



Neutral Citation Number: [2023] EWFC 191 (B)

The Family Court
sitting at the Royal Courts of Justice,
Strand, London WC2A 2LL

Date: 3rd November 2023

Case no: ZW19P00877

IN THE FAMILY COURT

SITTING AT THE ROYAL COURTS OF JUSTICE

In the Matter of George (born 2018), Hilary (born 2020), Jude (born 2021) and Kim (born 2022)

B E T W E E N:

FTF

Applicant

and

MWM

Respondent

Before:

Mr Recorder Adrian Jack

The applicant father in person

Andrew Shaw (instructed by **Osbornes Solicitors LLP**) for the respondent mother

Thomas Clarke (instructed by the local authority) on behalf of the local authority

Hearing dates: 18th August 2023, 28th September 2023, 3rd November 2023

Judgment

This judgment was delivered in proceedings held in private. The judge has given leave for a separate version of this judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children who are the subject of these proceedings and members of their family must be strictly

preserved. The names of the children have been anonymised. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

.....

Mr Recorder Adrian Jack

1. This is the final determination of an application for a child arrangements order issued by the father as long ago as 21st June 2019. At that time, there was only one child of the parties, George, born in 2018. Since then, and during the pendency of the current proceedings, there have been three further children born to the parties, Hilary in 2020, Jude in 2021 and Kim in 2022. The scope of the application has been widened to include all four children in the application for a child arrangements order.
2. As well as the father's application for a child arrangements order, the father on 18th June 2023 issued an application for enforcement against the mother of earlier contact orders. For reasons which I gave on 18th August 2023, the first day of the hearing of this matter, I decided that it was neither in the children's interest nor proportionate to adjudicate on that application for enforcement and consider a punitive outcome for the mother as expressly sought by the father.
3. The mother issued an application on 19th June 2023 seeking an order under section 91(14) of the Children Act 1989 preventing the father from making any application in respect of the children without the permission of the Court.
4. The mother (supported in this instance by the father) also seeks a family assistance order under section 16 of the 1989 Act against the local authority. The local authority appeared by Mr Clarke of counsel to oppose the application.
5. Further, the mother, by her counsel, at the hearing invited the Court of its own motion to make a non-molestation order in the light of the father's behaviour in the course of the hearing.
6. Subsequently in an email of 4th October 2023, the father sought retrospective permission of the Court to present a complaint to Social Work England about David Phillips, who made two reports as an independent social worker.

Background

7. There was a fact-finding hearing before District Judge Jabbitt on 16th and 17th August 2021. He delivered a long and careful draft judgment on 6th September 2021 which was put into final form on 16th September 2021. At that time only three of the children had been born.
8. The parties have never lived together. The children have always lived with the mother. The father seeks arrangements for joint care of the children. There have been difficulties with contact, but at present he has in principle supervised contact with the children at the maternal grandparents' home for two hours every fortnight.

The father's belief system

9. At the heart of the issues in this case is the personality of the father, in particular his rigid belief system, and the unusual relationship which exists between him and the mother. As District Judge Jabbitt said:

“105. In respect of [the father], it is clear that he is intelligent, articulate, and committed to playing a significant role in the lives of his three children. He has rightly expressed exasperation at the slow pace of these proceeding, it is iniquitous that it has taken two years to finally have a fact-finding hearing, to test [the mother's] allegations of controlling and coercive behaviour. The Family Law system in the UK, is under severe stress. His contact with his children has been severely restricted.

106. It is also correct to assert, as [counsel for the mother] did that [the father] is a misogynist, not in the narrow sense that he despises women, but in the broader sense that he thinks most women are inferior to most men. This is clear from his evidence, that most women are driven by emotion and most men are driven by logic. He is disparaging about the principle of equality of men and women and asserts that the role of men in general is being undermined, in particular in the Family Court, where women are too readily believed when they assert domestic abuse, to the detriment of men who want to spend time and/or play a significant role in the lives of their children. His views in general are abhorrent, a Family Court is perfectly capable of discerning whose evidence is credible, irrespective of gender, there is no built-in bias in respect of women. He will not accept this position. Indeed, [the father] has sent me a lot of material, after my decision, to assert that he does not regard women as inferior, but that they function in a different way. I am not prepared to revisit my findings they are based on what [the father] said in evidence at the hearing, he may wish to reflect upon the way he presents his views in the future.

107. [The father] asserts that he is a high functioning autistic individual, he has not produced any evidence of his assessment, he was not asked to do so, and I accept what he says is accurate. Thus, he speaks bluntly, and calls out untruths as he perceives them. Behind his challenging presentation, is a rigid believe system that he is right and truthful, and those who do not agree with him are wrong and liars. In this case, he is telling the truth, [the mother] has taken messages out of context, twisted their meaning, grossly exaggerated the impact upon her, and is a liar.

108. He is so rigid in his approach to women in general and [the mother] in particular, that it is difficult to have any sympathy with his case, or for him. He is challenging to deal with to such a degree, that at one point I considered abandoning the hearing, his interventions, his contempt for the court, for ‘liar lawyers’, and in particular the District Judge that had dealt with his earlier case in 2010 was to such an extent, that I wondered why he made this application at all.

109. He describes an attribute of his autism as naivety in respect of women, too ready to believe that they are sincere when they are really manipulative and asserts that he was taken in by [the mother]. Therefore, he now concludes that he was in his words, just a sperm donor, to enable her to have children, to be financially supported, and then to be removed from the lives of the children. That admission of vulnerability and manipulation, albeit that it carries underlying aspects of misogyny, I do, after considering the evidence, accept carries some weight in this case.”

10. These finding were made at a fact-finding hearing, but the issues for determination at the hearing were a number of concrete issues, which did not include reaching a view of the father’s personality. It is thus probably the case that the Judge’s comments on the father’s personality are not binding on the parties and this Court. Nonetheless, from my own observations of the father, I can with only some minor differences of emphasis independently agree with District Judge Jabbitt’s observations above and his conclusions which I set out below.
11. The father represented himself before me. He was clearly an intelligent man. He works as a professional. Before me, he did not emphasise (as he appears to have done before District Judge Jabbitt) any abhorrent views of women and instead made a more modest submission that men and women had different strengths and weaknesses. On occasions, he showed that he was capable of some charm.

The father’s unacceptable behaviour

12. However, these positive aspects of his presentation were wholly outweighed by his other behaviour. The mother gave her evidence behind a screen. In consequence of

her allegations of abuse on his part, the father was prohibited from cross-examining her. Due to the age of the case, the Court could not appoint a Qualified Legal Representative to cross-examine the mother. Instead, the father provided a long list of questions which he wished should be put to the mother.

