that she “made the biggest mistake of her life not going through with the Fact Finding (in September 2018). She said at the time she felt vulnerable as she did not understand the court process and *her barrister persuaded her not to go ahead with the fact-finding* [my emphasis]. Since then she has decided to represent herself as a litigant in person”.

CD – current social worker

49. Helen has had an allocated social worker since December 2018. Her designation as under a child protection plan was originally based on allegations of physical abuse but soon changed to emotional abuse. She was “under” a Child Protection Plan until July 2021 when the plan was “reduced” to “child in need” as a result of the amelioration in her situation in James’s care. CD has been the social worker since November 2021 having taken over from EF.

50. Her first report dated 5/1/21 is very clear and is crucial evidence on which I rely:

*“Anya initially presents as affable and cooperative with professionals however it has been observed that Anya*

*then tries to sow confusion or doubts by making unsubstantiated allegations about the professionals involved.*

*6.7 It has been noted in records that neither Anya nor James miss an opportunity to criticise one another and both parents have been prompted to bring their focus back to Helen. Helen’s needs are easily lost in the conflict and acrimony between her parents.*

*6.8 Anya presents as unable or unwilling to reflect on the part she plays in the concerns raised regarding Helen. The Local Authority remains concerned that Helen will continue to be enmeshed in Anya’s complex personality and difficult relationship with both James and professionals, which will continue to undermine Helen’s capacity to independently develop autonomous and healthy relationships.*

*6.9 It has been noted in records that Anya is not transparent with professionals and uses methods to deflect or cause confusion. An example of this was during the Core Group Meeting on 01 October 2020 when Anya was questioned about Helen’s negative views of James. Instead of providing an explanation, Anya instead focused her concerns on her view that James is coaching Helen and also her desire to*

*know the detail of who Helen had spoken to. This ethos is the same approach Anya took in 2018 when she accused James of causing bruising to Helen's arm whilst concealing that these injuries may have occurred during an altercation between Anya and her housemate at the time, where Anya reports she was assaulted whilst holding Helen. This raises the question about whether Anya will continue to place blame at James door for any future issues or concerns regarding Helen over engaging openly and honestly with professionals to bring about positive change for Helen.*

**6.10** *Anya reports to be highly educated and has shared with professionals that she has completed learning in psychology and child development. In addition, Anya reports to have completed a parenting course as well as therapy. Despite this intervention and work, Anya appears stuck and concerns remain about why she has been unable to transfer or apply her learning into her parenting. Anya has continued to demonstrate a pattern of being selective in the information she provides and will focus on points that support her narrative, regardless of any inaccuracies. An example of this is Anya accusing James of using the legal process to continue to perpetrate domestic abuse towards her.*

**6.11** *Professionals have consistently expressed difficulty around their working relationship with Anya. The previous social worker described a feeling of 'needing to walk on eggshells' during his work, despite taking a sympathetic and sensitive approach. All professions have reported that they have found that*

*Anya has continued to be evasive and inconsistent in sharing information and her standard response to any concerns raised regarding Helen is one of denial and blame towards anyone that has challenged or disagreed with her.*

**6.12** *There is a concern that neither parent can prioritise Helen above*

*their dislike of the other. Wherever Helen lives and whoever has custody of her, Helen's relationship with the other parent needs to be promoted positively and she needs to be able to talk to both her parents about the other. The concerns regarding Anya have been outlined above. In addition, during a telephone discussion with AB, NYAS Guardian on 17 December 2020, AB shared a visit she had carried out to Helen whilst she was in the care of James and her paternal family. AB described how Helen had made biscuits and AB asked Helen if she would take one home to show Anya. AB shared that the paternal family did not respond positively to this and did not show encouragement to Helen that it would be nice for her to be able to show Anya what she had made. Although they were not outwardly negative, that passive response will be confusing for Helen and indicated that Helen is not encouraged to talk about her time with Anya when she is in James's care.*

**6.13** *There is an ongoing concern about allergies that Anya has reported that Helen suffered a reaction to in Eastern Europe, following administration of a vaccine. The details about this are unclear and Helen's medical records do not hold any information relating to this. Despite attempts to clarify what Helen is allergic to, Anya has been unable to provide confirmation. Anya has reported that the easiest way for her to obtain this information is for her return to Eastern Europe however reports she is unable to because James has blocked her from leaving the country. This is inaccurate, Anya is free to return to Eastern Europe, however she would be unable to take Helen. James has offered to care for Helen to allow Anya to do this. Anya has invited James to go to Eastern Europe to get access to Helen's medical records in her place. James has not accepted this invite and has indicated that even if Anya was able to provide documentation he would be wary of accepting it as a fact and made an accusation that it is common practice for documents to be*

*falsified in Eastern Europe. Like many issues relating to Helen, this leaves a stalemate situation where we are unable to move things forward in her best interests. If Helen does have a significant allergy it is imperative that both parents do all they can to clarify this otherwise it could have a significant or even fatal impact to Helen if she was administered medication that includes those unknown ingredients.*

*6.14 Anya and James relationship is complex and this has a direct impact on Helen. Anya continues to view herself as a domestic abuse victim, despite the Fact Find hearing not showing evidence of those claims. James as a result has a negative view of the domestic abuse services that supported Anya at the time and he indicated in the Core Group meeting held on 03 December 2020 that he would not agree to any work with Helen from Berkshire Women's Aid, even if that was identified as an appropriate resource for Helen. This highlights how neither parent can move forward and place Helen's needs at the forefront of the work.*

*6.15 The Local Authority recognises that whilst looking at the various reports and concerns they may not appear to be significant on their own and some have plausible explanations to them. However, collectively they paint a picture of concerted and accumulative risks that are likely to have a corrosive and long term impact on Helen's emotional wellbeing and relationships in the future."*

51. I include the above extract which resonates with the findings I make as to Anya's ongoing difficulties, denial and appearing "stuck". Insofar as James is concerned, the social worker has extensive evidence since April 2021 of how he parents the child very well and Helen has made significant progress in a short time in his care.

52. The second report was compiled In April 2021. CD had at least 5 meetings with Helen as well as extensive involvement in Core Group Meetings and feedback from school:

*“The Local Authority remain concerned that Helen continues to be exposed to adult issues by Anya with the intention of manipulating Helen against James. In a direct work session with Helen on 25 January 2021 Helen spoke very positively about her contact with James over the weekend. Later in the session Helen stated that she wished she ‘did not have a Dad’. When asked why, Helen answered that James argues with her mother about who she will live with. Helen was asked whether she has ever seen her parents argue? Helen stated she has not but her mother has told her. Helen also remains of the view that whoever holds the most documents in respect of her is who she will live with. Helen often speaks about Anya’s work and when asked what Anya does for work? Helen says ‘documents’.*

**6.6** *When asked directly about the above conversation held between Helen and the social worker, Anya denied speaking to Helen about these issues and showed little insight into the concerns raised by the social worker.*

**6.7** *Anya sought a private Dyslexia Assessment of Helen which was completed by Dr ZX, PhD, mBPS, mATP, BEd. In her assessment Dr ZX indicated that Helen does not show traits of dyslexia but does display autistic traits. Upon sharing the report GH, Head Teacher consulted with the Principal Child and Educational Psychologist and Mental Health Lead at the local authority. The psychologist shared that in her view Dr ZX has used outdated tools which have not been researched or standardized on children. In addition, the methods used are not designed to be diagnostic tools. Dr ZX did not complete her assessment in conjunction with Helen’s school, father or social worker. In addition, Dr ZX did not appear to be registered with the Health Care Professional Council (HPCP) which is the regulatory body for Educational Psychologists practicing in England. Despite these concerns being highlighted to Anya in the core group, Anya*



would not accept the concerns advising she had approached Helen's GP who would be making a referral to the Child and Adolescent Mental Health Service (CAMHS), she would be instigating a private assessment of Helen and would be considering Helen as having received a pre-diagnosis.

**6.8** Anya has consistently shown significant interest into the creditability of other professionals involved in Helen's wellbeing, as well as the methods they use. Anya has consistently challenged the professional approach and judgement of many professionals, including but not limited to, GH, Head Teacher; AB, NYAS Case Worker; Helen's previously allocated Social Workers, including EF; an Assistant Team Manager; the School Nurse and SG, the court appointed expert. When the concerns were outlined to Anya in respect of Dr ZX and her recent assessment of Helen, Anya entirely dismissed them without applying the same curiosity.

**6.9** Anya informed the social worker on 09 April 2021 that she has instigated a second private assessment of Helen. Helen was seen on 06 April 2021 by Consultant General and Neurodevelopmental Paediatrician, Dr BN MBBS, MD, DNB, MRCPCH. This was an initial appointment and further assessment will follow. Anya advised that Dr BN has identified possible ADHD traits within Helen however her initial write up does not outline this, instead she observed that during the appointment Helen appeared a little hyperactive.

**6.10** It has been observed that Anya continues to try and sow confusion and doubt by making unsubstantiated allegations about the professionals involved. Anya has been observed following the core group meeting held on 25 March 2021 to raise concerns about GH, Head Teacher and the Assistant Team Manager alleging that they are attempting to block Helen from accessing support, rather than taking on board the concerns the professionals are raising in

*relation to Helen's wellbeing. Anya accused GH of being racist towards Dr ZX and discounting her assessment of Helen because she is from Eastern Europe. Anya appears to challenge every step of the process rather than placing Helen's best interests at the centre of her decision making. This is causing further delay for Helen".*

53. In or around February 2021, James contacted the Eastern European Country's authorities via an Eastern European Country's law firm and discovered that Anya had obtained an Eastern European Country's passport for Helen. The passport had the wrong date of birth, and the surname was not exactly correct as a punctuation mark was missing. The passport was obtained in breach of the Prohibited Steps Order (with Penal Notice). James, NYAS and the local authority were very worried that there was an immediate flight risk i.e., that Anya would remove the child again without James's knowledge and consent. The factors about the wrong date of birth and the surname were unexplained at that time. James has subsequently produced a document from the Eastern European Country's authorities that shows she put the right date of birth on it and the Eastern European Country's authorities suggest that the authorities or embassy put the wrong date of birth by mistake. Anya is fixated on this issue - what she considers to be a false allegation that she "falsified" documents and accordingly a wholly unwarranted assessment that she is a flight risk.

54. In her Addendum, CD stated:

*"The Local Authority recognises that whilst looking at the various reports and concerns outlined in this Addendum and the S.37 Report filed with the court on 08 January 2021, they may not appear to be significant on their own and some have plausible explanations to them. However, collectively they paint a picture of concerted and accumulative risks that are likely to have a corrosive and long-term impact on Helen's emotional wellbeing and relationships in the future.*

**6.15** *The Local Authority makes the following recommendations. Firstly, it recommends that in order to protect Helen from any further significant harm Helen's residency is moved with*

*immediate effect to James, James. Secondly, the Local Authority recommends that initially Helen should have 2 direct contacts a month and two indirect contacts with her mother with a Slavic Language translator also present, to ensure the dialogue of the contact can be understood. Week 1 starting the week of 19th April 2021 and Week 3 starting the week of the 3rd of May, there should be a virtual contact supervised by James, dates and times to be confirmed. Week 2 starting the week of the 26th April 2021 and week 4 starting the week of 10th May 2021, a direct contact will take place in the community, supervised by the local authority and with a Slavic Language translator present. Dates and times to be confirmed. This supervision should be provided by the Local Authority.”*

55. The matter was brought back before the court and the “change in residence” made by District Judge Comiskey on 16 April 2021. Although no transcript of the judgment was obtained, I am satisfied that it must have been based on the position of the local authority and the Guardian at that time.

56. CD’s third report is dated 22 September 2020 and is crucial reading.

*“At the Review Child Protection Conference on 07 July 2021, it was determined that the risks to Helen, which had previously indicated that Helen had suffered or was at risk of suffering significant emotional harm whilst in Anya’ care were mitigated by Helen being in James care and all contacts between Helen and Anya being supervised.*

*6.3 There have been no safeguarding concerns relating to Helen since being in the care of James, James. It is observed that James provides Helen with predictable, safe and secure parenting.*

*6.4 Since the Interim Order was granted on 16 April 2021 Anya’ engagement with the social worker has been limited. Anya has not responded to any telephone calls from the*

*social worker. Anya chooses to communicate with the social worker via email or via her legal representatives often with a delay between contact being made and a response being received. On 23rd June 2021 AB, NYAS contacted Anya to arrange a joint visit with the social worker. An appointment was offered for 01 July 2021, no response was received from Anya. On 28 July 2021 AB offered Anya a further three possible dates for a joint visit via email, however Anya did not respond. Anya responded to AB on 13 September 2021 advising she is willing for a joint visit to be undertaken. A joint visit has been arranged for 23 September 2021 and therefore is after the filing of this addendum report.*

**6.5** *It has been observed that Anya continues to try and sow confusion and doubt regarding professional involvement. Anya did not attend the Core Group meeting which was held virtually in respect of Helen on 21 May 2021. Anya was invited to attend however did not join at the agreed time. Anya then contacted the social worker at the end of the meeting to advise she was waiting to be accepted into the meeting. Anya has historically made prompt contact with the social worker if there have been any problems with her attendance at meetings held in respect of Helen. Anya then accused the social worker of purposefully excluding her from the meeting and would not accept that was not the case. Anya appears to continue to challenge the process and time is spent addressing issues such as the above rather than Anya placing Helen's best interests at the centre of her decision making. This continues to cause further delay for Helen.*

**6.6** *Through the Child Protection and now Child in Need processes in respect of Helen there have been no indicators that have identified that Helen would benefit from any further specialist assessments. Following the private assessments sought by Anya, outlined in the Addendum Report filed on 13 April*

*2021, Anya has continued to look to pursue assessment of Helen despite this not being supported by James, School or the social worker. On 19 August 2021 Helen's GP contacted the social worker to advise that Anya had made a GP appointment for Helen and attended on her behalf to pursue a CAMHS referral in order to pursue both ASD and ADHD assessments in respect of Helen."*

57. The report sets out how positive contact has been and *"Anya is observed to be loving and appropriate to Helen during these contacts and Helen is observed to respond to Anya positively"*. Anya would like to move the contacts out of the room in a local authority building and into the community. The child is *"clear that she is comfortable with them being held at the contact centre and she did not want them to be moved into the community"*.

