

ENGLAND AND WALES / JUDGMENT

X the father v Y the mother

COURT

IN THE FAMILY COURT SITTING AT COVENTRY

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IN THE FAMILY COURT SITTING AT COVENTRY

IN THE MATTER OF THE CHILDREN ACT 1989

Coventry Combined Court

Much Park Street

Coventry

Date: 12 March 2025

Before : DISTRICT JUDGE MONTANARO

Between : X the father
- and -
Y the mother
Applicant
Respondent

Mr Pullinger for the Applicant Father

The Respondent Mother was not in attendance

Hearing date: 7 March 2025

JUDGMENT

This judgment was given in private. The judge gives permission for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court. Approved Judgment District Judge Montanaro: 1. On 21 November 2024 I gave judgment in respect of applications by Mr X, the Father, for a child arrangements order in respect of his daughter Z, aged 9. This included an order that a s.91(14) Children Act 1989 barring order made in

August 2020 be extended until Z's 16th birthday. This is an application by Father for permission to apply for a child arrangements order and separately for enforcement of the child arrangements order. The Mother, Miss Y has not had notice of these proceedings, nor have I joined Z as a party to the proceedings as she was in the previous proceedings. Accordingly, I have only heard from Father through his counsel Mr Pullinger. . 2. The 2024 proceedings were reserved to me and as a result I have an intricate knowledge of the extensive background and prepared a very detailed judgment. It is of no surprise to me that Father appealed my decisions and I note that there were forty-four separate grounds of appeal. At a hearing on 21 January 2025 HHJ Walker, Designated Family Judge for Coventry and Warwickshire, dismissed the application for permission to appeal as being entirely without merit. Consequently, I do not intend to be drawn into Father's observations about the lawfulness or otherwise of my order, an unnecessary detailed examination of the very long background which is contained within my judgment, or examine other orders I made which formed part of my judgment relating to applications unrelated to these proceedings. My focus only is on whether Father should have permission to apply for a child arrangements order and what should happen with his application for enforcement of the child arrangements order against the Mother. Brief Background 3. Father is a sex offender and has convictions for making false representations and fraud. Mother did not know of the sexual offences until she was pregnant. Father first applied to the court for child arrangements in 2017 when Z was aged 1. The outcome was no order for contact, for Z to live with Mother and costs to be paid by Father. It is stark that for much of the rest of her life Z has been subject to proceedings on and off. 4. There were further proceedings in 2019 which concluded in 2020 with Father having indirect contact three times per year and a s.91(14) Children Act 1989 direction until Page 2 Approved Judgment Z was aged 11 primarily because of concerns about risks of harm to Mother from Father's behaviour and risk of sexual harm. 5. By 2021 Father had completed some work around sexual risks and applied for permission to apply for a child arrangements order. On appeal it was determined Father should have permission. Early in the proceedings a decision was made removing the limit on frequency of the indirect contact which ultimately led to concerns about how Father approached that freedom. There was a five-day final hearing in June 2023 when Father's case evolved to one of seeking a psychological assessment, which was refused. The final order was for there to be indirect contact eight times per year. Father was at that time said to be undertaking work with a therapist and the expectation was this would continue to enable the Father to remedy his behavioural problems. The Recorder found, broadly, that Father appeared to show some insight at the final hearing. An appeal against that decision was refused as being totally without merit including that Father: "...had to show that he had gained insight into the effect of his behaviour, and it was clear that there is still sustained work that needs to be done. Paragraph 73 of the judgment is key. He needs to complete the work and show positive and sustained change." The 2024 proceedings 6. On 23 November 2023 Father applied to the court for a wide range of orders including live with and spend time with orders. The primary issues were a lack of a response from Z to indirect contact and allegations the Mother had changed Z's surname at the GP and school. Regrettably the existence of s.91(14) direction was not noticed, and the case listed for FHDRA. At that hearing, which effectively became a permission to apply hearing, Father's application was refused. He appealed which was also refused. 7. Ultimately on 9