13. When the mother came to give her evidence in chief whilst sitting behind the screen, the father repeatedly interrupted her, yelling abuse at her from the other side of the courtroom and alleging that she was a liar. He refused to obey my directions that he should be silent and ignored my warning that, if he did not behave, he would be removed from the courtroom. Only after I had security summoned and security arrived, did his behaviour moderate. Mr Shaw says that even after security had arrived the father continued to threaten to fight him as counsel and the security guard, but this was not something I witnessed and formal evidence of this has not been put in evidence. In fairness to the father, I should record that in his submissions to me on the final day of the hearing he did apologise to the Court.
14. What I found surprising was the mother's response to this abuse. In effect she shrugged it off. It appeared to be behaviour she had seen before. No one would like this behaviour, but she appeared able to ignore it. This is particularly surprising, because the mother is a vulnerable woman. She was severely injured in a motor car accident in early adulthood and sustained brain injuries which resulted in epilepsy. The epilepsy is fortunately now under control. She presented as a slightly shy and nervous woman.
15. This interaction between the father and the mother mirrors what occurred before District Judge Jabbitt. That hearing was held remotely during Covid, so there was no need for the judge to summon security. The father's behaviour before me was more extreme, because it was at an in-person hearing.
16. Judge Jabbitt's conclusion as to the relationship between the mother and the father was:

“116. Returning to this hearing my central conclusion is that although [the mother] was content to continue to have an on/off superficial relationship with [the father] and to have children with [him], she decided for reasons that are not clear to me, that she will bring them up without him. This is an inference that I draw from the evidence of [the mother]. I can, of course understand

why she would find his behaviour upsetting and challenging. In her evidence she mainly said that she found his behaviour upsetting nothing more, but she was aware of the characteristics of his autism. Overall neither her written or oral evidence persuaded me that she was subject to coercive and controlling behaviour, by [the father]. They have never lived together, she is not dependent upon him, she mainly set the occasions when they would meet, and have sex, and controlled his limited time with George, and subsequently with Hilary.

117. Obnoxious as [the father's] views are of women, in the way that he presented them at the hearing, and as obnoxious is the way he expresses himself, in this case, his evidence has substance and is credible.”

17. Mr Phillips, who gave evidence to me as a social worker, reached a different conclusion. The mother had filled out a questionnaire prepared by the local authority to help identify cases of domestic abuse. On the basis of her responses to the questionnaire, he considered that there was domestic abuse and that the mother had been coerced into sexual relations with the father. The questionnaire was not put in evidence, so I have not been able to assess it. I can readily see how a bald account by the mother of, say, the abusive text messages sent by the father and his general behaviour might lead to a conclusion that this was a coercive relationship. Mr Phillips did interview the mother. However, he had little opportunity to see the father and the mother interacting: his focus was on two sessions of contact between the father and his children. I can thus put less weight on his view of the relationship between the father and the mother.
18. I agree independently with District Judge Jabbitt's conclusion. I asked the father how it came about that after George's birth and the commencement of the current proceedings, he had a further three children with the mother (including one born after the hearing before the district judge). He explained that what would happen was that the mother “got affectionate” with him and that things had gone on from there. That had the ring of truth and was not substantially challenged on the mother's behalf. Like the district judge, I find that the sexual relations which resulted in the births of the four children were consensual.
19. I consider below what effect this finding has on the views expressed by Mr Phillips.
20. An issue arose as to the father's behaviour when he and the mother went to the Registry Office on 3rd August 2023 to change the children's names. The father said

they sat together amicably, whereas the mother said he was abusive. On balance of probabilities, I find that the father used abusive language, but that (as occurred in Court before me) the mother was not particularly disturbed by this.

Autism

21. I turn to a separate point. George has been diagnosed with severe autism. This has resulted in significant speech delay. George attends a special school for autistic children. (The other three children are in good health and are meeting their developmental milestones.)
22. The father does not consider it appropriate that George attend the special school. In the father's view, George is very intelligent. He is likely to come on best in an ordinary school where he will be competing with other children, whereas at the special school he will only be interacting with other autistic children. He will lack the intellectual challenge he would face at a normal school.
23. This is not the assessment of the professionals. George's Education Health and Care Plan, dated shortly after his fourth birthday says:

“He has considerable difficulties with expressive language skills, receptive language skills and social communication skills. He is currently mostly non-speaking; is only just beginning to follow simple instructions given in context and does not interact with other children. The development of George's joint attention is delayed, he can sustain joint attention for brief amounts of time with familiar adults when engaged in highly motivating activities, such as anticipation games or nursery rhymes. George has some sensory differences. He particularly dislikes the sound of crying and eats a limited range of food. George is at an early stage of developing his early learning skills. He is very self-directed in his play and likes to follow his own agenda. George's self-care skills are delayed. He is dependent on adult help to support him with all of his self-care needs. George has a limited understanding of danger. He enjoys being active but can be unsteady on his feet.”

24. The father claims to have particular insights into George's behaviour, because he says that he himself is autistic. As District Judge Jabbitt noted at para 107 of his judgment, no evidence of this beyond the father's *ipse dixit* has been adduced. Moreover, there is evidence before me, which was not available to Judge Jabbitt, which casts doubt on the diagnosis. The father was brought up and still speaks bilingually, which tells against his suffering speech impairment. His mother told Mr Phillips that “her son...

had not had any difficulties with social communication as a child and had been fluent in both [languages] at his nursery before attending mainstream school. She described having been shocked to learn about his recent Autism diagnosis.” Given the weight which the father seeks to put on what he describes as his special insights into his son’s autism, it is (at least with the benefit of hindsight) unfortunate that the father has not adduced any evidence from the professionals who diagnosed him with the condition, or any evidence about how the particular autism from which he suffers manifests itself. However, (as was the case before the district judge) there was no requirement for him to do. Like the district judge, therefore, I feel obliged to accept that the father does suffer from autism.

25. This, however, in my judgment only helps the father’s case as regards his son to a limited extent. I do not accept that it gives him any special ability to determine what the best developmental programme for George might be. The fact that the father thrived in a competitive environment does not mean that his son, whose autism is much more severe, will also thrive in such an environment. As I shall discuss below, the father’s rigid belief system means that he does not accept that George is exposed to risks which are potentially dangerous. In my judgment, minimising these dangers is a key factor when considering the welfare checklist.

David Phillips’ assessment of the father’s ability to change

26. Mr Phillips gave evidence to me as an independent social worker. He had recently retired. Prior to his retirement he had managed a large team of social workers. He has great experience of social work, albeit largely in the context of public family law.
27. In his report of 16th April 2023, Mr Phillips explained the background as follows:

17. Judge Jabbitt ordered that the [local authority] undertake and file a parenting assessment of [the father] by the 19.11.21 and further stated, ‘I have found that in this case [the father] uses insulting and demeaning language towards [the mother], but that is in the context of her denial of his access to the children. His ability in the future to moderate his blunt confrontational approach is highly unlikely but is an issue that needs to be addressed in the assessment.’