58. James is *"observed to be supportive of Helen's contact with Anya and maternal grandparents"* and *"Anya has raised concern about Helen losing her Slavic language skills and cultural identity"*. James has enrolled Helen in Slavic language classes and has been taking her to an Orthodox church. During the hearing the court inquired as to the cost of all of that and it is approximately £215 per month.

59. The child's school attendance has improved since the move to James's care. CD states:

*"6.15 Earlier in the year concerns were raised by GH, Headteacher, about Helen's presentation in school and capacity to learn. It was reported that there were significant gaps in Helen's learning and Helen's low level literacy skills were the main barrier to her learning. Helen had additional support available to her in school which she was accessing. GH was concerned that the emotional impact of her parent's relationship and the subsequent emotional abuse she was being exposed to left Helen unable to focus and commit to her*

*learning. Since an Interim Order was granted for Helen to remain in James' care GH has reported that Helen is coming into school on-time and ready to learn each day. Helen's social presentation has improved, and she is cheerful and responsive to her teachers which she was not before. Helen has made significant progress in her learning and GH predicts that by the end of this academic year Helen will have caught up with her peers and be working at age expected levels, however outlined that this will be dependent on the continued positive engagement from Helen and James.*

*6.16 Helen presents as very happy and settled in James's care. It was anticipated that because Helen had been raised primarily by Anya since her birth, aside from the period Helen was left in her maternal grandparent's care for approximately 6 months in 2017, that Helen may find the transition to James becoming her main carer unsettling. Helen appears to have accepted the change in her residency with ease and there have been no indicators of distress. Helen has not questioned the change in arrangements and appears to accept the contact with Anya. Helen has raised no concerns and it has been observed that she appears relaxed in her presentation. Helen is also observed to be less guarded with professionals, seemingly engaging openly during visits. This is contrary to how Helen presented whilst in Anya's sole care where Helen would often be closed and guarded with the professionals involved."*

60. In paragraph 6.18 of the third report and in her oral evidence the social worker clearly stated that the safeguarding local authority recommended that Helen should remain living with James in the long-term meaning for the entirety of her childhood in order to "protect Helen from any further significant harm" – she said: "longer term until age 18" in oral evidence. The recommendations as to contact are for fortnightly contact under professional supervision with a Slavic language translator. The cost of this is approximately £150 per month which the local authority acknowledges to be significant and which "should be funded by [Anya] as the non-resident parent".

**CD oral evidence**

61. In cross examination, it was put to the social worker that she had graduated in 2019. This is accurate but I felt it was likely to be selective and so I asked about her actual experience. It transpired that CD has lengthy experience and skill as a family support worker. She was specifically chosen for this family due to her characteristics and skills. She certainly seemed a very calm, reflective, knowledgeable, and insightful social work professional.
62. CD’s evidence is very clear that if Helen were returned to Anya’s care, the involvement of safeguarding agencies would escalate, and a legal planning meeting would be held. Furthermore, if she were to have contact outside supervised and translated contact in the contact centre, that would escalate the safeguarding process as well. CD based some of her evidence on her own recent direct observations. She finds Helen to be much more open and engaged with professionals (who are tasked with safeguarding) in James’s care. She described behaviours in Anya’s care which are indicative of the harm she was being caused by Anya. For example, she described a meeting with the child in January 2021 when she talked about not wanting to have a daddy, about Anya having more documents which meant she would win. The social worker specifically asked the child if she had seen her parents fighting (she said James was fighting with Anya) and the child said “no my mum has told me”. She also referred back to the similar observations by her predecessor social workers – as referenced in the Social Work report of EF and in the extensive documentation in the Supplemental Bundle.
63. The social worker identified a pattern in Anya’s behaviour which she has experienced since the change of residence. The pattern is that Anya does not engage or respond to attempts to contact her or engage. Then, at the last minute, she instructs her solicitor to send a long communication. The consequence is that professionals are wrong footed by non-engagement and a last-minute litany of issues. They are deprived of an opportunity of collaboration in relation to the child. This is exactly the pattern that the court has experienced in the run up to this final hearing as well as before my own involvement, namely non-engagement, non-compliance and late voluminous evidence designed to wrong foot and having the effect of ambushing all parties. The identification of this pattern resonates with the experience of the social worker – the filing of late evidence – sowing

doubt and confusion and leaving responses to the very last minute. The social worker believes this is a deliberate behaviour – the casting doubt, lack of transparency – it is directly harmful to Helen as it undermines the child’s ability to engage with the people who are going to keep her safe. Sadly, this has continued in both the lead up to the final hearing and during the hearing itself, including filing further witness statements and evidence after the evidence had ended.

64. The social worker finds Anya to be deceptive, manipulative, superficially affable so long as someone is “playing to her narrative”. She stated that Anya finds it very difficult to accept any responsibility. These observations dovetail entirely with the other professionals such as school, James’s evidence and the patterns observed by the court. She described Anya not joining the May Core Group meeting, not raising her alleged inability to join, and then accusing the social worker of excluding her. This is a pattern of behaviour of deliberately setting up traps to wrong-foot and undermine the very professionals who are there to support her child. I was provided with the email chain on this issue. It is illuminating. It bears out the social worker’s account. Anya adopts a high-handed tone and expects an acknowledgment when it is she who is in the wrong. Anya also alleged she had been sent NO minutes of meetings – this is not accurate.
65. As regards James, CD said his engagement is always very good, he has attended most of the meetings and kept a very direct line of communication with the safeguarding social worker. She said Helen needs permanence and stability and she had not had predictable stability in Anya’s care. She talked about Helen “having secrets” in Anya’s care and now being more open in her presentation. She described Helen as being very settled and appearing to be quite accepting of the arrangements. She emphasised the significant duration of safeguarding involvement and of the child being on a child protection plan. She assessed Helen to have a very steady relationship with James. In cross examination for Anya, she stated “the move into James’s care has had a profoundly positive affect on her”. She is engaging in learning in a way “we have not seen before”. Helen “**needs to go into school and be able to learn without having the world on her shoulders**” [my emphasis].
66. CD gave a vignette which illustrated how the emotional pressure had been lifted off Helen. She had recently been in Helen’s in Helen’s school and had witnessed child waving in a



spontaneous, carefree way at a teacher - which was in sharp contrast to the guarded, closed-off child seen in Anya's care.

67. CD gave examples of how Helen had been affected by Anya undermining the people who are going to keep her safe – how the child responded on her first visit, how she responded whenever duty social workers attended with inordinate and unwarranted distress and distrust. Anya recorded duty social workers, as well as EF. In contrast when a duty social worker visited Helen in James's care, there was no such distrust or distress.
68. I asked the social worker about the future and the effect of the case coming back to court. She said one of the big worries was whether Anya would not accept any outcomes. I find this to be well-founded based on Anya's inability or refusal to accept outcomes to date including challenges, appeals and most significantly resiling from and retracting her previous positions.
69. CD would have significant concern for Helen if the case kept coming back to court. Medical treatment is a bone of contention. She stated that every aspect of Helen's life could be a bone of contention – “we still have the issue of ADHD and Autism” because Anya recently sought further assessment/referral via the GP without informing James or the local authority (even though the child was in James's care).
70. She opposed the child returning to Anya's care – stating that Anya has never shown any insight or accountability and has not moved/changed in any way. The same safeguarding issues might arise in the absence of professional and translated contact. CD identified what she was worried about if contact became unsupervised – return to not learning, withdrawal from James, behaviours and bedwetting which would indicate emotional harm.
71. CD was cross examined by Mr Bogle for Anya. She did not accept that she was influenced by SG report. She relied on her own expertise to make her recommendations. I accept her evidence on this given her extensive involvement from November to April and her many direct observations.
72. She was asked about Anya's contention that she was being unfairly accused of falsifying the passport as evidenced by the application that was produced. She said her

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recommendation (to change residence in April 2021) was in part due to the flight risk. Regardless of what she had put in the application, Anya had a passport in her possession at some point. The social worker remains suspicious about the information.

73. To ensure no stone was left unturned and Anya's allegations were fully put, I explored the "conspiracy" theory i.e., that the social workers were ganging up against Anya. The social worker had not even had a "handover" with EF so he had not influenced her in any way other than that she read the same records as everyone else.

74. She did not feel that the "falsification" issue made much difference to the risk assessment. She said that "supervision of contact is in part due to flight risk but more due to the risk of emotional harm". The primary factor of risk was Anya exposing the child to adult issues and feelings towards James.

75. She said that she had "concerns" about the emotional impact on the child of "co-parenting". She referred to the emotional harm caused by Anya's inability to prioritise Helen above her own needs. She specifically stated "it has become clear that co-parenting is not going to work in Helen's best interests. I don't think it is going to work". Helen's education was a consistent concern. She told us about Anya's continuing failure to provide Helen with her laptop (almost 6 months after the child had moved to James).

**James**

76. I have read James's witness statement: 4/4/21 Position Statement, 19/4/21, 28/4/21 and 27/8/21. I note the comments and findings made by the previous judge and the expert – as well as the social work professionals – about the negative contribution to the harmful dynamic in the parents' relationship. I was struck by the description (E7) of James presenting as "feisty" and "obnoxious".

77. However, I have the unique perspective with the passage of time. I have the benefit of seeing how James has parented and how well he has served the child's welfare. There is no evidence of any significant impact on Helen of his views on Anya's conduct. The points made by James are compelling and convincing. I acknowledge that Anya is unable to accept

a word of his and believes everyone else is biased but I have been relying on all of the evidence. Helen was deprived of contact with James for over 15 months. James accurately quotes the ISW, DJ Comiskey’s findings, NYAS, the social workers including EF, CD, and others.

78. There is a statement dated 28/4/21 from James in relation to the passport issue. At C63 is James’s witness statement signed on 27/8/21. I find that the contents of his paragraph 5 are valid points, strongly emphasised in the evidence filed throughout – in particular the improvement in Helen’s physical, educational and overall care since she moved to live with him. I will not rehearse the entire witness statement, but I accept his evidence because it chimes and resonates with the professional observations. It is entirely congruent that Helen would respond well to improved physical and emotional care and to have the burden of Anya’s issues lifted from her shoulders.

79. It is not surprising that James has no trust in Anya. Indeed, it would be surprising and worrying if he still trusted her after all of the events in Helen’s short life prior to her moving to live with James. I am not sure how a parent could be expected to react in the face of Anya’s behaviour since they separated. As he says, accurately, “Anya has lied about and smeared various family members and professionals over 10 [times] at the last count as well as obtaining a passport against previous court orders”.

80. I have also read the magazine “The ... Week” which he provided which contains an article by a leading physician ... who has served three years as Minister for Health. She clearly states in relation to an Eastern European Country’s health professionals “quite a few people buy fake vaccination certificates. Parents buy them and doctors sell them”. Her view is based on data from schools and hospitals where half of the certificates were fake. The magazine was dated June 2019 i.e., before the Covid pandemic and the vaccinations in question were the normal polio/measles etc vaccinations. The legal representatives for Anya had been provided with this publication but had not put it in the bundle, which is unfair on James as a litigant in person. In any event it is relevant to demonstrate that there is a valid basis for caution and suspicion about an Eastern European Country’s “medical certificates” belatedly produced by Anya – both as to the vaccination issue and the “psychiatric” report. It is not a wild or spurious suggestion – if a government minister makes the point. Anya may consider this “racism” but of course it is not the court, James

or the UK professionals who are publishing this information but rather the former Eastern European Country's Minister for Health.

81. James implores the court to avoid assuming or imposing some form of "joint parenting" which he describes as "a coalition of chaos". He relies on the NYAS view that Anya is unable to co-parent. I found it ironic that no professional is able to work with Anya yet historically there was professional criticism of James for his inability to do what they themselves cannot do.

82. As regards James, I repeat: I know Anya is convinced that anyone who listens to or believes James must have an agenda against her and be "biased". She, understandably, focuses on early professional analyses which have the theme of "both parents to blame for the discord". In CD's evidence there was some insight into how the professionals may have prejudged James, thereby invoking in him a strident, indignant response which annoyed people and was taken for arrogance. James was strikingly reflective when he gave evidence and acknowledged that his behaviour played a part in the discord and the professional views. However, it must be said that he has had to sit by and wait a long time, as has his daughter, for the safeguarding and family court systems to acknowledge that he has a point and that he can prove, as he patently has, that he can "walk the walk" as a parent. I found that CD acknowledged he had been vindicated but most important that he had demonstrated his capacity to promote contact and the maternal heritage and identity.