February 2024 Father made a new application for permission based upon a probation report which was not previously before the court. I gave permission to Father to pursue his application on the basis of the contents of the report. Page 3 Approved Judgment 8. Z was joined as a party to the proceedings at a DRA on 16 April 2024. I said within the recitals to the order, responding to observations made by Cafcass in the safeguarding letter that: "The court is not able to assess meaningfully whether Father has changed or has capacity to change. The court remains of the view that there is an absence of specificity as to what Father needs to do and whether there is an underlying issue as to his capacity to change." I recorded the courts concerns about the impact of the proceedings on the Mother and the child. 9. On 23 May 2024, I appointed by consent a Dr A, to prepare a psychological assessment of the Father. There was a hearing in July 2024 when, amongst other matters, I also considered a C2 application from Father in respect of Z's school report which he said he had not been provided with a complete copy of. I indicated that recitals to the June 2023 order were not binding on the school and that the court could not make orders against the school in Children Act proceedings. This is significant because it is a feature of the present application that there have been further problems, from Father's perspective, with the school. 10. Following receipt of Dr A's report there was a DRA hearing. At that hearing it became clear it would be necessary for there to be a final hearing. Father disclosed then that he had recorded his appointments with Dr A, without her consent, and sought transcripts to be filed of these recordings. Dr A was very unhappy that she had been recorded without her consent and there were various issues/orders following this which very broadly enabled Father to identify areas of concern in the recordings and set out his position on them. Ultimately transcripts of these recordings were not obtained nor filed. An addendum from Dr A was directed. 11. At final hearing the Father sought the Mother to give oral evidence which I refused. Just prior to the Guardian giving evidence it became apparent that the Father had also recorded her meeting with him, which she was unhappy about, and the Father sought to rely on the recording although ultimately it proved unnecessary as an extract of the note of the meeting taken by the solicitor for the child was provided. 12. The bundle ran to 594 pages. I heard evidence from Dr A, Father, the Guardian and heard submissions. Dr A's assessment Page 4 Approved Judgment 13. Dr A assessment was significant in my determinations and said: "I conclude that Mr X was raised to see himself as special, superior to others and unencumbered by the usual behavioural boundaries, and did not learn to express his emotions freely. Hence, he likely, in my view, became motivated to seek power and control, lacked empathy, came to overemphasise status, appearance, social acceptance, money, or achievement and to be hypersensitive to rejection. He regards his verbosity as a strength and has demonstrated that he has a propensity to breach boundaries. Mr X is likely to become over-involved with others, though can experience this as smothering and feelings of emptiness can be experienced. Thus, there are many narcissistic elements to his personality. He has engaged in persistently deceptive behaviour (including what he described as mask-wearing). In combination, in my view, and supported by the results of psychometric assessment, these issues suggest that there are psychopathic features of Mr X's personality, which has implications for intervention, as discussed below. Mr X is aware that this is an issue which has previously been considered as applicable to him, by [his therapist]. I raise concerns regarding the impact of coercive control and psychopathic personality attributes on Mr

X's parenting capacity and risk profile, and suggest that it is these, rather than sexual re-offending that present the main risks in this case (though the risk of sexual re-offending, particularly as Z grows older, should not be ruled out) and in relation to the quality/effectiveness of the previous risk assessments and therapeutic work undertaken by Mr X- though these are no fault of his. Therefore, I suggest, many underlying attitudes of concern/risk factors are likely to remain- though I recognise that he has made some positive changes, and that there are some protective factors present. Hence, to enable Mr X to address the outstanding issues, I have suggested highly specialised psychological therapy, as well as bespoke intervention to enhance his parenting skills. Though I have reservations about prognosis in respect of the psychological work due to Mr X's psychopathic personality traits, I suggest that this is the only avenue to progress matters. I have made specific suggestions for psychologists who might be able to provide this intervention. Nonetheless, due to other factors of concern, I recommend that only on successful completion of that intervention, and a nurture-based parenting programme, should supervised face-to- Page 5 Approved Judgment face contact between Mr X and Z be considered." The therapy anticipated was around 25 to 30 sessions over a twelve-to-eighteen-month period. Dr A did not consider the therapy undertaken by Father previously was undertaken appropriately or took account of personality factors. It was noted that this therapy had stopped almost immediately following the June 2023 judgment. 14. Dr A expressed an opinion that: "the interventions accessed by Mr X have not been entirely appropriate or sufficient for his needs, and may even have enabled him to convince the LFF that he had changed, when in fact, as noted above, he may have simply learned what professionals wish to hear, or even to learn strategies to employ in respect of coercive control; it is known that those with psychopathic personality traits are able to use information that they have gained in interventions to enhance their manipulateness, for example, by presenting themselves as having changed." 15. In evidence Dr A was clear that she considered that it would be an "extremely risky experiment to allow [Father] any face-to-face contact" until therapy had been completed satisfactorily as assessed not only by the treating professional but with a review by an expert with the same qualifications as her. Dr A made clear she would consider undertaking the review/addendum report. Positions at final hearing 16. The Father's position at final hearing was that the assessment of Dr A was unreliable, he criticised her and alleged malpractice. He raised concerns about the approach of Dr A and had provided some examples, but also said that it was not a full assessment undertaken for psychopathy, only a screening assessment. He said his therapist considered Dr A got it wrong and that he has autism not psychopathy; that he is getting support from his GP and a diagnosis from Psychiatry UK (mentioned for the first time). Father said that he would undertake the work recommended by Dr A if the court considered it necessary. He considered only he could meet Z's cultural needs. 17. Accordingly, Father sought direct contact to commence at a contact centre. He considered the Guardian had not had sufficient regard to Z's wishes and feelings and raised concerns about the Guardian's analysis particularly that the Guardian considered there should be restrictions on the exercise of his parental responsibility. He considered the s.91(14) direction should be discharged. Page 6 Approved Judgment 18. The Guardian considered that Z had a good understanding of her identity and her cultural needs. School told the Guardian that due to issues with Father's communication there is now a single point of contact. Z's wishes and feelings were obtained, and