18. The parenting assessment was undertaken by [the first] Independent Social Worker... and completed on the 16.11.21. His initial assessment of [the father’s] parenting was largely positive, and he was optimistic about [the

father's] willingness and capacity to engage with services to improve his communication and relationship with [the mother]. However, his recommendation that the Local Authority consider seeking a Supervision Order to support [the father's] contact with the children was not accepted by [the local authority's] Children's services.

19. At the Directions Hearing on the 8.12.21 Judge Jabbitt directed the [local authority] to assist [the father] in completing the programmes recommended in [the first social worker's] report, namely a Domestic Violence Prevention Course, the Triple P Parenting Programme and Family Mediation with [the mother]. It was also directed that [the father's] contact with the children should gradually increase, from 2 hours supervised by [the mother] or a third party once a week in December 21 to 6 hours unsupervised contact from April 22.

20. The [local authority] was further directed to file and serve an addendum report from [the first] independent social worker... by 29 April 2022 to address the progress of [the father's] contact with his children, his progress in his participation on the recommended programmes and recommendations for a final order.

21. [The first social worker's] addendum report, dated 25.4.22, noted positive interaction between [the father] and his children during contact... but reported that [the mother] had been resistant to allowing him to have unsupervised contact with the children at his address... because of her concerns for him ensuring their safety. [The] mother had also raised concerns for [the father] drinking alcohol during a morning contact at her address. Regarding his progress attending a Domestic Violence Prevention Course [the first social worker] noted that [the father] had not been considered suitable to attend the programme as he showed no insight into the need to change. [The father] had subsequently copied [the first social worker] into an email to the Social Worker stating, 'I honestly think that I am not going to learn much from the Domestic Violence courses. Too many men are unfairly accused of domestic violence and judges and social services believe the woman when there is no proper evidence to support the case. This just shows how incompetent the courts and social services are'.

22. Nevertheless, [the first social worker] recommended that [the father] still attend a domestic violence prevention course and family mediation with [the mother], explaining that, 'Without these, it is inconceivable how [the father's] relationship with [the mother] can improve.' [The first social worker] further recommended that [the father] undertake a Hair Strand Test regarding his alcohol use.

23. At a Direction Hearing on the 6.10.22 the [local authority] were directed to serve a second addendum parenting report by [the first social worker]. However, following [the father's] allegations that [the first social worker] had entered a sexual relationship with [the mother], a further hearing was sought. On the 8.2.22 it was directed that an alternative assessor complete the work and that the assessment should be filed by the 17.4.23... I confirmed my availability to complete the work on the 13.2.23."

28. There is no evidence adduced before me that the first social worker had a sexual relationship with the mother or behaved in any way improperly. I find that there is no basis for this allegation on the father's part.
29. As regards the father's alcohol consumption, the hair strand testing shows that there is no chronic or excessive use. Although there seems to have been some inappropriate drinking by the father, such as having what the father described as a "small beer" during a Sunday morning contact visit, alcohol is not a key issue in this case. As the father says, drinking a moderate quantity of wine at lunch is customary in the country where he was brought up. As the father submits, the Court has to have some regard to cultural diversity.
30. As regards the courses and mediation which the first social worker recommended, Mr Phillips commented:
- "94. Unfortunately a re-occurring theme of this assessment has been that [the father] appears to lack insight into the possibility that he may need to make changes. Instead he appears convinced of his own righteousness, demonstrates a very combative sense of his personal rights and is mistrusting and dismissive of any professional who does not agree with his view. Sadly, these traits are not positive indicators of a capacity to change."
31. This failure to change was evidenced in the mother's evidence. She and the father had gone to mediation three times, but she said it had not helped because he kept bringing up the same issues. The whole purpose of mediation is to move the parties forward. That did not happen. Instead, she said the two-hour sessions just made both of them angry.
32. Among examples of how the father had failed to change, Mr Phillips quoted a sample of some of the 80 text messages sent by the father to the mother between 5.42am and 3.33pm on George's birthday in 2022, after various of the interventions had occurred designed to make the father's behaviour more acceptable. The texts and their grossness speak for themselves (the reference to "Valentino" is to another non-existent lover of the mother):

Father: This was George's Birthday! I, the father, have NEVER seen him on his Birthday!.....What kind of mother are you?.....You are disgraceful!.....You really do deserve bad things to happen to you! Separating children from father yet again!.....I am sure your parents are behind this!

Your father is a cunt and your mother maybe even worse!.....The Court ordered YOU to make George available to me!.....Expect consequences!.....You are pathetic!.....And I am concerned that I have 4 kids with you because your genes are low grade.....VERY low grade.....[Your family are] scum people.....Scum.....Only a feminist structure man hating organisation could disagree with me!.....You are all SCUM.....And you will pay for this....you will see....Karma has a beautiful way of settling matters!

Mother: I've told you how George is, not well at all...You never believe anyone

Father: Not [your family as your family] are SCUM....I have evidence to prove it! Tell your Mum when she calls me (Big) Dick

Mother: Your parents are quite welcome to phone my parents for an explanation of what has gone on.

Father: I don't think they would want to talk to SCUM.....They are SCUM for trying those tricks....SCUM.....SCUM.....SCUM.....That is your shitty parents.....You need to understand.....YOUR PARENTS ARE SCUM.....YOUR FATHER IS SCUM.....YOUR MOTHER IS SCUM.....DIRT

Mother: Go away and have another bottle of wine!

Father: SO if they are scum then you probably are too!.....Go and take cocaine

Mother: Yeah whatever

Father: That is what you like.....Yeah....fuck Valentino for coke.....What a saddo you are.....The only way you could redeem yourself is have quality kids from me!.....Well, you do come from SCUM.... You are a radarless ship that does not know where it is going.....And I fear the consequences on our lovely kids.....You are messing them up.....because you have SCUM parents.....and you don't know.....you have not got a clue.....You are ignorant

Mother: [...P]ull yourself together, you have started all this and looking like you are not going to change your ways

Father: [A]nd you will pay a price for your ignorance.....PULL YOURSELF TOGETHER...YOU ARE THE COKE ADDICT DEPRIVING KIDS FROM THEIR FATHER

Mother: I wanted a family you obviously didn't

Father: I want a family but NOT with SCUM."

33. It is apparent that the various courses which the father has attended have made no difference to his behaviour. In my judgment this is unlikely to change in the future.

Mr Phillips' assessment of the father's parenting skills

34. Mr Phillips' report recited strengths and weaknesses in the father's parenting skills. He said:

68. [The father] demonstrated a high degree of enthusiasm and emotional warmth, often using a playful, animated tone of voice and frequently giving the children cuddles and kisses...

80. While [the father] appears to have intellectualised the parenting role and understands the importance of praise and explanation with young children, I am concerned that he doesn't fully understand some of the basics of parenting, including ensuring the children's safety.