### **Anya**

83. I read Anya's statement dated 1/4/21 but I have not read the report of SG who is no longer involved in the case. I read her statement of 30/4/21 and note that she takes issue with the contents of James's statement. I will not revisit the findings of DJ Comiskey about James being irritable, bad tempered etc. Fortunately, Anya's predictions as to the "enormously destabilizing" effect on Helen of the interim change of residence have not come to pass; rather the opposite has transpired and there is unanimous evidence as to how well the child has settled and thrived in James's care. However, I acknowledge that Anya's deep-rooted conviction is that Helen was "taken" [per her Position Statement filed on the first morning of the hearing] and that she has a "burning sense of injustice" [per email from her counsel

at 7.30 am on 10<sup>th</sup> November]. I also take into account the assertion [in the same email] that “numerous adverse reports did nothing to assuage the burning sense of injustice” and that she feels “forensically assailed on all side including by James, the Guardian and the court”. Anya will have been advised that the Guardian is required to exercise forensic rigour. I cannot apologise to Anya for searching for the truth and I am not sure how her perceptions can be assuaged.

84. I have read Anya’s witness statement dated 24/9/21 dealing with enforcement issues. She later said she could not do her main evidence at that very time as she was suffering from Covid. Both parents’ evidence was due to filed by 27<sup>th</sup> September. Anya did not comply with that order. At the Pre-Trial Review on 8<sup>th</sup> October, District Judge Comiskey granted Anya an extension of time to file a further statement by 4pm on 15<sup>th</sup> October.

85. In her earlier judgment on 5 August 2020, the District Judge had expressed the view that it was a shame that there had not been a limit on the length of witness statements. There is a pattern in this case that the court and legal representatives get distracted by the derailing and over-complication of late, last-minute submissions and non-compliance with court orders, thereby losing the chain of consistency. It seems to me that everyone forgot to raise the issue of limiting statement length. In any event it appears that no limit was placed on the length of Anya’s final evidence.

86. It was an indulgence to have permitted either parent to file evidence after the Guardian i.e., to give a parent the final say after the child. It was a further indulgence to permit an extension of time. The District Judge was bending over backwards to comply with Anya’s right to a fair trial and to achieve finality. I am not clear as to why the court did not accede to James’s request for simultaneous exchange of witness statements. James may have anticipated what came to pass namely non-compliance with court orders, unjustifiably late filing of evidence and bundles, ambushing by late applications for adjournments, raising of new issues in the face of a court order that had already identified the issues and the use of the delay (to what I find to be very suspicious reliance on Covid) to gather swathes of further “evidence” to derail the process.

87. When the case was allocated to me, I immediately read into the background and was provided with the order made on 8 October. I noted that Anya had not filed her witness

statement – the key evidence from her. I chased it up myself – to no avail. I was at a loss as to understand how it served her for the court to have such clear evidence of her cavalier approach to court that instead of filing her witness statement and keeping to the list of issues set down by District Judge Comiskey, Anya instructed her representatives to make further new applications (for an expert, for prohibited steps and specific issues orders on vaccination, religious observance). I do not accept that Anya's non-compliance with the most important (and only) direction as to evidence was due to her solicitor's unavailability – she and her solicitor had plenty of time to do further C2s. I have been provided with some correspondence from Anya's legal representatives which shows that on numerous occasions they failed to comply with court timetables seeking extensions citing various excuses. None of it adds up to anything other than further non-engagement, deflection, and perpetuation of conflict by court proceedings at the cost of harm to the child.

88. The expert report of Mr Flatman was dated 16 September. It is very clear that the expert had diagnosed histrionic and narcissistic traits and NOT a personality disorder. Anya's application for a further expert was on the basis that she disputed the diagnosis. That application was made several weeks after the report and at some point Anya and her solicitors had found the time to locate all of the exhibits to her statement and a new expert to propose.
89. On the morning of the final hearing, Anya's counsel filed his "Position Statement" referring by direct quote to Mr Flatman's "entirely novel conclusion that she is suffering from 'histrionic and narcissistic personality'". In the course of Mr Flatman's evidence, counsel said his client might change her position. In response to a query from the court as to her position on day 2, he took instructions and indicated that she was no longer challenging Mr Flatman as she had now heard his evidence and how it was about traits and not a personality disorder. I find that to be confusing – the expert report is very clear and the only reference to "histrionic and narcissistic personality" is in counsel's document. I am not persuaded that Anya, with the very extensive legal representation from which she has benefitted throughout, had a damascene conversion to understand the difference between traits and a personality disorder.
90. Anya did not comply with the further timetable granting her extension. I am not satisfied that she had COVID or that it had disabled her, even if she had. I find below that she

deliberately misled the court in getting the extension. It was essential to the court process and, in particular, to secure compliance with the child right to a fair trial that Anya's evidence was filed on time to enable the other parties to consider it. The court repeatedly chased the evidence to no avail. Anya finally filed her evidence almost two weeks late beyond the already extended period. It was filed on Thursday 28<sup>th</sup> October (instead of Friday 15<sup>th</sup>) and the last working day before the start of the trial was Friday 29<sup>th</sup>. All parties were aware that neither the court nor James would be available to read and prepare for the hearing. The timing placed the child's representatives, James and the court under inordinate pressure. The only person who does not work is Anya. All of the professionals involved and James are working full time. The effect on the child is obvious – she would be deprived of weekend time with her primary carer who was dealing with an unjustifiably long and unjustifiably late filing of a statement by a party with the benefit of legal representation – whereas he is not on a level playing field as a litigant in person. This is no mere technicality. Whether it is deliberately contrived to derail is not the point – it is part of a long pattern and is entirely reckless as to any other party's right, and the child's right, to a fair trial or to the court's resources.

91. Anya's statement runs to 83 pages. The length and the timing lend weight to court's conclusions as to Anya, her conduct, and her motivation. It completely undermines the (inconsistent) excuses put forward as to her health and her solicitor's unavailability for the statement to run to such an inordinate and unnecessary length. It exemplifies the disregard for the spirit and the letter of previous judicial guidance as to the necessity to limit the length of the evidence. Any suggestion that Anya was disabled by Covid symptoms did not sit with the inordinate length and detail of the statement.
92. The statement starts (paragraph 2) with Anya's professional background as a tertiary teacher of English, of her history of studying English language and literature yet her solicitor relies on English being her second language as a further excuse for lateness. She also reassured Mr Flatman (paragraph 3.3.2) that no interpreter was needed for her psychological assessment.
93. The statement includes an exhibit '10' which is dated 25 October 2021 i.e. Anya obtained further evidence 10 days after her statement was due to be filed. Whilst the statement does not assist Anya with the issue of why Helen needs dental fillings – it does cause me concern

**Her Honour Judge O'Neill**  
**Approved ANONYMISED Judgment**

as part of the wider canvass of Anya's behaviour patterns. At paragraph 185 of her statement, she says the letter is "a true copy of a letter from VK, a dental care professional whom I consulted for Helen, confirming the same". The letter appears to emanate someone who says, "we were supporting each other as a community of Slavic language speaking mums in the UK".

94. In the Position Statement of Anya filed for the Pre-Trial Review it was stated "The Bundle, prepared by NYAS, arrived late (yesterday) and is incomplete. It is recommended that Anya's solicitors be given charge of finalising the Bundle to avoid any further problems or delays". The court ordered the bundle to be filed by 4pm on 25<sup>th</sup> October. Despite repeated chasing by the court the bundle was filed late – after 5.30 pm on 28<sup>th</sup> October and the paper bundle was not delivered to the court until Friday 29<sup>th</sup>. The very lawyers who wanted to "avoid further problems and delays" caused monumental problems and delays. Some parties might suggest that this was an example (one of many) of the wholly unacceptable litigation conduct involving substantive unfairness on the child and James. I have some sympathy with that view. I chased the bundle myself with Anya's solicitor who sought to excuse the unacceptable delay by saying "they had only taken over the case in March". This sort of conduct mirrors Anya's i.e., blaming someone else (NYAS) and then derailing the process in a far more significant way.

**Anya's Witness Statement**

95. It starts with a description of Anya's background. It asserts she "has a good background in child psychology". It says she is "not currently in full time employment". In fact, she is not in any employment either full time or otherwise. She was asked in oral evidence about employment potential and said she had made a number of job applications. She was directed to file her job applications, but none were forthcoming.

96. At paragraph 116. p.25 she states, "Neither AB [NYAS] nor any of the other professionals seemed willing to acknowledge that I am a professional teacher with a good background in child psychology". Whilst I can appreciate her perception that she is an expert herself who is very frustrated as the court experts do not accept her views, I cannot fathom how her expertise fits with her daughter's poor school attendance and attainment.



97. The statement goes on to set out Helen's Eastern European heritage. I have a great deal of sympathy for Anya in her longing to promote this. It must be a source of huge personal pain and grief for any immigrant with a strong national identity to feel one's child is being deprived of one's culture and identity. I will keep Helen's heritage and culture at the forefront of my mind at all times.
98. The "dairy allergy" is referred to at paragraphs 9 and 10. Anya and the maternal grandmother maintain that James and his family conspired to withhold from them the fact that the paternal aunt had a lactose intolerance and deliberately exposed the child to risk of anaphylactic shock. Now that it is clear that there is no allergy, mother states "I am happy to say that Helen has now largely outgrown the dairy allergy". However, I refer to the maternal grandmother's statements to the Guardian and note Anya states "James...seems to disbelieve my concerns about her allergies" – in the context of allergy to vaccine but she uses allergies in the plural. Later in her statement she applies for James's medical records to pursue her application about "Helen's allegations and other possible allergies" – consistent with her position that "allergies" have a genetic element and James cannot be trusted to disclose any allergies he has.
99. Throughout the statement, Anya makes assertions as if they are proven facts. Many are not and indeed many of her assertions are entirely false. At paragraph a. "There was no risk of abduction and I have now been able to demonstrate this". That is not true. She has not demonstrated anything and I am satisfied there is a risk. b. "I did not falsify any passport application". Whilst the passport application was produced, it is difficult to understand how a national passport agency could put the wrong date of birth on a passport (which in itself was being obtained in breach of a court order). c. "The contempt proceedings were dismissed and James directed to pay the costs" – the dismissal did not mean she had not breached the Prohibited Steps Order and it is disingenuous to cherry pick the issues in this way. d. "It has not been established that I pose an ongoing risk..." I understand that is her perception and her wish for the outcome but as a fact that is not an accurate statement.
100. At paragraph 52 Anya purports to "regret that so much of the time court's time was taken up with these proceedings" and relies on the fact that the parties are litigants in person. This struck me as an example of the sort of behaviour seen early on by other

professionals – how Anya seeks to keep them “on side” (in this instance the court) by relying on helplessness, blaming things on the fact that she was unrepresented. This is truly disingenuous and misleading. There was, after all, an experienced judge – indeed many experienced judges who dealt with many applications and appeals. The duration of the proceedings is due to the grave harm which Anya has caused to the child. It is spectacularly insincere to purport to rely on being a litigant-in-person historically to account for squandering court resources in the light of the litigation conduct engaged in by Anya and on her instructions even in the short period since I took over. The case has taken up a uniquely disproportionate amount of the court’s time and resources in this period – due entirely to the abject failures to comply with orders including the raising of new issues and applications. The engagement of legal representatives has not saved the court from time wasting by a litigant-in-person – on the contrary it has just increased the layers of confusion, the volume of documents and the problems of having to deal with last minute applications and non-compliance with court orders.

101. Anya alleges that Helen’s hitherto “spotless attendance and performance at school” was caused by the ISW Alison Bushell. This sort of distortion lacks credibility – it is the *modus operandi* of blaming a third party but it is a sadly absurd example to mask her struggles with basic parenting.
102. I note Anya’s assertion at paragraph 195 and repeated in paragraph 200, that she believes “absent extraordinary circumstances, a 7-year-old child is best off living with Anya”. This sounds like gender discrimination to me. The court will apply the welfare checklist in which the parent’s gender plays no part, but their parenting capacity is a significant factor.
103. Another pattern of Anya’s is to portray James as being hostile and manipulative – in particular that he agrees to things, reneges and uses it against her. For example – she asserts that she is being unfairly treated over her instruction of the “dyslexia” expert and James had agreed. This is very misleading. The email from James (p.42 of her statement) shows that he would have agreed to a “proper test for dyslexia and suggested that school make a recommendation”. He did not agree to a unilateral instruction to an expert of whom he and the professionals involved were unaware. I note also Anya’s request to the school (p.43 of

her statement) to adjust their current approach to teaching Helen as “she exhibits classic signs of dyslexia”. This is a clear example of Anya [the victim of having “poor English”] taking it upon herself to diagnose a disability to account for Helen’s academic struggles which are in reality attributable to her care. It is patently inappropriate parenting to request adjustments for a non-existent learning disability to mask inadequate parenting.

Anya’s oral evidence

104. Anya gave evidence for two full days of court time. This provided me with an unparalleled opportunity to assess her as a witness. At the final hearing I directed that she was entitled to give evidence entirely in a Slavic language with verbatim interpretation. This was the first-time verbatim interpretation had been requested in three and a half years of litigation. I delayed the proceedings for a day and a half due to the regrettable administrative difficulties when no interpreter turned up to court.