she sought indirect contact to increase to monthly which the Guardian supported. The Guardian was concerned about Father's behaviours including that he had sought to withdraw Z from all extra-curricular activities at school due to a dispute over what he saw as not being provided with information about music lessons. 19. Considering Dr A's report, the Guardian was satisfied that the risks were simply too high to support progression to direct contact, despite Z's wishes and feelings; and that the work recommended by Dr A needed to be completed first. She, appeared to me, genuinely frustrated that Father could not have more of a relationship with Z. The Guardian recommended an extension to the s.91(14) direction by two years and a range of specific issue orders which essentially permitted the Mother to make decisions about schooling and activities for Z without Father's consent.

20. Mother supported the Guardian's professional view.

Judgment

21. The determinations relevant to this application were that: i) "Father's behaviour in evidence showed features of the conclusions reached by Dr A." ii) "Father was evasive and despite even my attempts to re-word the question as I considered the answer important, he would only repeat that he would undertake it [the therapy recommended by Dr A] if I deemed it necessary [which I did]." iii) "I am entirely satisfied from everything that I have read and hear that on the balance of probabilities there are continued risks to the Mother and to the child from the Father's abusive behaviours" which included him contacting the NHS trust to request Z's medical records when he had had been told not to contact her GP save in exceptional circumstances; covertly recording the expert and Guardian; requiring Z to be withdrawn from music lessons and Page 7 Approved Judgment extra-curricular activities as information had not been provided to him which also caused a risk of emotional harm to Z. iv) "The whole purpose of the assessment [by Dr A] was to enable, very broadly, the court to understand what Father needed to do. He knew that and it is referred to in his documents. Whilst Father's evidence filed was critical of Dr A's report, his evidence was in my view starker, and he was forceful in his view that he does not accept Dr A's recommendations at all. This must be seen in the context of him seeking a diagnosis from other sources, and significantly, in my judgement that the work with [his therapist] stopped very shortly after the previous proceedings concluded." v) Indirect contact should take place twelve times per year and whilst that went against Z's wishes and feelings that "had to be balanced against the risks to Z of spending direct time with Father. Dr A is clear, supported by the Guardian, that direct contact will not be safe until Father completes the therapy recommended. This position mirrors those in the previous proceedings in where [the] Recorder concluded... that Father needed to undertake therapy for contact to progress to direct contact... In fact, the recommendations for direct contact have not changed even since the first set of proceedings.... The risks are static, the concerns about Father's behaviours are the same, although with Dr A's assistance they are in my judgement better defined and the therapy required is much clearer. I bear in mind that there is acknowledgment of positive efforts Father has made and positive changes, but these are not, in Dr A's or the Guardian's view,

