NEUTRAL CITATION NUMBER: [2024] EWFC 55 (B)

THE FAMILY COURT

SITTING AT OXFORD

HEARD ON 11TH TO 13TH MARCH 2024

BEFORE HER HONOUR JUDGE OWENS

M

And

F

The parties and representation:

The Applicant, M, represented by: Ms Adams, Counsel

The First Respondent, F, acting as a litigant in person but with a Qualified Legal Representative, Mr Erhabor, Solicitor, appointed for cross examination of the Applicant

This judgment is being handed down in private on 13th March 2024. It consists of 17 pages and has been signed and dated by the judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the child and the adult members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties and the child will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

Introduction

1. This is a Fact-Finding hearing to deal with allegations made in the context of Children Act proceedings. The parties are the two parents, M and F. The case concerns their child, A, who was born in 2020.

Background

2. The parents met abroad in 2010, moved to the UK in 2016, married in March 2019 and separated in June 2022. Divorce proceedings commenced in July 2022, though the parties remained living in the same property. In May 2023 M applied for a Child Arrangements Order in relation to A.
3. The First Hearing Dispute Resolution Appointment (FHDRA) was held in August 2023 before Justices at which, with CAFCASS safeguarding information and input, it was ordered that A was to live with M but spend unsupervised time with F. That time was two hours every Tuesday. Allegations about each parties' behaviour were being made at this point so directions were made for each party to supply details of those allegations and their evidence in support.
4. A Dispute Resolution Appointment was to be listed on 2nd October 2023 at which the court was due to consider schedules of allegations produced. It is not clear why the court in August felt that schedules were appropriate in light of recent caselaw about domestic abuse allegations, but the court in August correctly noted that Practice Direction 12J was engaged and determined that a separate Fact-Finding Hearing was not required at that stage. Directions were made for the Local Authority to disclose information in relation to their involvement including any previous assessments. The Home Office was also directed to supply information in relation to F's immigration status. The further Dispute Resolution Appointment was to be scheduled for 2nd October 2023 as I have noted, however F appeared to be seeking permission to remove A from the jurisdiction for a holiday

potentially in a non-EU non-Hague Convention Country, so the matter was re-allocated to a Circuit Judge.

5. On 19th October 2023 I conducted a hearing ostensibly to deal with review of a prohibited steps order made to prevent F from taking A out of the jurisdiction. However, no application was made by F either to take A abroad or to vary the previous order so I directed that the Prohibited Steps Order should continue. Time for A with F was amended to take place every Sunday from 2pm to 4pm, with a plan to increase this after 4 sessions to 2pm to 5pm. I also reconsidered Fact-Finding and directed that a separate Fact-Finding hearing was required given the serious nature of some of the allegations, and that F continued to seek a shared care arrangement and would not accept any restrictions about the time that A should spend with him or his interactions w M in relation to those arrangements for A. The parties were directed to file and serve responses to each other's allegations. A direction was also made for HMCTS to fund a Qualified Legal Representative (QLR) to cross examine M since F was a litigant in person who indicated that he could not afford to fund a legal representative and was not eligible for public funding.
6. A Directions Hearing/Pre Trial-Review was held before me on 30th November 2023. The QLR attended this hearing and assisted with identifying the scope and likely length of cross examination that would be conducted to put F's case. By this point F had not seen A since August, despite unsupervised contact still being permitted by court order. He made it clear that it was not the practicalities of when A would see him under the interim arrangements that were the issue, but rather that F would not agree with any arrangement that imposed limitations on how and when A spent time with him. In fact, he persisted in viewing it as 'his' time with A despite being told that the perspective of the Family Court was about A's time with each parent. In the end, despite trying to persuade F of the merits for A of him spending time with her, and despite M being in complete agreement with the continuation of similar arrangements to those that had been in place before, I suspended the order for A to spend time with F because of F's refusal to participate in those arrangements. The case was listed for a 5-day Fact Finding Hearing before me commencing on Monday 11th

March 2024 and both parties were directed to attend court by 9am on the first day ready for a 10am start. Directions were also made for both parties to file final evidence including supporting witness statements from M's witnesses.