105. James was sceptical and suspicious about Anya’s choice to give evidence in a Slavic language for a number of reasons. She has conducted every aspect of the case – documents, evidence, and every interaction with professionals in English. It is recorded that she told Mr Flatman that she did not need an interpreter and had her recently disclosed counselling entirely in English. Their relationship/marriage was an entirely English-speaking one. James suggests that that her first language is in fact another Slavic language (the translator at contact with Helen is from an Eastern European Country). She is an English teacher. She interrupted the interpreter at least twice to point out her (mother’s) assertion that the interpreter was not accurately representing what she said. In final submissions the Guardian, having seen the interpreted evidence, added further points – in particular that Anya did not have an interpreter for her meetings with legal advisors, sent a very detailed email to the school head teacher about Helen’s potential diagnoses of ASD and outlining the school duties under the SEN Code of Practice – a communication which required extensive assimilation of complicated documents.

106. Anya is entitled to an interpreter as English is not her first language. However, in hindsight, I am entirely satisfied that there is a solid basis for James’s and the Guardian’s scepticism.

107. Anya gave extremely long answers to questions. When the answers were translated it was frequently the case that she had not answered the question which had been asked. I identified a marked pattern of deflection from the question. It went considerably further than mere deflection. She specifically stated in several questions of the Guardian and in at least one of my questions that “we were asking the wrong questions”. She sought to control the barrister and the Judge and the process by superimposing her agenda and obstructing the forensic process. The Guardian refers to the “countless times that Anya objected to the premise of a simple question...questions went unanswered and Anya delivered diatribes detailing what she saw as injustice....raised her voice and demanded that the court does ‘not interrupt me’ as she delivered another speech...this behaviour was a distraction technique, designed to attempt to control and manipulate the court”.
108. The “Covid” issue: Anya has sought to justify her late filing of evidence by stating, including through her solicitor, that she had been self-isolating on her return from Eastern Europe on 5<sup>th</sup> or 6<sup>th</sup> September. She said she had a further period of self-isolation due to a test and trace message from 18 September. She said (in written evidence and numerous times through her solicitor) that she had actually had Covid and had to attend Hospital at one point. The Guardian’s closing submissions and chronology on this issue are incorporated into my judgment by being included in Appendix 1 and they demonstrate the level of unremitting dishonesty and manipulation.
109. The necessity to self-isolate i.e. not being able to go into the solicitor’s office would not have been a valid reason to advance to justify delay. Anya does not work and had every waking minute available to prepare her evidence. She managed to get a statement to defend herself filed (24/9/21) during the period of “self isolation”.
110. It is clear that she spent the period after the time for filing her statement had expired with amassing further “evidence” which she eventually exhibited to her final statement viz “Vaccination Certificate” “Psychiatric Certificate” and letter (25/10/21) from [an email address].
111. The psychiatric certificate: At the start of the final hearing, the Guardian had sought to exclude this late “evidence” but I permitted all of Anya’s evidence. As I have pointed out

– the majority of my findings on Anya are based on what *she* has said and done, rather than what other people say about her. Ironically, the Guardian now relies on these documents as examples of extreme dishonesty – fabrication – in support of the finding that Anya has been unremittingly dishonest.

### **The Guardian**

112. AB has been Helen's Guardian for almost two years. Her first report describes her first meetings with the child and the parents in early December 2019. In her first meeting with Helen, the child said "he is not my dad he is a man". Helen also said to the Guardian "you are not my friend because my skin is light and your skin is black".

113. The Guardian stated: It is my professional view that [Anya] is unable to set firm boundaries and be consistent with Helen, given that she allowed Helen's unacceptable behaviour to continue and implied in her email that she only became aware of Helen's comments when she was told. I am also concerned that Helen appears to be in control and exhibits a racist attitude in Anya's presence". She recommended a Fact-Finding hearing.

114. The Guardian's second report was 11<sup>th</sup> May 2021, after the court had changed the child's residence. However, the report covers the Guardian's involvement and investigations going back to December 2019. It is instructive in hindsight to refer to the paternal family's perspective at the visit on 18<sup>th</sup> December 2019. The paternal grandfather alleged that Anya's allegations were "a catalogue of lies and misinformation" and that they (paternal family) stated Anya was conditioning and psychologically damaging Helen. The grandfather stated that Anya has a desperate loathing for James and was "manipulative" and "highly controlling" – strong language which nevertheless appears to have been borne out by events over the subsequent 16 months and the findings I will make. The grandfather stated: "anybody she does not like she will say something negative about hem and if she gets caught our lying she will flip". He also stated "Anya has an empathy problem". His wife alleged that "Anya lies with impunity...is extremely controlling and manipulative and will go to any length to get her own way".

115. His comments resonate with the observations of professionals and the experts' view – they are entirely prescient of the conclusions I have reached at this final hearing after reading and hearing all the evidence and observing Anya in the witness box.
116. The Guardian also interviewed the maternal family and sets out her conversations with the maternal grandmother on 23 December 2019 and 7<sup>th</sup> January 2020. She also sent an email on 7<sup>th</sup> January. The conversations were interpreted by a Slavic language interpreter.
117. The Guardian was told by Berkshire Women's Aid that Anya was on the waiting list for CBT. Anya had arranged with the landlord to fit safety measures to the property in which she and Helen was living because she alleged that James was looking through the window. EF, then the social worker, had received an anonymous phone call alleging that Anya "could be vindictive" and "had a siege-like mentality". It reads as if this caller was an acquaintance of Anya's (a friend whom she had been teaching a Slavic language) with whom she had fallen out. Again, they are remarkably prescient in similar fashion to the paternal family.
118. When James was interviewed, he was very negative about Anya "I believe Anya is mad". He said Anya has a "conspiracy theory" that his family deliberately withheld information that his sister had an adult lactose intolerance. This conspiracy theory may be borne out by the contents of the maternal grandmother's email to the Guardian after their interview.
119. When the Guardian met Helen on 8<sup>th</sup> January 2020, she told her that she did not feel safe at night because she had dreams that are scary. She said she woke up next to mummy because she slept in mummy's bed. She told the Guardian that James made her angry because he would not allow her to get a passport so she can visit her grandmother in Eastern Europe. I asked Helen who told her this. She said "mummy". **This is a key piece of evidence as it demonstrates that the child said Anya knew she was not allowed get a passport.**
120. On 3<sup>rd</sup> February 2020 at the next meeting with the Guardian, the child stated, "daddy shouted at mummy". She said she had not seen this. And "daddy is horrible to mummy

when they were together”. The Guardian asked Helen who told her this and she said “mummy”.

The Guardian’s oral evidence

121. AB gave evidence for approximately two hours on 10 November 2021. She came across as reflective and non-judgemental. She told the court about the difficulties she had in engaging with Anya as soon as she had filed her first report in December 2019. The Guardian was denied the opportunity to meet in Anya’s home due to obstacles in arranging meetings. I have read the correspondence in the July and August 2021. It is very clear that Anya was obstructing the Guardian by refusing to meet with her and the social work. Anya did not inform the Guardian that she was going to Eastern Europe on 21 August 2021. She pushed back the Guardian’s request to undertake joint meetings with CD. This is a continuation of Anya’s difficulty in engaging with professionals throughout. In the summer of 2020, Anya had failed to cooperate in arranging meetings for the child with her Guardian.

122. In reflecting on Anya’s oral evidence, the Guardian highlighted inconsistencies as to whether or not she accepted the expert’s opinion. I expect the Guardian considers that Anya “talks the talk” i.e. says what she believes the court wants to hear but the purported acceptance is insincere and superficial. The Guardian reminded us of Anya’s body language where she holds her hand up to her face to avoid looking at James, and the Guardian shares the social workers opinion that any form of co-parenting is unrealistic where and when Anya is so consumed by negativity towards James. The Guardian found James to be direct and honest at all times. The Guardian told us of the complaints that Anya had filed with both her professional body and her employer in relation to the Guardian, which of course mirrors the complaints about the school, the head teacher, the social workers and all of the other professionals whom Anya has taken against. The Guardian referred to Anya erecting a barrier and likened this to the experience of EF. The Guardians shared the view of CD that Anya had instilled fear and mistrust of professionals in the child; this was the Guardian’s own direct experience.

123. The most graphic evidence given by the Guardian in the witness box was description of the positive transformation in the child since she moved into James’s care. She has

visited her on two or three occasions and “I could not believe the difference on the last occasion”. When the child was in Anya’s care she would not communicate with the Guardian and appeared unhappy and defiant. As the Guardian put it “she was just so happy” in James’s care. Helen wanted to have time on her own with the Guardian and played with her hair putting on an Alice band. The Guardian described her as appearing like a totally different child. This was a dramatic change. When Helen was in Anya’s care, she was negative about James for example she would say that “my dad does not deserve an Easter egg”. The Guardian was asked about the long-term effects of the child’s experiences, and she confirmed that Helen would be affected long-term and needed permanency. She talked about the child asking questions about events in her life in the future. She stated that it was very important to have a parent available to explain her experiences to Helen. She clearly felt James was better placed to do that as he has sought advice whereas Anya has not worked through her issues and is stuck in her own perception of events. The Guardian discussed the venue for contact with Anya and the child was adamant that she was comfortable in and liked the contact room.

124. On the issue of the past and the flight risk, the Guardian elaborated on her written evidence. She gave clear detailed evidence of Anya requesting the Guardian’s permission to remove the child from the jurisdiction as well as James’s permission on one occasion. This, of course, indicates that Anya was entirely aware that she should not have a passport as that is in the same part of the same court order. It also raises anxiety as to Anya’s understandable but relentless determination to take the child to Eastern Europe.

125. In her evidence the Guardian reiterated how worried and suspicious she continued to be about Anya having gotten the passport, given inaccurate evidence about it, failing to disclose its existence. The Guardian linked Anya’s determination to take the child to Eastern Europe with her lack of transparency and reiterated her genuine assessment that there was a flight risk.

126. I asked the Guardian about the extended family members whom she had interviewed in December and January 2019 and 2020. The Guardian acknowledged that the observations of the paternal grandfather, his partner and the paternal grandmother almost 2 years ago appear to have been vindicated in the ensuing period; that Anya would tell lies, manipulate and lacked empathy. I also asked her about the extended maternal family in particular. I



read the Guardian's account of her telephone conversations on 23 December and 7 January conducted with an interpreter. It is notable that the grandmother entirely stands by Anya, including making allegations that James deliberately put the child's life at risk by failing to disclose his sister's allergy and deliberately refused to visit the child in hospital when she was a baby. I consider those allegations to be absurd having seen James's commitment to his daughter.

127. It is very suspicious that on the same day as the maternal grandmother conducted a translated telephone call with the Guardian an email drafted in English in was sent to the Guardian purporting to come from the maternal grandmother. I share the Guardian's suspicions that Anya is behind this email as it would not make sense for the grandmother to require verbatim translation and to be able to send an email in English reflecting Anya's position on the same day. In any event the Guardian considers that the maternal side have supported and colluded with Anya in making false allegations about James and in keeping the child away from him without his consent and knowledge. It is extraordinary that the maternal grandmother could in no way acknowledge the effect on the child of being kept away from both her parents at such a tender age (two) for such an extensive period. I factor in the maternal grandmother's role in the overall risk assessment as to the real and present risk of abduction and the catastrophic consequences this would have for the child if she were once again retained in Eastern Europe without James's consent or knowledge. I note that the maternal grandmother is said to have been actively involved in the most recent "evidence gathering" – Anya says the maternal grandmother got Dr Razdovon's "Certificate".

128. On the issue of restrictions on applications to court it was clear that the Guardian (who sought the order in principle) was torn between her own view as a child expert that the period should be throughout minority and the legal advice that she had obtained as to the exceptional nature of the section 91(14) orders. I asked her about the child's time scales and timetables and she suggested that Helen needed to be settled without litigation and with a respite into her secondary school years. At other times the Guardian said there should be a section 91(14) order for 2 to 3 years. In final submissions she sought 5 years. The Guardian supported giving the decision-making authority on medical and educational issues to James, due to the inability of the parents to co-parent and the likely harm that further attempts at co-parenting would cause to Helen.

**Anya’s written closing submissions**

129. I was hugely assisted by the focused and succinct written submissions filed by Mr Bogle on 25<sup>th</sup> November. He faithfully reproduced his client’s instructions. He extracted every positive in the voluminous written and oral evidence. Understandably he does not dwell on the extensive negative aspects. In my judgment I have touched upon Anya's application for a further expert notwithstanding her withdrawal of that because of her longstanding pattern of renegeing on concessions. I will deal with some of his points to explain where I cannot accept his submissions.
130. Insofar as Mr Bogle refers to Mr Flatman's evidence about Anya's statement this needs to be seen in the light of my finding that what Anya says on the surface cannot be relied upon and how she has a marked propensity to say what she thinks people want to hear without meaning what she says.
131. One very important submission by Mr Bogle is at his paragraph 23. I entirely accept Mr Flatman's evidence that people can change with appropriate therapy. I am pleased to be able to say that I have also seen huge benefit and progress in therapy in my experience in the family court. I share the hope expressed by Mr Flatman and keep an open mind in that respect. Change engendered through therapy is rarely achieved when proceedings remain unresolved or the spectre of proceedings is every present. Anya would not agree but I consider that her best chance of making progress is to extract herself from the litigation and the platform of adversarial animosity it engenders and in which she is “stuck”.
132. As regards the issue of the passport and the relevance of that risk assessment I anticipated Mr Bogle’s submissions at paragraph 33 but have given extensive reasons throughout my judgment as to why I consider the passport circumstances and to be extremely worrying and suspicious.
133. It is not entirely the full picture to submit that the social worker did not have a view on the section 91(14) issue - she would not be confident to advise on the legal aspects, but she was very clear as to the necessity for long term stability and the risk that disputes under coparenting would present for Helen.