81. Given that their visit to his house... had been planned and [the father] had the opportunity to prepare for it, I was surprised to find a long-bladed carving knife on the floor in one of the downstairs bedrooms. This was in easy reach of the children and they could have been seriously harmed by it. When I later asked [the father] about this he suggested that he had intended to make a final safety sweep of the house but both [the mother] and the children and I had arrived earlier than he had expected. I was unclear why such a knife would be in a bedroom.

82. In principle it might be considered a helpful learning opportunity for a parent to involve even young children in the preparation of their lunch, and the children responded positively to their father's enthusiastic invitation, "Who wants to do some cooking? Not pretend cooking, real cooking!" However, I was surprised to see [the father] draw up a dining room chair right next to the gas cooker and have both George and Hilary balance on it with Jude standing beside them and playing with the knobs on the cooker, while he proceeded to boil a pan of water for pasta and cook some lamb on a frying pan.

83. [The father] repeatedly gave instructions such as, "Careful of the fire, it's hot...if you touch it, 'Ouwee, ouwee!'" but giving his young children responsibility for their own safety in this situation appeared extremely hazardous and demonstrated his unrealistic expectations of their behaviour. George and Hilary could have easily grabbed one of the pans or lost their balance and all three children could have been scalded or received a burn. When [the father] took off the lid of the frying pan to turn the lamb and helpfully explain how it was changing colour as it cooked, he did not notice the condensation from the lid was dripping and had narrowly missed Jude's head until I intervened. When I subsequently asked him what, if anything, he would have done differently, [the father] insisted that he had been in control of the situation and the children were not at any risk.

84. A little later [the father] asked George if he wanted some milk and put his beaker in the microwave to warm up. He then handed it to George and told him to be careful as it might be hot but he did not check the temperature on the back of his own hand as might have been expected. George winced and immediately stopped drinking, indicating that the milk was too hot, and [the father] then quickly said he would cool it down. This appeared to be another example of [the father] struggling to place himself in his son's mind or being able to anticipate how his son might experience the milk."

35. Mr Phillips commented further on the issues with food for George. He noted that the father had not fed George with the foods (which he liked) provided by the mother for consumption during the contact visit. Instead the father insisted that George eat the lamb, which George had never eaten previously and which he spat out in part.
36. The mother raised additional concerns from the lack of supervision when the father took the children to the park. This would potentially allow George to run into the road. I accept that evidence, which is entirely in keeping with the father's belief that his son should be encouraged to be independent.

Subsequent contact visits

37. Contact was in fact changed to two hours once a fortnight at the maternal grandparents' home pursuant to an order of District Judge Saunders. The mother is not present at these contact sessions. A different social worker to Mr Phillips observed a contact session in July 2023. It went well.

Mr Phillips' recommendation

38. Mr Phillips gave evidence before me. Although I do not accept his view on the relationship between the father and the mother, I found him in general an impressive and balanced witness. He found the father a polite individual. He was disappointed that the father was wholly unable to change. He explained that the father's impaired personality was not his fault, but that it was very deep rooted.
39. Mr Phillips' conclusion in his April report was:

140. George, Hilary, Jude and Kim are all thriving in the care of their mother (with the regular support of their maternal grandparents who are clearly devoted to them.) To recommend any significant change to their current care arrangements (such as the 50-50 shared care that [the father] is seeking) would

require persuasive evidence that it would be in their best interests to do so. I do not have that evidence and do not support [the father's] application.

141. [The father] is clearly a bright and high-functioning individual in some aspects of his life. However, in summary, I have significant concerns regarding his capacity to consistently meet his children's emotional care needs and ensure their safety. He struggles to place himself in their minds or consistently pick up on their cues. During this assessment he has not shown that he has realistic expectations of their behaviour and I worry about his ability to provide adequate supervision, particularly for George who has no sense of danger and needs constant monitoring. George has additional needs due to his Autism Spectrum Disorder diagnosis that require an enhanced level of parenting. [The father] has been unable to show a realistic understanding of his son's needs and has expressed some rigid and punitive ideas about discipline which means that George may experience his father as confusing or even frightening.

142. [The father] is dismissive and denigrating of [the mother's] parenting and has shown no ability to listen to or value her views. Instead he considers her parenting to be entirely inferior to his own and an obstacle to his children's development. He has continued to express the fixed belief that only he knows how to parent his children.

143. [The father] lacks insight into the need to make changes to his parenting behaviour. He is also very mistrusting of others, including professionals, who do not agree with his own views. Sadly, the prognosis for him making any sustained positive change to his parenting or relationship with [the mother] appears poor. I am unclear if [the father's] difficulties are due to his own ASD or impaired personality functioning or a combination of both.

144. Despite his difficulties, I am hopeful that [the father] can play a positive role in his children's lives in the years ahead. During time-limited contact sessions he has demonstrated an ability to interact with them warmly, enthusiastically and playfully and the children have been responsive to his initiatives and enjoyed their time with him.

145. I would recommend that for the foreseeable future [the mother] plays no part in [the father's] future contact and instead all contact is facilitated and supervised by the children's maternal grandparents at their address. The maternal grandparents are agreeable to this plan. This arrangement will remove the need for [the father] and [the mother] to have any face-to face contact and provide [the father] with the opportunity to demonstrate his commitment to developing his relationship with his children. I should add that I have wondered whether [the father's] real motive for demanding 50-50 shared care of the children has been to force [the mother] to live with him. She has made clear that she would have little choice but to do so if shared care was granted by the Court because of her commitment to parenting them and her concerns about his ability to parent them safely.

146. I think weekly contact is too frequent to be sustainable in the long term and places an unreasonable burden on [the maternal grandparents]. It also

limits the family's opportunities to develop other weekend activities. I would suggest instead that contact takes place fortnightly for a period of five hours. I consider this will provide the children with the opportunity to develop their relationship with their father safely. The current arrangement of eight hours is too long and intrusive for such young children."

40. Since then it became apparent that five hours fortnightly placed too great a burden on the grandparents. As noted, the contact sessions were reduced to two hours each. By the time of the hearing before me, Mr Phillips concluded that fortnightly sessions were too much. There had been an incident (the facts of which I have not been asked to determine) in which the father is alleged to have assaulted the grandfather. Although the grandparents have continued to support contact, this incident has put a strain on the arrangements. Mr Phillips' final recommendation made orally to me was that there should be contact once a month of up to three hours.

Conclusion on joint care and contact

41. I accept Mr Phillips' recommendation. The father's wish for 50-50 joint care of the children is in my judgment wholly unrealistic. I sympathise with his desire to have a normal family life with the mother and the children, but the mother does not wish to live with him. In my judgment the care she is giving the children and in particular her handling of George is excellent.
42. By contract there are very significant risks in giving care to the father. He does not recognise how best to support George' special needs. He has an inadequate appreciation of the risks to which George and the other children are potentially exposed. There is no prospect of his changing his beliefs in child-rearing, notwithstanding the risks to which his children and particularly George will be exposed if left in his unsupervised care.
43. I turn to the welfare checklist (section 1(3) of the Children Act 1989). As to the children's wishes and feelings, all four enjoy contact with their father. However, they are not of an age to be able to consider the type of contact which would best protect and develop themselves. As to their physical and emotional needs, these are being met fully as a result of the care given them by their mother.