7. On Friday 8th March 2024 late in the afternoon, F applied on a C2 to adjourn this Fact-Finding Hearing. His reasons were that he had taken on new employment and was required to attend training for that job and would be unable to take 5 days absence from work and would use the time in between now and the new listing to obtain legal advice and representation. He gave no date for having started a new job, and provided no evidence in support of his claim that he had started a new job and was required to attend training in this week, nor that he was unable to take 5 days absence from work. He was notified by email at 15.37 hours on 8th March 2024 that his application was refused because he had not provided details of when he started this new role in order to allow the court to assess whether he had made the application in good time since the hearing had been listed nearly 4 months ago, he had also not produced any evidence to support his contentions that he was required to attend a mandatory training course or that he had told his employer about the requirement to attend court and been refused absence to attend court. My order refusing the adjournment also noted that he had had time prior to 30th November 2023 and since to organise legal representation and had not done so, leading to the appointment of a QLR.

8. F had not attended court by 10.15am on Monday 11th March 2024, and the hearing commenced at 10.20am in his absence. Having heard from Ms Adams and Mr Erhabor, I stood the case down briefly to see if the court office could make contact with F by phone. Mr Erhabor also indicated he would try to make voluntary contact with F, even though Mr Erhabor was not representing F. The court office was able to contact F by phone and F initially seemed to say that he had not received the order refusing the adjournment but had had an email from the court office sent to him on Friday. When it was pointed out to him that only one email had been sent to him on Friday and that was the one with the order refusing the adjournment, he indicated that he was not in Oxford but would not say where

he was. It also became apparent that he had responded to the 8th March 2024 email by email sent from his email address on Sunday 10th March 2024. In that second email he repeated that he could not be absent from work for 5 days but did not enclose any evidence in support of that contention. It was also apparent from his communications with the court office that he believed there had been a delay in the court processing his application, but he was advised prior to making the application that he would need to pay the appropriate fee as well as submit the form C2 and he failed to make the necessary payment despite chasing by the court office until Friday 8th March 2024. I am satisfied that he failed to make the application promptly, including paying the necessary fee and that he had no good reason for doing so. I also remain satisfied as I was on 8th March 2024 that he had no good reason for seeking to adjourn this Fact-Finding hearing and that the case should proceed. Having heard from Ms Adams and Mr Erhabor, the latter believing that he had sufficient to cross examine the witnesses as QLR even though F had not filed a final statement as directed, I determined that the case should proceed in the absence of F with the QLR putting such questions as he was able to on the basis of the limited information from F about his case.

9. I have read the evidence contained in the Bundle for this hearing and heard the oral evidence of M and her two witnesses, namely the maternal grandmother and a friend. F did not file a written statement as he had been directed to do by 4pm 29th February 2024, and did not attend the earlier part of this Fact-Finding hearing so his 'evidence' is limited to a document he filed on 20th September 2023 (C119) and his responses to M's allegations filed on 9th November 2023. I have used the word 'evidence' in inverted commas because neither of the documents produced by F are signed or dated and neither contain a statement of truth as required by the Family Procedure Rules, so they are not proper witness statements. At 2.50am on 13th March 2024, F emailed the court office with various documents which appeared to be an attempt to file evidence. Again, none of the documents produced were in the required format and contained no declaration of truth. They largely repeated various allegations that the Court had previously directed were not

permitted to be pursued as they were not relevant. They also contained two letters from other individuals, potentially as character evidence, though again neither were in the required format and F did not have permission to file additional witness evidence. There was no explanation for his failure to file his statement as directed by 4pm on 29th February 2024. I note that F was told by me in the two previous hearings, and it is clearly stated on each court order, that no party may file evidence unless permitted by court direction. The last court order (and at least one of the previous court orders) also made it clear that a written statement had to contain a declaration of truth and must be signed and dated by the maker of the statement. F's last-minute attempt to produce written evidence is clearly in breach of the court direction setting a deadline for him to comply and seems to be a blatant disregard of the Family Procedure Rules. Even if F had produced documents in an admissible format and produced a reasonable explanation for their late production, producing them so late in the hearing after closing submissions had been heard risked preventing the other party from being able to fairly respond. However, since F did not attend the earlier part of the hearing and has not provided any explanation for the late production of these documents (which in any event are not admissible), the issue of whether this might have prevented an effective hearing did not arise. The documents were not admitted given the absence of explanation for their late production, and the absence of any attempt to comply with the procedural formalities of written evidence, and I have therefore completely disregarded their contents in considering the issues in this Fact-Finding Hearing.