134. As regards his submissions about James it is my informed conclusion that there has been historically too much emphasis on parental conflict being a two-way process and far too little focus on the real issue – namely Anya; I have found that James’s distrust has been valid and vindicated.
135. Mr Bogle accepts that there would be little point in claiming that his client’s evidence was satisfactory. I have gathered together all the threads of the professional evidence and woven them into my analysis of Anya’s behaviour throughout. Anya has a good relationship in many respects with her daughter but she has caused Helen chronic harm. The submission (paragraph 47) that there are “obvious negative consequences” of “truncating” Anya/child relationship flies in the face of all the evidence in the case; on the contrary the evidence is that there have been very significant positive consequences for Helen and would be obvious negative consequences of extending the time the child spends with Anya.
136. I understand why Mr Bogle seeks to “park” or deflect from Anya’s evidence, but this is unrealistic where the evidence was such a graphic demonstration of Anya’s lack of empathy, self-absorption, dishonesty, manipulation, disingenuity, high handedness, inconsistency and other manifestly unfortunate propensities which have impaired her parenting capacity.
137. The submission that the child’s awareness of James preventing her from getting a passport was due to James’s wish for her to renounce Eastern European citizenship does not find favour with me. I am satisfied that the child said that long before James formulated the suggestion – which he has done in response to discovery of the hidden Eastern European Country’s passport, not discovered until February or March 2021.
138. I reject the suggestion that the issue of abduction has loomed far too large. Anya is entirely the author of the distrust and suspicion due to her actions and unsatisfactory explanations as I find in my conclusions.
139. As regards the Facebook messages upon which Anya places so much emphasis – there seems to be a fundamental misunderstanding. James knew that Anya was on a plane but he

had not consented to Helen being on the plane to go to Eastern Europe and stay there for that extensive period. In that sense, she was taken without his consent or knowledge. He was, as is clear, trying to save the marriage in his suggestion to Anya – it was hardly consent to leaving his daughter for 6 months without either of her parents. I have considered all of the evidence produced on 10<sup>th</sup> November by Anya and it does not bring any further elucidation on the fundamental issues which she herself agreed to in DDJ O’Leary’s order. What has loomed far too large is the case being hijacked by responding to Anya’s outrage and indignation at things she disagrees with.

140. At paragraph 94, Mr Bogle suggests that the basis for the allegation of “emotional harm” during contact is “notable for lack of specific examples”. This is wrong. Contact has not been underway for very long. There was at least one example of emotional risk due to mother not being able to avoid pursuing her own needs and putting Helen under pressure (birthday issue) and of course the whole point of supervision is preventative. Regrettably, Anya is cunning and manipulative and would not wish to expose herself under supervision but would, I find, be highly likely to pursue her own agenda with the child if the strict supervision were removed.

141. I note the submissions that following the professional advice will result in outcomes which “cannot stand” but of course I rely on the unanimous and overwhelming professional evidence that I have read and heard.

142. I find that Anya presents a serious risk of harm due to her approach to the Helen’s health and medical care and her inability to collaborate with professionals or the other parent. In this exceptional case, it is entirely contrary to Helen’s interest for Anya to be involved in any way – whether with vaccinations, routine health care or any medical or educational issues and decisions. I do not accept the submissions at paragraph 100. In similar fashion to Anya herself, Mr Bogle is forced to resort to making assertions as fact that do not stand up to scrutiny such as the Guardian’s evidence is simply misconceived when the Guardian has given very detailed reasons.

143. I am not going to make an order excluding Anya from consultation on religious upbringing but I am very concerned that Anya will use the child’s religious upbringing as a way of undermining James’s care. There is unanimous evidence that James is acting

appropriately in terms of religious observance and I will not make an order in that respect. I hope I am wrong but I am very concerned that Anya will use sacraments and issues around religious observance as a further pretext to destabilize Helen's placement with James.

144. It would be inconsistent with the order I make giving sole responsibility for health and health medical and educational issues to James for me to include a recital as to Anya's preferred mode of therapy. I will not make a recital about play therapy.

145. As regards the Guardian changing her view from section 91(14) for up to three years to five years it was tested in detail in the oral evidence about the appropriate duration of any restriction. the court specifically raised the milestones in the Child's life and the significance of transition into secondary school.

**James' closing submissions**

146. Helen's father's closing submissions are focused and succinct. He seeks 11 findings of fact against Anya. For the detailed reasons set out below in my conclusions I agree and find as a fact that his findings at paragraph 3 are substantially made out:

- a. Anya has lied consistently about James, paternal family members and events in general;
- b. misled, stifled and sought to manipulate professionals and the court;
- c. broken court orders including the obtaining of a passport and showed an inability to accept legal findings of fact;
- d. sought to manipulate Helen against James and his family;
- e. informed Helen about the court proceedings in a manner wholly contrary to her well-being;
- f. failed to provide Helen with suitable parenting and care;
- g. is unable to co-parent in any meaningful way;
- h. fails to take any responsibility for her actions;
- i. demonstrates a rigid intransigence about a responsibility to look for employment or to maintain herself and contact with her child;

- j. made false representations to public bodies in pursuit of her interests;
- k. has caused Helen significant emotional harm and would be likely to do so in the future.

147. In addition, I find that his perception of some systemic failure within the local authority – definitely not by any individual social worker – to intervene promptly and focus on the real source of harm to this child is entirely reasonable and understandable. If James had been listened to, instead of dismissed as “obnoxious”, Helen might have suffered less harm over a shorter period of time. I invited James to address me in relation to failure of public bodies because of his clear sense of injustice. He may misunderstand the extent of the court’s powers. I cannot provide him with the sort of remedies he requests in his paragraph 15. In addition, as a matter of legal principle, if a court is to make adverse findings against any individual that individual should be given an opportunity to defend themselves. However, I consider that James’s grievances about how he and Helen have been treated for over three and a half years have some justification in fact. As far back as May 2018 and September 2018 it was very clearly recorded that Anya had removed the child from the Jurisdiction with the consequence of disrupting and potentially sabotaging Helen’s relationship with James. There is little or no evidence of any negative affect that James has had on the child whereas there is very long-standing evidence very clear to all social workers of the harm to which the child was being exposed in Anya’s care. Anya’s patterns of behaviour are known to be longstanding and include her propensity to obstruct access to the child, to prevent her from fulfilling her educational potential, to make apparently false and serious allegations of child abuse against James, sabotage the child’s relationship with James and the work of any professionals including the school and the social workers.

### **The Guardian’s written closing submissions**

148. The Guardians closing submissions run to 38 pages. Except for the issue of the duration of the section 91(14) restriction I accept the Guardian’s submissions in their entirety. My reason for departing from the Guardian’s recommendation in one respect - making an order for four rather than five years is to ensure that transition to secondary school can be achieved but only for as long as absolutely necessary and I do not see the necessity to run beyond the end of her first term in Year 7.

149. It is impossible to do justice to the submissions in a judgment which is already very long; but I direct that they should be appended to my judgement as Appendix 1 in order to provide context. The findings that the court is invited by the Guardian to make on the evidence are:

- a. Anya has been unremittingly dishonest throughout the proceedings.
- b. Anya has chosen to engage in destructive conduct towards the court, all professionals and James.
- c. Anya has tried to manipulate and influence Helen against James.
- d. Anya applied for an Eastern European Country's passport for Helen although she knew that she was not allowed to and would be in breach of an Order. She did this to undermine James' position within the proceedings
- e. Anya lacks insight into the concerns of professionals and into the reality of this situation. She does not accept any responsibility.
- f. Helen has suffered significant harm in the care of Anya. There is a likelihood that such harm would continue if Helen were to be placed in her care, as Helen's emotional welfare would be at risk.

150. James and the Guardian's findings are the same conclusions expressed slightly differently. **I direct that the Guardian's summary is recited on the face of the court order and invite representations as to which third party agencies should have disclosure of the summary.**

151. In reading the Guardian's written submissions, I detect that the spotlight of the forensic process was very illuminating to her. I suspect that Anya has intimidated a lot of professionals in this case. It is striking how such pejorative language was used about James (by social workers) but everyone "pussy-footed" around Anya – who had of course weaponised Berkshire Women's Aid – a powerful ally whose services were not available to James.

152. After seeing Anya give evidence the Guardian submits:

*“She attempted to control the questions she was asked, using objections to the premise of questions, or counsel’s understanding of the issues, as an avoidance tactic. She drew upon her impressive intellect to do this. As her evidence went on, she became increasingly irritable, shouting at the Court to ‘stop interrupting me’ when follow up questions were asked. She answered questions with questions, speeches and protestations. She plainly found giving evidence to be an uncomfortable experience with nowhere to hide.*

*She showed the lack of understanding and empathy that Mr Flatman referred to in his oral evidence. Her worst characteristics were plainly on show. Instead of accepting an opportunity for reflection, she doubled-down on her already entrenched position in the case.*

*Anya’s evidence was superficially attractive at times. For example, she accepted responsibility for the ‘chronic stress’ that Helen experienced in her care. She claimed to accept the findings of DJ Comiskey with regards to her relationship. Such concessions were skin deep; all of the evidential threads arising from her presentation, written and oral evidence pull in the direction of her having little to no insight whatsoever into the professional observations about her parenting. When pressed, her default setting is transmit. In response to a question about who was responsible for the emotional harm Helen suffered, she started with James and then named all professionals working with Helen.*

*AB’s considered view is that the Court may attach very limited weight to what Anya said, although her evidence was useful as a lens through which to assess her.”*

153. The Guardian submits that Anya has been unremittingly dishonest throughout the proceedings – which I entirely accept. A key example is set out in the timetable as to timing of evidence set out in the chronology at paragraph 21 of the Guardian’s written submissions:

*“Anya’s account contains a number of internal inconsistencies. These relate both to whether she was in fact unwell at all with COVID-19 and therefore*



*delayed her evidence for some other reason, and to the weight that can be attached to the documents she has submitted.*

*These inconsistencies are:*

- *Anya is attending contact throughout a period where she describes being seriously ill. In particular, she attends contact with Helen in person whilst symptomatic and requiring hospital treatment on 30 September 2021/1 October 2021. On 1 October 2021, she attended contact “[presenting] well and in good spirits.” She brought home cooked, pre-prepared food and activities. She gives Helen a ‘big hug’. She was observed by [contact worker] as interacting “positively with Helen throughout contact and appeared to engage naturally with Helen.” There is no suggestion that Anya was unwell, let alone seriously ill to the point where she suffered any of the symptoms she described in her evidence.*

- *Anya further engages in counselling from 23 September 2021 (although it appears that this session did not take place from the correspondence in Anya’s second statement) to 5 October 2021, which is the period Anya identified during which she was ill with serious COVID symptoms. She described being in a bad way in her evidence and bed bound by breathing difficulties. It is highly unlikely that she would be able to engage in therapy in this state, and even more unlikely that a professional would undertake a therapy session whilst a patient was seriously ill.*

- *Undermining the core contention that Anya was unable to co-operate with solicitors through this time is the fact that Anya filed a statement of evidence about enforcement issues on 24 September 2021.*

- *There is no reliable, independent evidence of Anya having suffered from COVID-19 at all. Her testing, she alleged, was not a PCR test but a lateral flow test, which is self reported. Her having COVID-19 and testing positive was not referred to by her solicitors in their email. They did not mention that this was during a period during which Anya was experiencing severe COVID symptoms.*

- *There is an inconsistency as to when Anya asserts she was unwell from COVID symptoms. She says in her evidence initially that she was symptomatic from between 20-24 September 2021. If this is so, why take a test on 18 September 2021? She was well enough to attend contact on 17 September 2021 and the contact log [B2/B17] describes Anya presenting positively with no recorded difficulties. Her self-isolation from her trip to a capital city ended that day. For Anya to have been symptomatic on 18 September 2021, Anya’s case must be that she caught the virus and became symptomatic in a period of less than 24 hours where she would have been exposed to other people.*
- *Anya has given two separate and difficult to confuse accounts about the end of September 2021 in evidence. The first is that she was so ill that her doctor arranged for her to be admitted to A&E, and arrangements were made to transport her. The second is that she was visited by a travelling A&E department where she received intervention. Either one of these explanations is farfetched, but it is notable that the second was offered only in response to being pressed as to the likelihood of the first being true.*
- *The certificate of Dr CV is troubling. Firstly the document certifying the outcome pre-dates the assessment by some two days. Anya’s evidence was that she engaged in an assessment, and this was a single video assessment. Anya’s further statement clumsily tries to reconcile this inconsistency by explaining that there were, in fact, two sessions. That was not her earlier evidence. She has not produced the correspondence making the arrangements for this assessment, and the Court can further draw an inference. In Anya’s second statement, she describes an assessment being undertaken by telephone and over an app called ‘Telegram’. If it did take place, Anya’s case is that the assessment took place in a disrupted and broken up way with changes of communication methods. It is unlikely that such a method is concordant with the nature of the assessment as described, which was a “comprehensive assessment and examination by the doctor-psychiatrist and a pathopsychological examination using... clinical interview, questionnaires, IPDH and MMP1.” [C78]. It is unlikely that genuine documents would contain such material flaws and be formulated on the basis of*

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*a broken-up assessment appointment. Anya’s initial account of a single appointment is consistent with the date on the certificate of 7 October 2021, which calls into question the authenticity of the certificate dated 5 October 2021. Drawing these threads together, the Court is invited to find that this document is not genuine.”*

**Conclusions**

154. I have made various findings as I went through the evidence. I will focus on some essential findings. It is so difficult to keep track of differing inconsistent accounts advanced on crucial issues that I have inserted a “mini chronology” on the passport/flight risk issue.