44. As regards education, the special school matches George's needs. I reject the father's submission that George would do better in an ordinary school. That submission is contrary to the views of the professionals who have considered how George can best be educated. The other children are thriving in normal education. Any change to the children's current arrangements is likely to be deleterious. These considerations encompass the children's characteristics.
45. Of great important is the risk of harm. For the reasons I have outlined, the father is in my judgment unable adequately to ensure the safety of the children when they are in his unsupervised care.
46. In my judgment, Mr Phillips' proposal for supervised contact at the maternal grandparents' for up to three hours once a month is realistic. The current fortnightly arrangement puts too much of a burden on the grandparents. I so order. I dismiss the father's application for joint care.

The section 91(14) application

47. The mother applies for an order under section 91(14) of the Children Act 1989 to prevent the father from issuing further applications in these proceedings without the permission of the Court. The traditional approach of the Court to making such orders has been very restrictive, usually requiring the parent against whom the order is sought to have issued repeated applications with little or no prospect of success.
48. The Domestic Abuse Act 2021 has by section 67 inserted a new section 91A to the 1989 Act. The effect was considered by Hayden J in *M v F* [2023] EWFC 5:

18. Section 91A was inserted into the Children Act on 19th May 2022... In *Re A (A Child) (Supervised Contact) (Section 91(14) Children Act 1989 Orders)* [2021] EWCA Civ 1749, King LJ referred to a prevailing and 'changed landscape', not least in consequence of social media and wide access to smart phones. She considered that this opened considerably wider scope for the greater use of section 91(14) which, to my mind, had always been intended to provide a protective filter from inappropriate applications. The filter exists to protect the child and, not infrequently, the parent with whom the child lives. It is not a punitive measure towards a recalcitrant parent. Neither is it a bar on access to justice. Where a Court identifies an issue that requires to be resolved, the case will proceed but where it does not, the child and the primary carer are protected from the stress and uncertainty of a misconceived or vexatious application. Anticipating the introduction of the amended Section

91A reforms, which had received Royal Assent, but not yet come into force at the time of her judgment, King LJ said:

[45] ...It is worth however noting that the proposed new section 91A dovetails with the modern approach which I suggest should be taken to the making of section 91(14) orders. In particular the provision at section 91A(2), if brought into effect, gives statutory effect to Guideline 6 of *Re P* [[2000] Fam 15 at p19, which reads: “In suitable circumstances (and on clear evidence), a court may impose the leave restriction in cases where the welfare of the child requires it, although there is no past history of making unreasonable applications.”] by permitting a section 91(14) order to be made where the making of an application under the Children Act 1989 would put the parent or child at risk of physical or emotional harm.’

19. Earlier, King LJ identified a concept of ‘lawfare’. That is a term I have not seen before but it encapsulates an experience that will be familiar to every family lawyer:

[41] In my judgment in many cases, but particularly in those cases where the judge forms the view that the type of behaviour indulged in by one of the parents amounts to “lawfare”, that is to say the use of the court proceedings as a weapon of conflict, the court may feel significantly less reluctance than has been the case hitherto, before stepping in to provide by the making of an order under section 91(14), protection for a parent from what is in effect, a form of coercive control on their former partner's part.’

20. The provisions within section 91A are transformative. The section provides a powerful tool with which Judges can protect both children and the parent with whom they live, from corrosive, demoralising and controlling applications which have an insidious impact on their general welfare and wellbeing and can cause real emotional harm. This amended provision strikes me as properly recognising the very significant toll protracted litigation can take on children and individuals who may already have become vulnerable, for a variety of reasons. It also dovetails with our enhanced understanding of the nature of controlling and coercive behaviour. When all other avenues are lost, too often the Court process becomes the only weapon available. Lawyers and Judges must be assiduous to identify when this occurs, in order to ensure that the Court is not manipulated into becoming a source of harm but a guarantee of protection.”

49. In the current case, there are strong indications that the father may bring further proceedings unless steps are taken to control him. I have already mentioned the application for enforcement steps to be taken against the mother. I deal below with complaints which the father has made. He has reported Mr Phillips to Social Work England with a view to that regulator taking disciplinary proceedings against him. He

has complained to the chambers of Mr Shaw, the mother's counsel, about counsel's alleged behaviour. He has said, both orally and at item 4 of his response to the mother's submissions for 28th September 2023, that he intends to appeal. This was even before I delivered any judgment or made any decision. It is of course his right to seek permission to appeal and I do not hold that against him, but wanting to appeal even before a decision has been reached indicates a state of mind in which he will not let the dust settle on what on any view has been gruelling litigation.

50. The father is in my judgment perfectly capable, even before he has exhausted his appeal routes, of issuing fresh proceedings, seeking a variation of the contact and care arrangements. This is because he strongly believes that the mother is giving the children poor care and will not accept the Court's determination that he is in error on this. He will continue to believe that he can provide the children with better care than she can and will continue to litigate to try and impose his view on the mother and children. My conclusion on this is reinforced by the father's suggested amendments to this judgment when I had it circulated in draft. He wanted an alternation to this paragraph reflecting his view that it "is unbelievable that the Court thinks that the mother can provide adequate care for her... children" due to the size of her flat.
51. In my judgment, this is a case where it is in the best interests of the children that the mother and the children should have some protection against a continuation of this litigation. The mother originally proposed a five-year order, but in the concluding submissions on her behalf it was submitted that seven years was more appropriate, given the children's ages. In my judgment, the five-year order is more appropriate. Section 91(14) orders are not punitive. It would in my judgment require stronger evidence than here to show that a period of longer than five years was needed. If meritless applications are made after the expiry of the order, the Court can always make a fresh order. Accordingly, I will make an order under section 91(14) against the father for a period of five years.
52. The father submits in post-judgment submissions that the making of such an order "will severely limit contact between father and children for five years as there is no way of increasing contact from 3 hours per month." This is not correct. Firstly, the parties can agree between themselves to increase contact. Secondly, the father can apply to the Court for permission to bring fresh proceedings for a variation of the

contact arrangements. I strongly discourage the father from doing this until the current arrangements have bedded in or there is a major change in circumstances, but the order merely provides a filter for the making of such an application; it does not debar the father from seeking a variation.

Family assistance order

53. Section 16 of the Children Act 1989, so far as material, provides:

“(1) Where, in any family proceedings, the court has power to make an order under this Part with respect to any child, it may (whether or not it makes such an order) make an order requiring—

...

(b) a local authority to make an officer of the authority available, to advise, assist and (where appropriate) befriend any person named in the order.