10. F attended court on 13th March 2024. He was given an opportunity to explain why he failed to attend on Monday and to add anything to the application to adjourn which had been refused. Despite being asked repeatedly to confirm when he started the job that he said meant he had been required to attend training this week, he failed to answer the question. I concluded that he failed to answer the question because he knew that it would reveal he had started the job with sufficient time to make any application to adjourn on proper notice to all concerned. As a result, I proceeded to give judgment in the Fact-Finding.

Parties' positions

11. M seeks six findings about F's behaviour, which can be summarised and categorised as follows:

    a) Physical abuse of her

    b) Emotional abuse of her

    c) Psychological abuse and coercive control of her

    d) Threats to remove A from the jurisdiction

    e) Emotional abuse of A

    f) Failure to parent A in a way that protects her from harm.

12. F seeks one finding about M's behaviour, which can be summarised as follows:

    a) M has prevented A from having a relationship with him.

Relevant legal considerations

13. Whoever makes an allegation has the burden of proving that it is true. They must do so to the civil standard, i.e. on balance of probabilities (***Miller v Ministry of Pensions [1947] 2 ALL ER 372***, and also considering ***Re B (Care Proceedings: Standard of Proof) [2008] UKHL 35, [2008] 2 FLR 141***. An allegation will therefore be proved if the person making it establishes that it is more likely than not that it happened. The seriousness of the allegation or the seriousness of the consequences make no difference to the standard of proof to be applied in determining the facts. Findings of fact must be based on evidence and not on suspicion or speculation (***Re A (A child) (Fact finding hearing: Speculation) [2011] ECWA Civ 12***). Evidence is also not evaluated and assessed separately: "*A Judge in these difficult cases must have regard to the relevance of each piece of evidence to the other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof*" (Butler Sloss P in ***Re T [2004] ECWA (Civ) 556***).

The court looks at the *'broad canvas of the evidence'* and *"the range of facts which may properly be taken into account is infinite"* (***H and R (child sexual abuse: standard of proof) [1996] 1 FLR 80***). It is, however, not necessary to determine every subsidiary date-specific factual allegation (***K v K [2022] EWCA Civ 468).***

14. I have taken into consideration the principles outlined in ***Re H-N and others (children) (domestic abuse: finding of fact hearings) [2021] EWCA Civ 448*** with regard to domestic abuse allegations. **Practice Direction 12J Child Arrangements and Contact Order: Domestic Violence and Harm** is also relevant which provides key definitions of domestic abuse.

15. A Court can take into account the demeanour of a witness or the way in which they gave evidence, but needs to be careful in approaching this, noting that in the case of emotive evidence a truthful witness may stumble and struggle whilst giving their evidence, whilst an untruthful witness may give their evidence in a composed manner. The Court may be assisted by internal consistency of evidence and considering how it fits with other parts of the evidence.

16. The principles outlined in ***R v Lucas [1981] QB 720*** may be relevant. Where it is alleged that a witness may be lying that there can be many reasons why someone may lie including shame, humiliation, misplaced loyalty, panic, fear, distress, confusion or emotional pressure, and that just because a witness may lie about one aspect of their evidence it does not necessarily mean that they may be lying about other aspects.

17. I have borne in mind that a Court has to draw a distinction between abusive behaviour or actions that either cause or risk causing harm, and poor behaviour which falls short of being abusive or causing or risking causing harm. Hence the need for the Court to focus upon those findings which will have a material impact on child arrangements if proved.

18. The case of ***Re S (Parental Alienation: Cult) [2020] EWCA Civ 568*** is relevant given some of the issues in this case. As was noted in that case, it is not uncommon for there

to be difficulties in a parent-child relationship that cannot fairly be laid at the door of the other parent. That case emphasised the importance of early fact-finding and noted (drawing on comments by the President of the Family Division in 2018) *"that where behaviour is abusive, protective action must be considered whether or not the behaviour arises from a syndrome or diagnosed condition. It is nevertheless necessary to identify in broad terms what we are speaking about. For working purposes, the CAFCASS definition of alienation is sufficient: "When a child's resistance/hostility towards one parent is not justified and is the result of psychological manipulation by the other parent". To that may be added that the manipulation of the child by the other parent need not be malicious or even deliberate. It is the process that matters, not the motive" (para 8).* I have also had regard to the decision by Sir Andrew McFarlane P in ***Re C ('Parental Alienation'; Instruction of Expert) [2023] EWHC 345 (Fam)*** which considered what needs to be established to enable a court to conclude that alienating behaviours (the preferred term) had occurred. Three elements need to be established:

a) the child is refusing, resisting or reluctant to engage in, a relationship with a parent or carer;
b) the refusal, resistance or reluctance is not consequent upon the actions of the non-resident parent towards the child or the resident parent; and
c) the resident parent has engaged in behaviours that have directly or indirectly impacted on the child, leading to the child's refusal, resistance, or reluctance to engage in a relationship with the other parent.