enough, and I agree.” vi) “I do not agree with the Guardian that there will be no emotional harm to Z of not having a direct contact relationship with her Father, however on balance I am entirely satisfied that the risks of harm to Z because of his behaviours outweighs that risk of emotional harm.” vii) “In the exceptional circumstances of this case that it is necessary, proportionate and in Z’s welfare interests for there to be orders as follows: To permit the Mother without the consent of the Father to enable Z to attend: Page 8 Approved Judgment school trips, activities and lessons; extra-curricular activities and lessons; therapeutic treatment and consultations. To permit the Mother without the consent of the Father to enrol Z in a new school, including secondary school within Coventry and Warwickshire. To obtain a passport or visa for Z.” viii) “The Recorder in 2023 said “I have no difficulty in being persuaded that for any family to be continuously engaged in proceedings for years is not conducive to anybody’s mental health. It is a burden and it is a fatiguing and disruptive process that is invasive of normal thinking on a day-to-day basis, and that applies to the mother, the father, and indirectly, therefore, to Z.” I entirely agree... There is no realistic prospect of progress in the contact arrangements until Father has completed the therapy recommended by Dr A and been re-assessed. I have already found that there are no realistic prospects of Father completing that work. I hope, of course, he will reflect on that in time, but I fear his energies are being invested in proving that Dr A (and the Guardian) has ‘got it wrong’. The proceedings have provided a platform for the Father to be critical of Mother including of her parenting, make allegations about her and even with special measures, this has undoubtedly been a difficult experience. The Guardian has been clear about the impact on the Mother of these proceedings and the consequent impact on Z... The Father has through his actions has in effect made plain he will not stop until he gets what he wants. It must be right that the Mother have some respite against litigation, Father does need to undertake the work and I am satisfied that overall, considering the totality of the evidence, Father’s conduct must have had an impact on the Mother which will impact on her ability to parent Z.” ix) “The Guardian proposes an extension of the s.91(14) direction for a period of two years such that it would expire when Z is 13. I understand the rationale for that however it seems to me that it misses the key point. This case is about risk, a risk that will only be addressed by the Father undertaking therapy. I have already concluded that there are no realistic prospects of Father Page 9 Approved Judgment engaging with that therapy. That being the case, then what change will there be to the risks when Z is 13? In my judgement there will be none, these are static risks unless they are addressed. As I have observed above this is now the third set of proceedings where the same conclusions have been reached in respect of direct contact over a period of many years. I consider that it is almost inevitable that the Father will make an application upon the expiry of the s.91(14) direction, he would be perfectly entitled to do so as is his right. This would expose Mother and Z to another set of proceedings and if the therapy has not been completed, almost inevitably to the same outcome.” x) “I shall make a direction under s.91(14) Children Act 1989 that there shall be no applications under s.8 without leave for a further five years to the existing order (until 26 September 2031) with any application to be placed before me or the Designated Family Judge if I am not available. Of course, if Father completes the therapeutic work and is positively re-

assessed by Dr A (which I consider essential) Father can seek leave at that stage as he has done to date. The bar simply ensures that if there is no meaningful progress the Mother and by consequence Z, will not be disturbed. Father describes the last two applications where he has given leave as being meritorious, as leave was given, but I can say for my part I gave leave on the basis that there was the report from probation that indicated there had been progress. As the case has progressed it has become clearer that there has been no significant change since June 2023 and the amendment to the order to increase the indirect time is driven out of update wishes and feelings of Z. Considered against the emotional harm of the proceedings upon Z and Mother this has not been proportionate. What it does show, however, is that Father can successfully apply to lift the bar if he has successfully completed the work and been positively re-assessed by Dr A. This time, however, there is clarity as to what is required, and Father knows what he needs to do. If for whatever reasons Dr A is unwilling or unable to re-assess then Father would need to identify a suitable psychologist with equivalent expertise including both clinically and with preparation of court reports which I would anticipate Dr A would at least be willing to signpost Father to the therapy".

Page 10 Approved Judgment These applications 22. On 5 February 2025 Father made an urgent application for child arrangements orders asking the court to decide who Z lives with, who she spends time with and a specific issue order in to decide which school she would go to. 23. By 12 February the Father had made a separate application on Form C79 for enforcement of the November 2024 child arrangements order. 24. I gatekept both applications on 14 February 2025. I refused the application for a without notice order. I directed that the application for permission hearing be listed on 7 March 2025 with directions, if any, in respect of the C79 application to be considered at that hearing. 25. Father lodged a C2 application dated 20 February 2025, which did not actually seek directions, but attached a statement with exhibits. I clarified with Mr Pullinger in the hearing that my initial view was that Father really sought was permission to file that statement, which he confirmed as correct, and I gave that permission. Father's position 26. Father considers there is little to no risk of disruption to Z by the substantive applications. He refers to the legal tests for permission and says the court "must simply consider what has changed since the previous proceedings." He alleges that the Mother, who was given permission to serve a redacted version of the November order on the school, supplied an unredacted version. He links this to a decision by the school to no longer offer him a parents evening as his "legal entitled education Law right to parent consultation meetings..." which he considers an infringement on his parental responsibility. He says the Mother is deliberately obstructing his accessing parent's meetings. He says that I had reassured him that the court order would not cause any disruption to the provision of school reports and parent's evenings. Father effectively relied upon the same grounds in support of his application for enforcement. 27. The report from Psychiatry UK has been provided and diagnoses Adult ASD. Father contends that should be considered by a Part 25 expert presumably in any proceedings Page 11 Approved Judgment if permission is given. Father says, significantly, that he has now started work with a Dr C, clinical psychologist. He says that the experts suggested by Dr A were not available and the previous therapist referred