...

(4A) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a contact provision contained in a child arrangements order made with respect to the child, the family assistance order may direct the officer concerned to give advice and assistance as regards establishing, improving and maintaining contact to such of the persons named in the order as may be specified in the order.

(4B) In subsection (4A) ‘contact provision’ means provision which regulates arrangements relating to—

(a) with whom a child is to spend time or otherwise have contact,
or

(b) when a child is to spend time or otherwise have contact with any person.”

54. Mr Shaw, on the mother’s behalf, submits:

“that this is an underused order that is entirely appropriate to this case. The court has the power to make a family assistance order in any family proceedings where there is power to make an order under Pt II and ‘family proceedings’ i.e. s8 order. PD 12M requires the opinion of the appropriate officer as to whether such an order would be in the interests of the child. However, the court can make such an order without the Local Authority’s consent if it considers it is in the interests of the children to do so.”

55. Mr Clarke on behalf of the local authority opposes the making of an order. He submits that the leading case on the making of a family assistance order is *Re E (Family Assistance Order)* [1999] 2 FLR 512, where the judge made an order in what he described as “a highly unusual and a highly exceptional situation.”

56. The father supported the making of an order on the basis that he “is keen to evidence to the local authority that he is capable of looking after his children on his own in particular on days out to places such as the Science Museum, Legoland and the Aquarium if he is not granted unsupervised contact.”
57. Both counsel agreed that in deciding whether to make a family assistance order the Court needed to apply the usual test of the paramount interests of the children. In my judgment the reference in *Re E* to the situation there being “highly unusual” and “highly exceptional” is not intended to be a threshold requirement. However, I consider that it will be rare that an order is made where there are not special circumstances. The involvement of the State in the private lives of parents is inevitably intrusive. As a result, in public law proceedings there is a significant hurdle for a local authority to jump before it can interfere with the parents’ family life. Absent the crossing of the hurdle, it is not generally in the best interests of the children that an emanation of the State continue to interfere in the private lives of a family.
58. In my judgment there is little advantage to the children in having further local authority involvement. It is suggested on the mother’s behalf that if contact breaks down it would be useful to have a social worker allocated who could advise on alternatives. There is in my judgment no need for a family assistance order for such a limited purpose. Likewise, the father is not, at any rate in the near future, going to be allowed to take his children to the Science Museum and elsewhere unsupervised, so the basis for his support for such an order falls away.
59. Accordingly, I refuse to make a family assistance order.

Non-molestation order

60. At the hearing before me, Mr Shaw invited the Court to make a non-molestation order against the father of its own motion. There appears to be no jurisdictional problem with the Court making such an order of its own motion: Family Law Act 1996 section 42(2)(b). As the abuse recited in this judgment shows, the father pursues a course of harassment of the mother. It is true that the mother is fairly resilient to the abuse, however, she should not have to put up with the father’s molestation of her. In these

circumstances, I am satisfied that the Court should grant a non-molestation order, initially for one year.

61. In his post-judgment submissions seeking to argue against the making of such an order, the father said: “Father will continue to say things that mother does not like to hear which father considers absolutely essential in pointing out to protect the children in this case.” I am afraid this reinforces my decision that a non-molestation order should be granted.

The complaint against Mr Phillips

62. On 22nd September 2023, between the first day of the hearing before me and the second day, the father made a complaint to Social Work England about Mr Phillips. He alleged that “even though David Phillips put in considerable effort into preparing his report he did not pursue good practice in his field resulting in poor quality outcomes.” He proceeded to say (I cite largely just the headings) “1) Reports did not pursue good practice. (a) Failure to take a holistic approach... (b) Triangulation... (c) ... lack of objectivity or evidence-based approach to work... (d) ‘Cherry picking’... (e) Lack of evidence-based conclusions... 2) Misrepresentation... his social work experience revolved around public cases rather than private cases... 3) Unconscious bias... 4) Naivety... 5) Fixed mind...” Attached to the complaint as Annex 2 was Mr Phillips’ very full report to the Court.
63. In my judgment, making the complaint in this way without the permission of the Court was a serious breach of confidentiality. Section 12(1)(b) of the Administration of Justice Act 1960 preserves liability for contempt of court in respect of publication of information relating to proceedings held in private under the Children Act 1989. Section 97(2) of the Children Act 1989 prevents identification of children involved in Children Act proceedings to the public or a section of the public.
64. The father argues that he did not require the Court’s permission to make the complaint and publish Mr Phillips’ report to Social Work England, because it was permitted by Practice Direction 12G, which, he says, allows publication to “A person or body assessing quality assurance systems.” Even supposing Social Work England is a quality assurance assessor (which I doubt), the Practice Direction makes it clear (a) that only a legal representative or a professional legal advisor can make the reference

and (b) that the purpose of the disclosure must be to “enable the legal representative or professional legal adviser to obtain a quality assurance assessment.” Neither of these requirements are satisfied.

65. At the hearing I discussed with the father whether this was a case which I should refer to the Attorney-General. The effect of making the complaint was to intimidate a witness whilst the proceedings were still live. The father was keen to have the matter referred to the Attorney. Since the purpose of the reference would be for the Attorney-General to consider taking proceedings in the King’s Bench Divisional Court for criminal contempt, the father’s position was difficult to understand.
66. After further discussions, it seemed to me that the better course was simply to grant an injunction so as to require the father to withdraw the complaint to Social Work England. This also had the desirable effect of being faster and providing quicker protection for Mr Phillips.
67. Subsequently by email of 4th October 2023, the father sought retrospective permission to make the complaint to Social Work England. As will be clear from the judgment above, although I do not agree with Mr Phillips’ view as to the nature of the relationship between the father and the mother, there is nothing in the substance of the allegations against Mr Phillips. The Court has a duty to protect witnesses who give evidence to it. Only in an egregious case would it be appropriate to grant permission to a party to make a complaint to a professional body. This is far from such a case. Accordingly, I refuse the father’s application for retrospective permission to make the complaint.
68. I gave Mr Clarke carriage of the order. In general costs are not awarded in the Family Court, but the father was guilty of serious misconduct in making the complaint. In these circumstances it is in my judgment right that the local authority should have its costs of this issue.

The complaint against Mr Shaw

69. Nothing daunted by the Court’s reaction to his complaint against Mr Phillips, on 1st October 2023, the father complained to Mr Shaw’s chambers about Mr Shaw’s behaviour. A flavour of the complaint can be seen from this:

“7. At 18 August 2023 hearing, Mr Shaw claimed that his client is vulnerable. Applicant father believes that Mr Shaw is being manipulative and controlling over his client affairs given her vulnerabilities to believe his advise [sic]. Mr Shaw has been controlling and manipulative with Respondent mother telling her not to message Applicant father! How can he be this controlling when Applicant father and Respondent mother should be bringing up the children together. Clearly, Mr Shaw is acting on his own best interests as he does not want the parents to get on so that he can have more work as there will be more disputes if there is no parental communication. This is totally unethical. Applicant father has Whatsapp messages strongly supporting Applicant father’s allegation.