**Harm**

**Passport/Flight risk**

1/5/18	Order – prohibition on travel, prohibition on obtaining passport or travel document
17/9/18	Order – Anya accepts she took Helen to Eastern Europe twice without James’ consent and left child with her parents when she came back to UK without James’ knowledge or consent
4/5/19	Anya drafts a document and gives to James for him to give consent to travel to Eastern Europe “due to family circumstances known to Anya, Helen will stay in Eastern Europe for some period of time”
9/8/19	Anya applies for passport – <b>not disclosed and only discovered approximately 18 months later upon James investigation despite multiple hearings including the long fact finding, numerous directions hearings in 2020.</b>  On same day Anya instructs Fleet Street Advocates – per Anya statement 5.8.21.

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13/8/19	The Eastern European Country’s embassy issues passport - <i>Anya has not provided evidence of the date when she collected the passport [despite being invited to do so] and there are inconsistent accounts between her and Fleet Street Advocates on the date.</i>
July 2020	Anya gives passport to Fleet Street Advocates – per Fleet Street Advocates who are accurate about other dates e.g. date of being instructed in August 2019.
Feb/March 2021	James discovers passport’s existence after he instructed Eastern European lawyers
1/4/21	Anya files statement saying in three places that she had never had the passport in her possession and that she was unrepresented at time PSO made.
10/6/21	<p>Position Statement for Anya [prepared by counsel at the time]: “<i>Anya confirms that she has never had the child’s passport in her possession</i>”. “<i>Anya confirms that she made the application in around September 2019 on the basis that it would take approximately 3-6 months for the documents to be issued and delivered to the Eastern European Country’s Embassy in London.</i>” Cf. <i>not accurate about possession of passport; not accurate about date of issue it did not take 3 to 6 months but rather 4 days for passport to be issued. Anya had picked up that the 1.5.18 order said Anya was represented, which showed that Anya’s reliance on being unrepresented was untrue and Position statement says that it was a typographical error to say unrepresented ie. Changed position on one inaccuracy in statement of 1/4/21 after this had been pointed out by James but maintained position on serious inaccuracy about not having possession</i></p> <p><i>This Position Statement also avers “this is the first time Anya has breached any court order”. This is just false and worrying to be included in a document prepared by counsel.</i></p>

27/7/21	Fleet Street Advocates inform that herself delivered passport to them in July 2020 – <b>thereby proving inaccuracies in Anya witness statement and Position Statement on committal app.</b>
5/8/21	Anya witness statement purporting to deal with inaccuracies in previous witness statement about, <i>inter alia</i> , date of application (August not September), <b>In addition to the different explanations given for why her statement of 1/4/21 was false there are other matters raised e.g. Anya says she applied for passport before Helen’s existing passport had expired – not accurate as initial passport expired on 14.5.19. Says she gave Fleet Street Advocates the passport in October 2020 – inconsistent with Fleet Street Advocates; says her solicitor “misunderstood my English when giving instructions”; gives a different account for false statement that she was unrepresented to the account given by her barrister in June i.e. barrister said “typographical error”. Anya says “not represented by lawyer when applying for passport”. Says her solicitors misunderstood her emailed instructions and “poor English”.</b>

155. DDJ Mark’s order is crystal clear. Anya was represented although she wrongly said she was not (1/4/21). I am satisfied that there is no language barrier. She broke that order. She got a passport. She filed a statement with a statement of truth saying in three places that the passport had not and never been in her possession – see Appendix 1 and table. That was false. The child, who was in her care, knew that James was preventing her from getting a passport i.e., that it was not permitted to do so – information which could only have come from Anya. Anya repeatedly asked the Guardian and James for “permission” to take Helen abroad – so she knew about the Prohibited Steps Order. I have taken into account the document Anya drafted for James to sign on 4<sup>th</sup> May 2019 when she wanted him to give her permission to remove the child to Eastern Europe. It is very well drafted and does not support Anya’s reliance on linguistic challenges (nor do any of the documents). As she sets out in her “final position statement” she is highly educated, taught English etc – she does not have “poor English”. She clearly knew about order; it is impossible to understand how she could have understood the consent part but not the passport part. I note the reference in her document of 4/5/19 to “family circumstances known to Anya that Helen will stay in

Eastern Europe for some period of time”. The lack of transparency and the “some considerable time” – are factors which must raise fears of flight risk.

156. Anya has advanced inconsistent accounts for the “anomalies” in her evidence and position – language, no representation, representation but no explanation. At no point did Anya tell anyone about the passport; I refer in addition to the submissions of paragraph 60 of the Guardian’s written closing submissions in this respect. The Guardian quite rightly submits that the accounts in her various statements are materially different. A further and different inconsistent account arose in her oral evidence, as detailed in paragraph 62 of the Guardian’s written submissions.

157. If it were not for James’s distrust and double-checking, it would never have been discovered. I am satisfied on the balance of probabilities that Anya deliberately got a forbidden passport, in breach of a serious court order with a penal notice, misled the court in a witness statement filed on 1/4/21 and is not credible in her purported excuses. Her excuses are inconsistent and do not stand up to the most rudimentary forensic scrutiny. I reject her blaming a third party as this is her *modus operandi* – never any responsibility on her part and always a third party professional who is to blame. She is now a desperate person who may feel she has nothing left to lose. She continued to deflect and twist blame onto the other party, with repeated comments by her counsel continued that James deliberately “withheld” the passport application for some nefarious purpose. It is clear that James withheld it to demonstrate, as it has, that Anya was lying extensively, engaging in dissimulation, disingenuity and manipulation as she did in her Position Statement in June filed on her instructions.

158. Anya’s behaviour in this context causes grave anxiety and suspicion with all other parties and professionals. The response to the discovery that Anya had obtained the passport was entirely reasonable. Indeed, it would be very worrying if parties were not gravely concerned and suspicious. It was not an over-reaction nor unfair on Anya. Her conduct in this respect demonstrates egregious deception and a sense of impunity.

159. Her fixation on being falsely accused of “falsification” is an example of her self-absorption and lack of empathy. She is unable or unwilling to see how others perceive and

experience her. I do not believe that the longwinded, convoluted and selective part of her recent witness statement (pp.14 to 17) changes the facts. It is completely reasonable that she is regarded by professionals and James as a flight risk.

160. I find that it is entirely reasonable to assess the risk that she could remove Helen as real. The consequences of such actions would be potentially catastrophic. She would lose her main safe parent. She would lose all trust and confidence in adults. She would be exposed to unwarranted, unreasonable and harmful negativity. I am worried that the consequence of my decision might be that Anya would act impulsively as she has “nothing left to lose” and that must also be factored into any risk assessment. It is likely to be a real and present anxiety day to day for James to have this real and reasonable fear.

161. I acknowledge that she has not abducted the child to date since getting the passport but I note that she has been back to Eastern Europe herself during the summer. Anya’s conduct gives the distinct impression that she believes she is above the law when the law does not give her what she seeks and what she believes is her entitlement. She has sought to undermine experts and professionals, and she can engage Slavic language/another Slavic language speaking “experts” to pursue her agenda. At the risk of repetition there is a very real risk that when she realises that the court has placed Helen with James long term, she might abduct Helen.

#### Sabotage behaviour

162. The prevailing theme in the Guardian and social worker’s evidence is Anya’s behaviour towards the professionals and the gravely harmful consequences for the child. The examples are legion. Very early on, the professionals are worried that she is “sabotaging contact”. I will not revisit all of the history of her behaviour in that respect. Suffice it to say, on the very first unsupervised contact with James, Anya made an allegation that Helen was injured and ultimately professionals concluded that she was inaccurate, lacking in candour and it was more likely the child was injured in her care. There was no forensic analysis as the “factfinding” on non-accidental bruising was abandoned – no doubt due to the emergence of the full picture of possible causes of bruises.

163. Anya’s pattern of behaviour is aimed at befuddling, exasperating, confusing, deflecting and “taking up the available space” so as to avoid a clear forensic analysis of the issues. Ironically she based her most recent application (messages from 2017) on the grievance that she is being “assailed forensically” which causes her a “burning sense of injustice”. Anya’s conduct deprives the professionals who are tasked with protecting and promoting the child’s welfare of the opportunity to do their job. In addition, it has the consequence of exasperating, frustrating and sowing dissent and discord with maximum focus remaining on Anya and the discord. It is gravely harmful to Helen as it had prevented her from access to professional help, sabotaged the child protection and court processes and grossly inflamed the animosity between the parents. I am tasked with focussing on the child’s welfare rather than Anya’s histrionics. There is a clear and continuing pattern which appears to be designed to test the patience of decision-makers so as to wrong foot them by provoking an unprepared or unguarded response to the exhaustion she causes. It is notable that none of the professionals have fallen into this trap and the court has also “bent over backwards” to indulge Anya in late applications and “taking up the space”.
164. Anya engages in a type of behaviour that I can only describe as transference. She attributes the own pernicious characteristics to those whom she is attacking. For example, although the court has found some allegations against her to have been proven her and not accepted her own allegations of abuse, she continues with her narrative of herself as the victim. She presents as a passive victim at every turn with her “poor English”, but she is in reality (as DJ Comiskey also observed) stridently determined and assertive.
165. Professionals who have sought to look beneath the surface of Anya’s victimhood or to penetrate the fog/smokescreen which she throws up are vilified (as the paternal grandfather put it “she flips”) – including but not limited to being labelled “racist”. Yet it is Anya who has sought to remove the Guardian on the basis that the Guardian is of Black British ethnicity. Anya’s assertions about the Guardian are distorted. Anya has been steadfast in seeking to remove and undermine the Guardian. She has striven to prevent Helen from engaging with the social workers and the Guardian. When it came to the Guardian the child’s initial extraordinarily graphic overt racism is a reflection, I find, of Anya’s views.



166. At paragraph seven and following of the Guardian's written submissions the pattern of Anya's engagement with professionals is set out. the chronology of paragraph 50 should be appended to this judgement as appendix 2.
167. There is a clear pattern of non-compliance with any court order which might shed the spotlight on the truth or which might enable the other parties to have a fair hearing. There was wholesale disregard for the court directions made at the Pre-trial review by the District Judge. She has the child examined by experts in breach of the spirit and the letter of the law (section 13 CFA above) and breached the court order requiring her to produce the terms of instructions, constant unmerited applications to attack and discharge professionals, constant production of late and last-minute applications so as to throw the court process as well as James's and professional's equilibrium off course.
168. This judgment goes nowhere near a full catalogue of all of the unmeritorious complaints. Anya has demonstrated that she is completely untrustworthy and will stop at nothing to wrongfoot anyone who does not fall in line with her agenda such as teachers, medical professionals, social work professionals and of course the child's family members including her primary carer. I accept and find that she engages in extraordinarily calculating and complex deception e.g. not attending core group meetings, then saying she was "shut out" so as to wrongfoot professionals. There is a long standing and consistent pattern of her refusing to engage with professionals including social workers, NYAS, the school and others. She adopts a victim posture – frequently saying that she has not had enough time to prepare for a meeting yet ironically it is she who does everything last minute to befuddle, fill the space and sabotage progress for Helen. A recent example of this is her failure to engage in meetings with the Guardian despite requests and invitations. The pattern of behaviour is that Anya blanks professionals, does not respond, comes up with excuses for non-attendance and then seeks to challenge, undermine and wrongfoot them by saying they have not involved her.
169. There is a long pattern of Anya engaging in deception by selecting information that suits her agenda and withholding/omitting the whole story in order to create a false narrative. An early example of this is her complaint that the child was injured in James's care in 2018. The timing is important – very soon after the contact had commenced. Anya failed to provide the crucial detail that she and the child had been involved in an altercation

in her residence. She set in train a section 47 investigation on a false premise (false due to incomplete disclosure on her part). She was inconsistent in her own accounts as to whether Helen had been in her arms when the altercation occurred.

170. Anya has refused to accept advice from professionals which would have provided Helen with necessary support e.g., School ELSA, school support to improve poor attendance, social work support.

171. It cannot have escaped Anya that the court was very concerned about the lateness in her evidence and applications. To put it charitably, she is at very least oblivious to the repeated warnings. Her lack of insight and relentless behaviour took a further turn when she instructed her solicitor to file two further witness statements early on the morning of 10<sup>th</sup> November. The “second witness statement” was permitted even though it was not directed. Anya had insisted throughout that her evidence was late because she had Covid and that her Eastern European Country’s psychiatrist “certificate” was beyond suspicion. To assist her and leave no stone unturned I directed that she filed documentary evidence relating to her “Covid status”, to corroborate her evidence that she had made at least 10 job applications and to disclose her communications in relation to her Psychiatric certificate dated 5 October which confirmed an examination two days later on 7<sup>th</sup> October. Anya failed to comply with the court order and yet again deprived all parties of the opportunity to consider evidence in advance – I was very careful to give her plenty of time to ensure it was filed by 4pm on 9<sup>th</sup> November so the court and the parties could at least have overnight (when Helen would be in bed) to consider it. Characteristically the filing was timed to deny the court and the parties that opportunity – again and again a last minute flurry of filing at 9.15 on 10<sup>th</sup> November for a hearing that was fixed for 9am. There is no excuse other than deliberate sabotage for this. Yet again I allowed the evidence in and yet again it did Anya no favours. She failed to produce any relevant documents to back up her assertions as to the genuineness of her Eastern European documentation, her “Covid status” or her job applications. Yet again she filed evidence from herself – a “witness statement” which was not permitted giving her new version of events. I note her reliance on Anya as an excuse and I find that this may lend weight to the professionals’ view that the maternal grandmother colludes with Anya (not surprisingly).