19. The burden of proving that there have been alienating behaviours falls on the parent alleging them. Behaviour of a child is not evidence of the behaviour of an adult, and the fact of a child's refusal to spend time with a parent does not automatically mean that the child has been exposed to alienating behaviours from the other parent. The fact that allegations of abuse may be found not to be true is also not necessarily sufficient to prove alienating behaviours since there can be a multitude of reasons why a court may not find

allegations of abuse to be proved, hence the three required elements above need to be established.

Analysis

20. M is the applicant and makes the first allegations in the chronology of these proceedings. She therefore bears a burden of proof to prove them on the balance of probability. F does not have a burden of proof to disprove her allegations. I have therefore considered M's allegations and evidence in support first.

21. In relation to physical abuse, M's allegations are detailed on her C1A dated 26th May 2023 (B35), and in her two statements dated 30th August 2023 (C68-C118) 2nd November 2023 (C142-C165). These detail F making threats of violence from around 2016, raising his hand to her during arguments, occasionally shoving her or throwing items during arguments, culminating in his pinning her by her neck on the bed on 4th December 2021 whilst threatening other assault. In her oral evidence to me she confirmed her written evidence about these allegations and explained that in the December 2021 incident he grabbed her by the back of her neck and forced her face down onto the bed. It is clear from her written evidence about this that A was on the bed and crying at the time (C72).

22. In terms of M's allegations of being emotionally abused by F, again her written evidence is as noted above. She explained in her oral evidence to me, as set out in her written evidence, that there were aspects of this sort of behaviour and the other allegations about F's behaviour towards her that were present at times before they married, but that it increased over the period of their relationship and worsened twice, first when they got married in March 2019 and then again when she was pregnant in September 2019.

23. In her oral evidence, she confirmed that F would insult and belittle her, as well as engaging in long periods of 'stonewalling' her. She explained that the latter meant he would refuse to discuss things that they needed to discuss and would range from lasting for a few hours to sometimes days or weeks. She described him simply refusing to respond to reasonable enquiries from her, sometimes turning up the television volume to drown her out. At times

she would resort to texting him, she told me, as a means of trying to get him to engage with her and she has produced some of these texts as exhibits to her statement (see for example C100).

24. The next allegation concerns psychological abuse and coercive control illustrated by various examples of behaviour from F towards M. Her evidence, both in writing and orally to me, sets out that this included threats to leave her, intimidation including the threats of violence noted above, monitoring her movements and those of A, coercing her into sex, refusal to allow some friends and family to visit, not permitting her to leave the house as she chose, trying to limit her interactions with her friends and family outside of the house. In reality, although it is put as a separate item on her schedule, this also encompasses F threatening to remove A from the jurisdiction. In terms of coercing her into having sex, she gave credible and consistent evidence to me that he would do this after a period of 'stonewalling' her. In her written evidence she has produced texts which demonstrate that she would be trying to resolve issues with him and he would refuse to do so until she had sex with him (using, as she explained, a personal code between them which meant that when he said "no 5 min no talk"(C105) that was about sex). Her oral evidence about this was also clear, consistent, and compelling. She was very credible about feeling pressurised into having sex with F despite the issues in their relationship, and about the numerous instances of controlling and coercive behaviour that F subjected her to.