8. Mr Shaw has repeatedly failed to follow instructions from his client, the Respondent mother. For instance, Respondent mother wanted to arrange contact with Applicant father once every two weeks for 6 hours whereas Mr Shaw was advising to the Court that contact should only be once per month.”

70. Again the father has shown no regard for the confidentiality of the proceedings. Further the allegations have again no substance to them. Whatever was said between Mr Shaw and his client is covered by legal professional privilege. Mr Shaw was instructed by solicitors, who would have been well able to assess whether Mr Shaw was acting properly or not. Any issues in the hearings before me could have been aired by the father then and there, rather than being raised as the subject of a complaint to counsel’s chambers.
71. In my judgment, the injunction I have granted in respect of Mr Phillips should be extended to be a general injunction against the father making any complaints without the permission of the Court. Since the father may be considering whether to bring complaints against me and the other judges who have heard his case, the order should provide that any application by the father for permission to use confidential materials should be placed before the designated family judge. Although I am making order forbidding the father from making a complaint about judicial office holders without the permission of the designated family judge, I am not extending this injunction so as to protect myself, since I cannot be a judge in my own cause.

The father’s “skeleton” argument

72. Following the hearing on 18th August 2023, I gave directions limiting the parties to the provision of skeleton arguments of a maximum of ten pages. The father had previously objected to this, saying:

“Submissions limited to 10 pages: This is one of the reasons why I will be claiming unfair trial. There is no way I can outline my case in just 10 pages! Enforcing this results in an unfair trial. Please state that father disagrees with this limitation as he did at the hearing in June 2023.”

73. Unfortunately, the father deliberately ignored the direction that he serve a *skeleton* argument. Instead he served a ten-page “closing submission statement”. Because the document is in pdf format, I cannot tell the precise font size. It is, however, very small. I could not read the font save by using the zoom function on my computer. From other documents which he has served in word format, it is likely to be in 7.5 point size. This coupled with single spacing and narrow margins, meant that the document contained 16,469 words. This is the equivalent of 2.7 per cent of the length of *War and Peace*.
74. I summarised the law in relation to excessive length of submissions in *WWRT Ltd v Carosan Trading Ltd* [2021] ECSCJ No 784, <https://eccourts.org/judgment/wwrt-ltd-v-carosan-trading-ltd-et-al> which pointed to the numerous breaches of the Overriding Objective caused by immoderately long written submissions. It means that the other parties to the case have to read the submissions and an inordinate amount of the Court’s limited resources have to be given to the party submitting the excessive submissions.
75. Accordingly, I directed that the father pay the costs incurred by the other parties resulting from the excessive length of the father’s closing submissions.

The mother’s costs

76. The mother’s solicitors have served a schedule of the costs claimed in accordance with my judgment above. It amounts to £579.00 plus VAT. The VAT was originally wrongly calculated, but the correct figure of £115.80 has been substituted. The total is £694.80. The partner’s hourly rate is billed at £280; the paralegal at £150. The father makes no complaint, and could make no complaint, as to the hourly rate. The overall sum claimed is in my judgment proportionate.
77. The father has served eight pages of objection with a further twelve pages of annexes. Much of these submissions sought to challenge the decision as to costs which I made above, which I do not propose to reconsider. As to the submissions as to the amount

of the costs, which are the relevant issues on the assessment of costs, the father's main objection is as to the length of time taken to read documents. In my judgment, the time spent is wholly reasonable and indeed longer might have been justified.

78. The father criticises the solicitor for forwarding various of his emails to the mother about the complaint he had made about Mr Shaw. Again, the solicitor is obliged to keep his client informed about relevant steps in the proceedings and to advise her about the significance of this attack made against her counsel. There is no difficulty in my judgment with a solicitor charging one unit for reading a substantive email from the father and then charging another unit for forwarding the email with his comments to the mother. A twelve-minute phone call with the client on this subject is wholly reasonable.

79. I disallow nothing.

Permission to appeal

80. The father applies for permission to appeal. One difficulty he faces is that he has not requested a transcript of the various judgments and reasons I gave on 18th August 2023 or any of the evidence adduced then. I raised this matter with him on 28th September 2023. He said that he not requested and did not intend to request a transcript. The result is that I have not been able to peruse the transcript of evidence nor correct and approve the judgments I gave.

81. Another difficulty with his application for permission is presentational. He has not served grounds of appeal and skeleton argument separately. As a result it is sometimes difficult to identify the particular point which he says gives rise to an arguable ground of appeal.

82. The first ground of appeal is against my decision that it is neither in the children's interest nor proportionate to adjudicate on the father's application for enforcement and consider punitive outcome for the mother as expressly sought by the father. The father asserts that "the children will suffer greatly as a result of a lack of contact with their father as a result of no consequences on mother breaching contact orders even though she has been warned a number of times before." With respect this does not in my judgment establish an arguable ground of appeal. Although there may be other

ways of arguing an appeal on this issue, the most likely would be for the father to show that I had failed to take a relevant consideration into account or reached a conclusion which no reasonable judge would have reached. He makes neither assertion and in my judgment neither assertion would be upheld on appeal. Accordingly, this ground of appeal has no reasonable prospect of success. Nor are there any other grounds on which permission to appeal should be granted.

83. The second ground is that the “father adds a great deal of value to the children’s lives, [but that] this evidence has been disregarded.” I do not accept this. In para 34 above, I recite Mr Phillips’ evidence of the positive elements of the father’s contact with his children. This, however, has to be balanced against the risks which he identifies.
84. The third ground has two elements. It is submitted that my refusal to order shared parenting “breaches The Equality Act 2010 and the Human Rights Act as mechanisms should be put in place to facilitate shared parenting as this is in the best interests of the children. The Court cannot see this as it presided over an unfair trial where applicant father was not given sufficient opportunity to expose the weaknesses in the social worker report prepared by David Phillips that the Court heavily relied upon. A re-trial is required.” The duty to give primacy to the interests of the children under the Children Act 1989 is in full compliance with the duties of equality and respect for human rights. It is true that the father only asked Mr Phillips two questions. However, that is not because I forbade him from asking more. A transcript would show what transpired.
85. The fourth ground complains that I have not addressed the foreign passport issues in this judgment. That is because I gave an oral judgment on 18th August 2023 explaining the order I was making in respect of the passports.
86. The fifth ground is that making a section 91(14) order is “not in the best interests of the children as circumstances change.” As I set out in para 52 above, a section 91(14) order merely creates a filter. It does not prevent the father applying for a variation of the contact arrangements if there is a change of circumstances; he merely requires permission.
87. The sixth ground is that the mother (he asserts) does not wish that a non-molestation order in her favour be made. Contrary to the father’s assertion, the mother’s solicitors

have not sought to change the Court's view that a non-molestation injunction is should be granted. It is through them that any representations to the Court should be made. This is particularly so given the father's behaviour.