False diagnoses

172. It is extremely harmful for Helen to have a parent obsessed with pursuing their own agenda by obtaining false diagnoses. Anya has engaged in this harmful behaviour and continues to do so. Anya has purported to diagnose the child with “dyslexia”. This is refuted by the evidence from the school. Anya has gone behind James’s, the professionals’ and the court’s backs and pursued her agenda of getting the child diagnosed with some form of developmental and learning disability. She got Dr ZX’s report but failed to comply with the court order to produce the instructions. This is repeated in relation to the recent “psychiatric” certificate where she failed to comply with the court order to produce the communications. There is no dyslexia. This is not substantiated either by the school or the expert in the case. She is inconsistent with herself about this – purporting to tell the school Helen has dyslexia – yet her “own” experts have not diagnosed dyslexia. Notwithstanding the change of residence and the substantial body of evidence that Helen does not have the sort of diagnoses for which Anya contends, she still pursues her own agenda and recently went to the child’s GP to seek a referral to CAMHS. There is no medical or welfare basis for any of this. It is due entirely to Anya’s own needs. The risk to the child is being denied relevant support for her specific characteristics but being exposed to all manner of false investigations if Anya had her way. The basis for any delay or struggles with learning lies in Anya’s own difficulties in getting her to school, working in partnership with school, identifying the support she needed and prioritising the child’s basic physical and educational needs. The constant pursuit of disability is a mask for Anya being overwhelmed and unable to consistently meet Helen’s needs.

173. It is particularly harmful for Helen if her carer cannot accept or acknowledge their responsibility for meeting the child’s needs. It means those needs go unmet. The issue of Helen’s dental health is an example in point. Helen herself confirms that she has to brush her teeth more often at James’s behest. As a result of not brushing her teeth sufficiently in Anya’s care Helen needs some dental fillings. Yet Anya somehow blames James for this – saying cavities could have been caused in few short weeks when the child was in his care as opposed to the 6 years and 7 months in Anya’s care. The theme of exposing the child to unwarranted harmful medical intervention in order to vindicate Anya’s allegations (deflecting attention from the obvious deficits in her own ability to meet basic physical needs) is manifest in the recent suggestion – Helen has a calcium deficiency which must

account for her cavities rather than the usual cause – insufficient brushing/inadequate nutrition.

174. The vexed issue of the alleged milk allergy appears to have now been laid bare. It is clear from the evidence that Anya and maternal grandmother maintain that Helen has a lactose intolerance and James and his family conspired to withhold information as to some sort of genetic link with the paternal aunt. This is a fallacious fantasy as the evidence, which I accept, does not substantiate that the paternal aunt has anything more than an intolerance developed in adulthood as opposed to a life-threatening infant allergy. Of course, the fundamental issue which has now emerged is that Helen does not appear to have a lactose intolerance at all and is able to have dairy products, so this was an utterly false premise set up by Anya and in which her family conspired.

175. It is really very harmful that Anya seeks to label the child with serious and significant disabilities, constantly seeks examination and intervention and refuses to accept responsibility herself.

176. The laptop: this is a telling example; Anya was plainly at a loss as to come up with any plausible reason why she had retained her child’s laptop when the child so patently needed it for school.

#### **Manipulating the child**

177. I am entirely satisfied that Anya adopted harmful behaviours which influenced the child against professionals. The child’s attitude to her Guardian in the interview in 2019 is a clear example of this. The race issue is mirrored in Anya’s own attitude to the Guardian. Anya refused to allow EF access to Helen without Anya being present. She sought to record the social worker by putting a device under the child’s pillow. All of these are examples of Anya giving Helen a negative message about protective professionals, that they were not to be trusted. It could cause profound and long term harm to a child to be denied the capacity to trust those whose role in her life is to protect her. The consequences of a child having nowhere to turn if she needs support or having her safety net (including school) destroyed are really grave.

178. It is neither realistic nor proportionate to detail every example of unhelpful actions by Anya but the fact that I refer to specific examples only means that these are specifics and there are many more on each issue. I have carefully considered what positives can be ascribed to Anya and her parenting. Certainly, she loves her daughter – the shock and pain in her statement of 30 April 2021 is palpable “I can no longer even hold my daughter or kiss her as we have to wear masks and be distanced” – although I am not quite sure if that is what in fact transpired during contact. If everything else were equal, i.e. safe, Anya would try very hard to promote Helen’s Eastern European heritage and family, which (again if safe) would enhance Helen’s sense of identity, of being loved and valued and her self-confidence. Regrettably I consider that her safety overrides allowing Anya a full opportunity to do this as Anya cannot be trusted not to abduct the child and harm her in the many ways identified in this judgment.

179. I record and accept Mr Flatman’s evidence that Helen has not been “alienated” from James. Whilst I acknowledge that the concept of “parental alienation” causes controversy in some quarters – some advocates for victims of domestic abuse allege it is used to “gaslight mothers”, I am satisfied that the CAF/CASS tools on parental alienation can be crucial in identifying harm in some cases. The reality in this case is that, thankfully, Helen was not turned against James. In short any “alienating behaviours” did not succeed in achieving “parental alienation”; But not for want of trying on Anya’s part. The findings I make, based on Anya’s actions and the evidence about things Helen said and did in her care is that Anya caused Helen significant emotional harm by inappropriate behaviours including discussing the court proceedings with her. Helen was told by Anya that James was stopping her from having a passport and travelling to Eastern Europe to see her maternal grandparents. This, of course, is a very good example of misleading by providing selective information. It is the court which is protecting the child by the prohibited steps orders in relation to passports and travel. The court is relying on the entirely valid issues as to risk raised by the Children’s Guardian and the safeguarding authorities i.e. children’s services.

180. Note that the Guardian in closing submissions endorses a view to which I had come independently namely that it is more a testament to the strength of Helen’s bond with James and indeed to his resilience that Anya failed in alienating the child. I also attached this

judgement as appendix 3 the specimen chronology at paragraph 54 of the Guardians' written submissions.

### **Costs of contact**

181. Anya's evidence in this respect was very telling. She demonstrated a sense of entitlement and lack of responsibility in a manner that could be described as high-handed or even contemptuous - at the very least she was obstructive and obdurate. When the court inquired as to her qualification and her earning potential, she appeared to take umbrage and refused to even countenance the questions. In circumstances where James shoulders the entire cost and pays almost £215 per month to promote a Slavic language and attend the Orthodox church, I expected some sense of proportion when I asked Anya about getting work to fund the contact (almost 30% less than the cost of the Slavic language lessons and church-going). She responded, "do I have to pay to see my child"? After this exchange when I re-read District Judge Comiskey's judgment, I was struck by her description of Anya at paragraph 15. Anya is well able to assert herself and will brook no opposition even when her position is utterly unreasonable – as I find it to me on the issue of getting a job and paying the contact expenses. I fear that the Legal Aid Board (who has funded a party who failed to prove domestic abuse before the court) and the local authority (who funded supervision and translation in a private law case – utterly unheard of in my experience) have inadvertently lulled Anya into a false sense of security as to her own responsibilities.

### **Dishonesty, manipulation and fabrication in court**

182. For the reasons set out by the Guardian and elsewhere in my judgment, I find Anya to be unremittingly dishonest and obstructive of the court process. I am satisfied that the purported documentation at exhibit 10 from Dr CV is, on balance of probability, not genuine and I refer back to paragraph 22 of the Guardian's written submissions in that respect. As regards vaccination documents – those produced by Anya in no way satisfy me that there is any genuine medical issue for Helen in relation to vaccinations. However, for the reasons set out in paragraph 24 of the Guardian's submissions, it goes further than that. At the eleventh hour, in her "final" statement filed the day before the final hearing, Anya produced purported documents from 2018 for the first time. The documents do not match. Anya said she had provided the "vaccination" documents to the GP – but this is contradicted by the

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social work records. There are many records of different professionals asking for vaccination documents and none being forthcoming. As the Guardian submits:

*“There are two possible conclusions. Either:*  
*a. Anya has had this certificate in her possession all along: either the undated and non-expiring certificate or the certificate from June 2018. She has, in spite of repeated pleas from professionals, not shared it as she said she had. She has lied to them to breed confusion and, as a result, Helen has suffered physical and emotional harm through having to be examined by her GP and referred to a specialist, or;*  
*b. Anya has procured this document, which is back-dated but did not come to light until the start of this hearing. She was genuine in her confusion to CSC but is now being dishonest. As a result of which, Helen is likely to suffer significant physical harm as she is being denied proper medical care through vaccination.*  
*The court need not form a view as to which of the two possible conclusions it may be. Both involve deception and a finding of significant harm. Paired with the inferences referred to above for a failure to comply with the order of 5 November 2021, both weigh strongly in support of the core contention that Anya has been unremittingly dishonest”.*

183. Anya failed to take up the offer to defend the allegation that she was producing fabricated false official documents to the court. Regrettably, I am bound to draw the inference that the Dr CV certificate and vaccination documents are not authentic or genuine.

184. Whilst I do not use the language of weaponization, I consider the Guardian and James to be entirely justified in their view that Anya weaponised the interpreter as a means of manipulating and controlling the court process.

**Application for a further expert**

185. There was nothing to prevent Anya continuing to make applications notwithstanding that the timing of the latest applications had the foreseeable consequence of befuddling and wrong footing the parties. Accordingly, I listed that application to be dealt with at the final hearing and have heard the evidence. The application was withdrawn but some

comment is required on the effect it had. It may be resurrected by Anya who may blame her legal representatives for positions from which she subsequently seeks to resile. There is, as confirmed by the expert, no need for him to see medical records. His findings are based on his interviews and clinical experience. There was no issue that I needed to resolve which required further expert evidence, either an addendum from Mr Flatman based on medical records or a new expert. The basic foundation for a realistic Part 25 application was absent i.e., no issue to be resolved that needs expert evidence.

### **Statutory Checklist**

186.

(a)The ascertainable wishes and feelings of the child: I accept the evidence from the unanimous body of professional opinion - the social worker, NYAS and the expert. I find that Helen feels safe, secure, well looked after and free to be a child in James’s care. She has had a weight lifted off her shoulders (metaphorically) and is able to engage in learning and living in an open and care-free way - as described by CD in her “soft evidence” example of Helen waving to the teacher. Her presentation is indicative of feelings of being relaxed, secure and being able to trust adults to look after her, protect her and prioritise her.

(b) Physical, emotional, and educational needs: Helen needs her basic physical health attended to; this includes dental health which may have been neglected somewhat in Anya’s care. The issue is not so much that the child needs fillings – rather it is Anya’s response which is to flail around metaphorically, blaming the grandfather, then saying calcium deficiency and finally producing her own “expert” Slavic language-speaking mum (who of course had never seen the teeth). She needs to have a healthy and varied diet and not to be raised with a hypersensitivity to potential non-existent allergies. The child herself has commented on more rigorous dental discipline with James. As regards her emotional development there is extensive evidence that she needs calm, stable and confident parenting where she is prioritised and does not carry the emotional burden which she bore in Anya’s care. Her educational progress is demonstrated in James’s care. She needs to be able to relax and soak up her learning as she has been doing. She needs to be protected from distraction by unwarranted investigation into non-existent learning disabilities which are



not just a waste of time but are also highly likely to damage her self-esteem and emotional development.

(c) likely effect of change of circumstances: I have found Anya is a flight risk who might abduct the child in the event of a change of residence or unsupervised contact. This would be catastrophic for Helen. However even leaving that risk entirely to one side - Anya's aspiration to have Helen returned to her care was carefully explored with the expert, the social worker, and the Guardian. Such a change would cause her profound harm by returning her to an extremely harmful upbringing and destroying her trust in James and the professionals (including the court). She has waited a long time to receive safe and proper parenting. It would destroy the progress she has made emotionally, physically and educationally and impair her overall development were she to be returned to Anya's care. She would be at risk of losing her relationship with her safe parent and with everything that has provided her with security including school, grandparents.

(d) Her age, sex, background and characteristics which the court considers relevant: I consider her Eastern European heritage to be very important. She cannot be split in two between two countries and cultures but I really understand the strength of Anya's feelings and the bereavement she must experience in this regard. However, James is reported to be doing everything reasonable to promote her heritage and culture by paying for Slavic language lessons and taking her to the Orthodox church. It is noteworthy that Anya chooses to ignore this – including the financial commitment. I am not clear why Anya believes a child of Helen's age is better placed with Anya but that is not a suggestion which the court considers relevant in the face of the extensive evidence of how well James is caring for her. It is somewhat worrying that Anya manifests sexist and racist positions at times – not because she is not entitled to her views but because some of the views she espouses might result in harm to Helen who will grow up in English society/school system which promotes fairness and eschews discrimination on race or gender grounds. The logical conclusion to Anya's position is that NO male parent could raise their young child other than in highly exceptional cases; not a credible position but sadly logic and coherence are rarely, if ever, evident in Anya's positions.