25. In addition, although corroboration is not a legal requirement for her to prove her allegations, M was able to produce two witnesses in support of some of the allegations. Specifically the maternal grandmother who gave credible and convincing evidence about two occasions when F tried to prevent M and A from spending time either with friends or family. These included F blocking M's car with his van so that she was unable to see her friends on 17th April 2021 which culminated in M having to ask to borrow her parents' car (C77 for M's written evidence about this and C180-C181 for the written evidence of the maternal grandmother). The maternal grandmother also confirmed that she was aware of two other incidents, one on 4th December 2021 when F locked M and A out of the house

and she ended up having to ring her parents for help and they had to ring F to ask him to open the door. It was this incident that ended up with F grabbing M by the back of her neck and forcing her face down onto the bed which I have noted earlier in this judgment. The maternal grandmother also gave clear and credible evidence about F ringing her and her husband to complain about M on occasions, and specifically about a second incident to the one on 4th December 2021. She told me that on 20th February 2022 he rang to complain about M taking A out for a walk in the cold and rain and becoming angry and unreasonable. M's written statement at C75 sets out her detail about the aftermath which shows that F became "uncontrollably angry", and she ended up having to ring her parents. The maternal grandmother and grandfather were so concerned by F's behaviour and clear anger that they took the decision to ring the police, something that F clearly does not dispute happened because he refers to the police arriving that night in his first document and provides a photograph of them on the doorstep (C120-C121, and C123). As M told me in her evidence, the police disclosure is woefully lacking since it does not confirm that the police were called and attended on this date, but F is the one who produces the photographic evidence of this, in fact. The maternal grandmother was also very clear in her evidence to me that F had made it clear to M that she and her husband were no longer welcome at the family home after this incident.

26. M's second witness was her friend who told me that she had arranged to meet up with M and another friend who also had a small child for a picnic with the two children on 17th April 2021. Her friend told me that she was on her way to the pre-arranged meeting point when she was telephoned by M to say that F had blocked her car on the driveway with his work van and that he was refusing to move it because he didn't want her and A to meet up with her friends. She gave clear and credible evidence, consistent with that of M and the maternal grandmother, that M was unable to get her car out because of F's actions, that F was listening in on the phone call at the time (which also supports M's allegations of F monitoring her), and that they arranged to meet at a different location which did not require M to drive.

27. Her final group of allegations relate to F emotionally abusing A by trying to physically prevent A leaving the house with M on two occasions and attempting to use A to get sympathy or emotional support, as well as refusing to co-operate with M in co-parenting A in a way that prioritises A's welfare and meets her needs. In addition to M's own evidence about this, and particularly the incidents noted above when A was present and exposed to F preventing M from leaving the house or physically assaulting her, M has also produced evidence from A's nursery (C91-93). These records show the impact on A of F's leaving without telling M or A where he was going, of his preventing M and A from leaving the house and F making comments to A about taking her abroad. I have also been concerned to note that F, both in his document at C166 and in the last hearing before me, has raised doubts about A's paternity. He told me in the November 2023 hearing that he wanted a DNA test because of his allegations that M had been unfaithful to him (even though he had no evidence of this), but also that the result would not affect his relationship with A. When he was asked about how A when she is older may view his doubts about paternity and his need to have proof that he was her father, he seemed totally unable to see that this may have any impact on A. I have noted that, as Mr Erhabor elicited in cross examination from M and both of her witnesses, there was also evidence of how much A clearly loved F and his demonstrating that at times despite their evidence about his abusive behaviour.
28. Much of M's evidence was not in fact challenged by F because either he has not addressed it in his 'evidence' provided to the court or has not participated in the hearing and thus not provided the QLR with information about the case he is pursuing against M. It is striking how little of F's written 'evidence' actually addresses any of the allegations, in fact. Instead, he has focused on what can only be described as a wholly irrelevant and deeply concerning character assassination of M. At one point, without the permission of the court, he sought to adduce evidence about M's behaviour many years before they met, including photographs clearly taken whilst she was at university. I determined that this was not

relevant or admissible and the photographs in question have been removed from the bundle at my direction.

29. M's written and oral evidence credibly described how scared F's behaviour made her feel, including when she was heavily pregnant with A. As Ms Adams submitted in closing, there is also ample evidence from M in the bundle which shows that she tried time and again to resolve the issues in her relationship with F, trying to get him to spend time with A (C115), and to engage with counselling and seeking the assistance of his church pastor (C154; C156). She also sought assistance on her own, which resulted in her being referred to specialist domestic abuse support (C89). All of this conveys someone who has been subjected to a pattern of abusive behaviour by F and yet who, as she told me, still loved him, and wanted him to have a relationship with his daughter who also clearly misses her daddy. All of this is also relevant when I turn to consider F's evidence and his allegation about M's behaviour.