88. The seventh ground is that "[w]ithout local authority involvement the children will cease having contact with their father as a result of the success of the [section 91(14)] Application and Court deciding to refuse the C79 application for enforcement." This misunderstands the purpose of having local authority involvement: they are not involved with enforcement of Court orders.

89. The eighth ground asserts:

"Costs are awarded against the father evidencing how he is victimised because he is fighting so hard for his kids. A man is not permitted to fight hard for his kids in the UK feminist family courts without victimisation. Applicant father will put a strong appeal to evidence that it is unfair and unreasonable that costs have been awarded against him. Father has asked for additional information on the costs and Judge has stated that this is not proportional. Judge is showing how biased he is as these costs are material to the father and what father is seeking is very proportional to him as information would not take long to provide. This is yet another example of how this Judge operates to benefit mother! An appeal is necessary."

90. The costs awarded are not intended to victimise the father. They represent costs incurred by the father's unreasonable and improper behaviour as explained above. The father's request for additional information as to the costs was unnecessary: a solicitor's certification of a schedule of costs is sufficient to show the time spent and that the monies claimed are properly recoverable. Further, the additional work required of the solicitor to answer the father's questions would incur disproportionate costs, in view of the size of the costs claimed.

91. Accordingly, grounds 2 to 8 of appeal have no reasonable prospect of success. Nor are there any other grounds on which permission to appeal should be granted.

92. The father then has a separate section giving no less than eleven grounds of appeal, with the numbering repeated. The first ground is that one day was insufficient for the hearing. This is a criticism of an earlier decision by District Judge Saunders to allocate one day to the hearing. It cannot be a ground of appeal against my orders. In

any event, the matter was adjourned for a further half day hearing on 28th September 2023, so the problem was alleviated.

93. The second ground is a long submission on the evidence of Mr Phillips. However, the submissions do not identify any appealable point against the determinations I made. The fact that the father disagrees strongly with my assessment of Mr Phillips' evidence is not a valid ground of appeal.
94. The third ground contains a number of threads. It is submitted that I should have allowed the father to ask direct questions of the mother on 18th August 2023. In the light of his behaviour that day, I regret to say I find this submission frivolous. It is said that I did not ask the mother all the questions he had put in writing. This is true, but I gave reasons at the time why I did not put certain questions to the mother. The father does not identify the questions where I am said to have erred in not putting them to the mother. Nor does he engage with my reasons for not putting particular questions to the mother. The father submits that I should have engaged more vigorously in asking follow-up questions of the mother. He does not particularise this submission, so it is not on its face a valid ground of appeal. Moreover, as a general proposition, it would be wrong for a judge to engage in a classic cross-examination of a witness whom a party is debarred from examining.
95. The fourth ground is that I determined that "David Phillips could not answer any questions on the S37 and CAFCASS reports including the safeguarding letter." Without sight of the transcript, I have difficulty considering this ground of appeal. These were not, however, documents prepared by Mr Phillips. He could only give a limited response if parts of those reports had been put to him. The reports spoke for themselves. The father was able to comment on them and adduce evidence to contradict them.
96. The fifth ground is that District Judge Saunders refused the father representation (I presume by a qualified legal representative). This is not a complaint against my decision. Any appeal should be against District Judge Saunders' determination. In any event, the father has not identified a power which the Court could have used to appoint a representative for him.

97. The sixth ground is that “mother’s representative submitted a Contact Chronology schedule the evening before the 18 August 2023 hearing which was not included in the Bundle.” This is true, but the chronology was used for a limited purpose only and the father was able to deal with the chronology satisfactorily in his submissions.
98. The seventh ground is that various documents containing submissions were limited to ten pages. This applied to all parties and, was for the reasons I have already given, a reasonable case management decision.
99. The eighth ground was that the mother’s “representatives have engaged in communication with the Court without involving Applicant father resulting in an unfair advantage to Respondent mother and therefore an unfair trial. In addition, before the hearing commenced on 18 August 2023, a meeting was held in person between Recorder Jack, David Phillips and Respondent mother’s representatives which breached Family Court Procedure Rules as Applicant father should have been present.” This relates to a short discussion held in Court as to how screens were to be set up to prevent the father seeing the mother. He does not identify any other communications said to have occurred between the solicitors and the Court.
100. Because the hearing was in one of the basement courts in the Royal Courts of Justice, the usual arrangement of putting a curtain around the witness box was not possible. Instead the mother had to be seated in (what I think would have been) the journalists’ box on the far side of the court from the father with the screen between them to separate her from the father. Only this —essentially administrative — matter was discussed. It was not practical to have both the father and the mother together in court while the arrangement of the screen was being discussed.
101. The ninth ground is that District Judge Saunders reduced the hours of contact the father had. This is not a matter determined by me. It cannot be a ground of any appeal against me.
102. The tenth ground is that the father had the right to make oral representations before counsel for the mother made his submissions. He cites no authority for this proposition. The hearing as I recall was quite fluid with both the father and Mr Shaw interacting with me. Without a transcript it is difficult to identify any way in which the father might have been prejudiced.

103. The eleventh and last ground is that I had not read the papers. This ground appears to be based on my not giving an immediate answer to the father's questioning me as to particular documents which I had received. All the documents in this matter were in electronic form. Skeleton arguments, position statements etc came in piecemeal. It thus took a little time to check that a particular document had been received. Without a transcript, it is difficult to identify which documents he alleges I had not read.
104. In my judgment none of these grounds of appeal have a reasonable prospect of success. Nor are there any other substantial grounds for granting permission to appeal. Accordingly I refuse permission to appeal.

Conclusion

105. Accordingly, I:
- (a) dismiss the father's application for joint care;
 - (b) direct that there be supervised contact at the maternal grandparents' for up to three hours once a month;
 - (c) make an order under section 91(14) of the Children Act 1989 against the father preventing him making applications in this matter for a period of five years without the permission of the Court;
 - (d) refuse to make a family assistance order;
 - (e) grant a non-molestation order against the father for the protection of the mother for one year;
 - (f) refuse the father's application for retrospective permission to make a complaint against Mr Phillips;
 - (g) grant an injunction preventing the father, without the permission of the Court, from disclosing matters which should remain confidential or

from making complaints against those involved in this matter (other than myself);

- (h) direct that any application for permission to use confidential materials or to make complaints should be referred to the designated family judge;
- (i) order that the local authority do have its costs of this injunction, to be the subject of detailed assessment if not agreed;
- (j) order that the mother and the local authority do have the costs incurred by the prolix written submissions of the father made for the hearing on 28th September 2023;
- (k) assess the mother's costs under the order for costs summarily in the sum of £694.80; and
- (l) refuse the father permission to appeal.