(e) Harm: the child has suffered very significant harm in Anya's care. She has not suffered harm and is thriving in James's care. I rely on the unanimous professional evidence and the findings I make on the evidence.

(f) Capability of parents: Sadly, Anya has not been capable of providing Helen with safe care and has caused her daughter harm due to her own adult issues. The most serious harm is the chronic emotional harm identified by the professionals. It is clear that Anya is overwhelmed by her own needs and vulnerabilities, by her inability to take responsibility, by her lack of insight and lack empathy. James, in contrast, has demonstrated a high level of resilience which has empowered him to maintain his commitment to keeping Helen safe in the face of huge challenges from Anya, the consequences of her behaviour and at times from lack of clarity and understanding by professionals. He has not only "talked the talk" but has, now, patently "walked the walk" as is evident from the progress Helen is making in his care. In hindsight I find that a lot of the attribution of blame towards James and criticism from some quarters was unfounded. The values of truth and clarity which James espouses are likely to be hugely beneficial in the long term to enable him to continue to set boundaries and provide resilience and emotional safety. Crucially James has proven his capacity to promote Anya and the Eastern European heritage whilst stressful court proceedings continued.

(g) The range of powers available to the court: I am satisfied that it is essential to make very clear orders which keep Helen safe from risk of harm, of which the risk of abduction is one but by no means the only source of potential harm. I am also satisfied that Helen needs time to settle and thrive and to have a carer who is freed of the constant litigation and consequential stress thereby engendered.

187. Section 1 (2A) Helen loves Anya very much and was in her care for the first six years of her life (in addition to the period in the maternal grandparents' care). Anya is Eastern European and has a very rich cultural and religious identity to share with Helen. Under section 1(6)(a) the assumption of the benefit to Helen of Anya's involvement must be involvement which does not put the child at risk of suffering harm.

188. If Anya were to abduct Helen or to continue to expose Helen to emotional harm (due to her own issues as identified above) that would put Helen at risk of suffering grave harm.

Accordingly, Anya’s involvement in contact must be boundaried by safety mechanisms to avoid those risks. I repeatedly described the current contact arrangements as “restrictive”. The necessity for professional supervision as well as a translator is exceptional and onerous. However, all professional witnesses are categorical that the flight risk plus the emotional risk, especially when Anya has not embarked on any therapy, are so serious that it is essential for there to be a very clear mechanism to intervene and prevent either risk materialising. To spell it out – even if there were no flight risk, the contact must be supervised professionally and translated. It is crucial to safeguard Helen and protect her from the repetition of communications that would undermine her stable life in James’s care. I apply the statutory check list in summary form: the child’s feelings and wishes are to remain in the contact centre; her needs and the need to avoid harm require the supervision, location and translation arrangements are to continue.

**Section 91(14)**

189. Section 91 (14): I have carefully considered the authority of **Re P (Section 91 (14) guidelines) (Residence and Religious heritage) [1999] 2 FLR573** and the extensive guidelines set out by Butler-Sloss LJ. I remind myself that the welfare of the child is of paramount consideration and the power to restrict applications is a discretionary one in which I must weigh all the relevant circumstances. The extensive survey of the circumstances in this judgment indicates the basis for my exercise of my discretion. I bear in mind that a restriction is a statutory intrusion into the parents’ rights to bring proceedings to the court. Most importantly, I bear in mind that the power is to be used with great care and sparingly. I consider that this case is very much the exception and not the rule.

190. I am greatly assisted by the law as set out in Mr Bogle’s Skeleton Argument and the Guardian’s opening note. I have ensured procedural regularity and complied with Anya’s article 6 rights. The issue of a restriction on applications was raised by James and by the court well in advance of the final hearing. The court directed NYAS to file a full written application. The witnesses were fully cross examined on the issue. Anya told the expert that she wanted the proceedings to end. James, archly, observed that she only wanted an end if it was the outcome she sought. After receipt of final submissions, which were to be done by simultaneous exchange, I varied the order for simultaneous exchange so as to give

Anya the last word on section 91(14) submissions. I also allowed her yet another extension due to her barrister being taken ill. I entirely accept that Mr Bogle was ill, and I went so far as to suggest even more time than originally sought. There can be no realistic suggestion that Anya has not been accorded exceptional measures to ensure she has an opportunity to make submissions on this and every point.

191. Whilst I am very clear that there have been repeated, inordinate and unreasonable applications by Anya which would justify a restriction, I also have applied the more stringent exceptional criteria (i.e. even if there were not a history of unreasonable applications). On exceptional welfare grounds, a restriction is necessary even if there had not been a past history of unreasonable applications. The extremely comprehensive and informed judgment of District Judge Comiskey gives a flavour of the overwhelming volume of litigation at paragraph 2 – and that was 16 months ago. The volume increased after her judgment in August 2020 which was appealed and her many subsequent case management decisions, which were appealed.

192. I find Anya to have been relentless in her litigation conduct, and that she continues to make unreasonable applications and challenges. She has abused the safeguarding and court processes by her relentless, manipulative, and downright dishonest behaviour. She shows no insight, acceptance or remorse for the effect on her conduct on Helen. I have unusually graphic illustrations of the effect of litigation/last minute vexatious applications on this child. The following are a few non exhaustive examples of how Helen will have been impacted by unreasonable applications by Anya:

- a. On 6 November 2021 I directed Anya to file various documents by 4pm on 9 November so that the other parties would have a chance to read her documents overnight. She failed to comply with this deadline for no apparent reason. Instead, she filed witness statements and a new application (not permitted) at 7.30 on the following morning i.e. when James would have been getting Helen's breakfast and getting her up for school. The unpermitted documents masked her failure to do what she had been ordered; it continued the pattern of last-minute ambushes which would directly impact on the child's carer, and consequently on the child.

- b. Filing her 84 page “final” statement just before the weekend before the case started – lamentably late – which meant that Helen’s father would have to choose between getting ready for court or attending to Helen.
- c. Unsuccessful appeals against every Judge.
- d. Unsuccessful, vexatious applications to discharge professionals and evidential directions. There has been one professional (SG) who was removed but that does not justify the applications in relation to the Guardian, the section 37 report and the previous Judges. She even made a false and misleading statement to the Eastern European Country’s embassy that the Guardian “initiated care proceedings ...without providing any legal grounds” – email from [Embassy] dated 2 December 2020.

193. Given her conduct and my concern as to whether she really “walks the walk” and really accepts the expert, I consider there is some substance to the concern that Anya will relentlessly pursue all litigation as she has done to date. I have not counted up the number of times she has blamed legal advisors – she said to me at one question “you will have to ask my solicitor about that”.

194. The child was aware of litigation and has spoken of the parent with most documents etc to more than one professional. This must have placed a great weight on her shoulders. To continue some of the religious imagery which has featured I must say that Anya could be described as someone who would “test the patience of a saint”. It would be impossible for any parent in James’s position not to be very stressed and anxious day to day by Anya’s unreasonable behaviour. He and his family have been foretelling this from the outset. Helen must have the opportunity to have his full-time attention and care undistracted by litigation. The Guardian found the case “exhausting”. The impact on court resources and the like is an indication of the disproportionate and exhausting nature of this litigation.

195. For all of the reasons and evidence outlined above I am entirely satisfied that the child’s welfare **requires** time to settle into the regime that I have ordered. I am convinced that both the child and the primary carer will be subject to an unacceptable strain unless a restriction is imposed. I bear in mind the authorities of **Re S (contact: promoting relationship with absent parent) [2004] 1 F LR 1279** and **Re G (residence: restrictions on**

**further applications) [2009] 1 F LR 894**. Notwithstanding that the Guardian’s updated and final position seeking a restriction for 5 years, I consider 4 years to be the minimum essential period. The degree of the restriction must be proportionate to the harm that it is intended to avoid. I am satisfied that Helen will be harmed if further applications to court are made during the time that she is catching up with her progress and optimising potential in primary school and in the time of transition into secondary school. I rely on **Re S (Permission to seek relief) [2007] 1 F LR 482** and in no way impose conditions on the order. However, I have identified the provision of updated independent proper psychological or psychiatric assessment as being the sort of development which might justify an application for permission. Any application must be reserved to me if I am available and, if not, a full transcript of my judgment including appendices must accompany any such application. Although I am sure she will not accept this, I have carefully outlined this issue to assist Anya and promote her in moving on.

196. My decision to make an order for a restriction pursuant to Section 91(14) does not shut out or restrict Anya’s article 8 and article 6 rights any longer or any more than is necessary to avoid further significant harm to Helen. It does not stop Anya from focussing on effecting change, getting therapy and fresh updated independent psychological or psychiatric assessment by Mr Flatman or a similarly independent and accepted professional. A report from an expert who had been agreed with James and which pointed to progress and a significant reduction in the risk factors would be persuasive evidence in support of the granting of leave before the expiry of the period of restriction. However, Anya would be well advised to agree the identity of any expert and not just keep producing self-serving “reports” based entirely on her self-report from uninformed and partisan individuals.

197. The case is crying out for some control and restriction on the use of the court as a forum for hopeless and harmful applications. However, most important, the child needs a break. The milestones for Helen will be her transition into secondary school. I am told there are some state grammar schools in the area which might mean she would be doing exams in Year 6. She will have SATs at that stage in any event. In applying the welfare checklist and the paramountcy principle, I consider it imperative that Helen’s residence with James is stabilised and clear. It is essential that she is freed of the yoke of parental conflict as to her primary carer. She must have respite and a period to repair the deficient parenting and

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conflict that has marred her life to date and caused her significant and chronic harm across the board, emotional, educational and neglect. It is an exceptional case that half her life has been blighted. It is essential that she is able to understand that she is settled. I consider that the minimum period of respite must reflect the child’s time scales and events. She should have reprieve until she is at least settled into secondary school. Pursuant to Section 91(14), I direct that no section 8 application in relation to which parent she lives with or which is her primary carer, can be permitted without leave of the court for 4 years from the date of this order.

**Specific issues of medical and educational decisions**

198. I am very clear that any expectation that the parents can work together, co-parent or co-operate is not only utterly unrealistic but quite dangerous for Helen. Anya has demonstrated her untrustworthiness. James cannot be undermined in his role of essentially providing reparative care to Helen as that would undermine and jeopardise her day to day well-being in his care. The child’s welfare demands that James is solely trusted and tasked with making medical and educational decisions for her and I will make orders to reflect that outcome. In terms of the statutory check list, Helen is happy with James making decisions. Helen is at risk of harm if exposed to parental disputes about medical and educational issues which is guaranteed unless one parent is trusted to make the decisions. Helen will not experience any change or disruption – in fact the contrary – the making of this order will promote her ability to settle into a normal life without unnecessary medical investigations or educational disruption.

**Family Assistance Order**

199. I agree with the Guardian. The child needs a professional to be involved to support contact arrangements. She also needs such support in relation to James exercising parental responsibility in the face of the pressures exerted by Anya, as well as in the context of any therapeutic work upon which Helen and/or James may embark.

**Application to “correct” the Order of DDJ O’Leary 17/9/18**

200. The order of 17 September 2018 which recites that Anya accepts that she abducted the child in the past: I cannot accept paragraphs 86 to 92 of Anya's recent witness statement – which I find to be another convoluted and long-winded smoke screen. There is a clear court order. She was aware of it and represented. There is no evidence whatsoever to support her assertions. I am not the judge who made that order. There is no evidence from a transcript or otherwise. Again – she does not accept responsibility and a third-party professional is to blame. I have carefully considered Anya's evidence that she did not understand the order and also her assertion that the recitals as to her previous acceptances were incorrect. If there were any evidence to support these assertions, it could have been produced. I note (from other documents such as the Position Statement drafted by previous counsel and the numerous applications by Mr Bogle) how careful and closely counsel follow Anya's clear positions. The recitals from which she now seeks to resile as to her having removed the child TWICE from the Jurisdiction will stand as I have no jurisdiction to set aside another judge's order. Anya blames a different lawyer for the fact of those recitals. A further application was made on the morning of 10 December to "reopen" the various findings about this issue by reference to her screen shots of messages with James in June 2017. Anya relies on a reference in DJ Comiskey's long judgment to the fact that she had not produced these messages.

**Postscript**

201. By way of a postscript, I would add that after I had sent out my draft judgment Anya sent in a further witness statement via her solicitor directly to my email. Thereafter her counsel sought to clarify if my finding as to covid still stood in the light of her witness statement. This resulted in further email traffic as the request was very puzzling given the evidence. It would be an underestimate to say that these communications were an extraordinary repetition of the relentless and inappropriate litigation conduct by Anya. The purported filing of a further witness statement after judgment, where there had never been permission even before the end of the evidence, followed by further confusing correspondence on her instructions was a prime example of high handed non-compliance and sowing confusion. In any event the matter was revisited, and the finding still stands as Anya has never provided a PCR result. Counsel for the child, Mr Harrison, has been of enormous support and benefit to his client as he has exercised forensic rigour and calm perseverance on her behalf throughout.





**APPENDICES TO JUDGMENT**

**APPENDIX ONE: MR HARRISON'S WRITTEN SUBMISSIONS ON BEHALF OF  
THE CHILDREN'S GUARDIAN**

Omitted

**APPENDIX TWO: CHRONOLOGY CONTAINED AT PARA 50 OF AB  
SUBMISSIONS**

Omitted

**APPENDIX THREE: SPECIMEN CHRONOLOGY CONTAINED AT PARA 54 OF  
AB SUBMISSIONS**

Omitted