30. F's allegation against M is that she has sought to prevent A spending time with him and has engaged in alienating behaviours. It is difficult to work out what precisely he relies upon to prove this, though. From the outset of the proceedings, it has been clear that M is willing for A to spend time with F and for that time to be unsupervised. Her only caveats have been around handovers being safe so as to protect her and A from the sort of abusive behaviour that forms part of her allegations against F. This is not necessarily the case in all cases where domestic abuse is alleged, and M is to be commended for such a child-focused approach. However, despite this, F has not seen A since last August and it appears that the only reason he has not seen A is his unwillingness to participate in spending time with A that is in any way curtailed by either court order or, perhaps more significantly, by the practicalities and needs of a child of A's age. I have already noted that M has produced compelling evidence to show the efforts that she has gone to both during the relationship and afterwards to try to ensure that A spent time with F. In addition, contrary to F's allegations about M trying to interfere with his visa application, M has produced evidence at C157-C164 to show that she tried time and again to help him with

his visa application. Considering the guidance in Re S which I have noted above, F has failed to produce any evidence to show that A doesn't want to spend time with him either. In fact, in the documents he has submitted there is absolutely no mention of A not wanting to spend time with him. Instead, he focusses on largely incoherent and irrelevant allegations about M's character and behaviour both before, during and after their marriage. It is a bit difficult to work out from his documents because they are so incoherent, but it seems at C123 as if he is alleging that M tried to prevent him from knowing about a medical appointment for A in February 2023. His account is a bit difficult to follow, but it seems he was working away and thought that M was reluctant to tell him whilst he was away that A was ill. When he came home, he alleges that she did not want to tell him which GP's surgery she was taking A to. What M said about this was that A was ill, she did tell F (and even on his own account at C123 it seems he did know she was ill before he came home), but that only one parent was allowed to accompany A to what was an out of hours emergency GP appointment because of lack of capacity at the surgery and residual Covid restrictions. F, of course, has chosen not to attend this hearing so has not given me any oral evidence about this or any of the disputed aspects. He has also, as I have noted, failed to produce written statements verified by a statement of truth signed and dated by him, so the evidential value of his documents is therefore limited.

31. M has produced credible and compelling written and oral evidence, supported by evidence from other sources including two witnesses in relation to some aspects that they also witnessed. She has accepted that there was one occasion where she behaved inappropriately as a response to F's abuse of her, whereby she thumped her hands on his chest. I did not find her evidence to be exaggerated and she was also a careful and reflective witness who very clearly agonised about having loved someone who has subjected her and A to sustained and corrosive domestic abuse.

Findings

32. Given my analysis above, I find on balance of probabilities that M's allegations about F's behaviour are proved. F has therefore subjected M to physical abuse, emotional abuse, psychological abuse, and coercive control, has made threats to remove A from the jurisdiction, and has subjected A to emotional abuse. I am also satisfied on balance of probabilities that M has proved that F has failed to co-parent A in a way that would protect A from a risk of harm. He has exposed A to his abuse of M, both indirectly and directly, and has failed to see A for several months due to his putting his own needs above those of A.

33. I do not find that M has done anything to prevent A from having a relationship with F and from spending time with him. In fact, the only person who has prevented A from spending time with him is F as I have noted. I am very concerned that F's behaviour within these proceedings, for example seeking to adjourn at the last minute without good reason, is a continuation of his abuse of M and further evidence that he is unable to put A's interests first.

Conclusions

34. Practice Direction 12J remains relevant now that I have dealt with the fact-finding element of these proceedings. Para 21 of PD12J makes it clear that the court needs to think carefully about whether CAFCASS should be directed to prepare a report under section 7 of the Children Act 1989. PD12Q is also relevant since PD12J makes it clear that a court may need to consider an order under section 91(14) preventing further applications to the Family Court under the Children Act 1989 in relation to A without leave of the Court. I am concerned that F has subjected both M and A to significant domestic abuse and is still behaving in a way that is abusive and there is evidence of an inability to put A's needs above his own. Balanced against that is A's statutory right to a relationship with both of her parents if it is safe and CAFCASS may need to explore with both parties what safeguarding steps may be necessary and practicable. Whether F is able to accept the

outcome of this fact finding and take steps to address his perpetration of domestic abuse may well be relevant to any welfare outcome of this case. It is also concerning that F has not so far shown that he really accepts the authority of the court and has not complied with previous court orders.

HHJ Owens

13th March 2024