him to Dr C – emails dated 5 September have been provided. An interim report is available which says: “Notably, from the onset of the first session with Mr. X in December 2024, it was explained to him that the parameters of MBT-I treatment were specifically aimed to follow the MBT-I protocol, which is a psycho-educational protocol used to help orientate individuals to the concept of mentalization. It was advised that, as his treating therapist, I would be unable to comment on any transferrable skills gained within the treatment, nor would I be able to make a judgement on any behaviour change or reduction in risk. Mr. X was happy to proceed on the basis of this information.” and “Within the first session, the model of MBT was discussed with Mr. X and we reviewed a number of his treatment goals in line with the recommendations made by Dr A. It was further re-iterated that the nature of the work agreed, in terms of utilising the MBT-I protocol, would be aimed towards socialisation, and skills acquisition in line with the protocol. Mr. X has a number of sessions remaining in order to complete the MBT-I protocol, at which time further treatment recommendations can be explored.” 28. Father spends some time discussing the case law in respect of conditions being attached to a s.91(14) direction, which is impermissible, and he says “Nevertheless, The Applicant Father has taken the recommendations of Dr A seriously and has made significant steps in the right directions to address the concerns raised by Dr A. The Applicant Father says he has demonstrated significant positive change and this justifies further judicial review meeting the threshold of change required to be demonstrated by an s.91(14) order.” 29. An email has been provided from the school and this sets out that: “It is also noted in the order, there is an expectation of you that you will limit your enquiries of the school to “general educational progression by the way of an annual school report”. An annual school report will be made available to you at the end of each academic year. In view of the content of the order, the school will not be offering Page 12 Approved Judgment you any further parent consultation appointments. If you consider the school’s interpretation of the content of the order is inaccurate, you should take your own legal advice or seek clarification from the court.” 30. In the hearing it was indicated that the Father only seeks permission to pursue an application for an order that he may spend time with Z supervised in the first instance, alongside the enforcement application. The Law 31. I must bear in mind the overriding objective within rule 1 of the Family Procedure Rules when approaching this hearing. 32. I must have regard to Articles 6 and 8 Human Rights Act. 33. Part 18 Family Procedure Rules 2010 apply to an application for permission to apply under s.91(14) Children Act 1989. 34. In *Re G (Child Case: Parental Involvement)* [1996] 1 FLR 857 the court of appeal held that on an application for leave under s.91(14) the test is ‘is there an arguable case’. It is not whether there is a reasonable likelihood of the substantive application succeeding. 35. The test was further simplified in *Re A (Application for Leave)* [1998] 1 FLR 1 Thorpe LJ said “.. I would favour the simplest of tests. Does this application demonstrate that there is need for renewed judicial investigation. If yes, then leave should be granted.” This was affirmed in *Re S (Permission to Seek Relief)* [2007] 1 FLR 482 and subsequently in *Re S (CA 1989 s.91(14))* [2023] EWHC 1161 “Thorpe LJ’s test in *Re A* [1998] 1 FLR 1 set out at paragraph 53 above: ‘Does this application demonstrate that there is any need for renewed judicial investigation?’ and Butler Sloss LJ’s test in *Re P* [1999] 2 FLR 573 at

paragraph 54 above: ("The applicant must persuade the judge that he has an arguable case with some chance of success"). In our judgment the two complement each other. A judge will not, we think, see a need for renewed judicial investigation into an application which he does not think sets out an arguable case...⁷⁹. It is self-evident that a party who is the subject of an order under section 91(14) [of the Act] which has been made because of particular Page 13 Approved Judgment conduct by that party must have addressed that conduct if his application for permission to apply is to warrant a renewed judicial investigation or to present an arguable case..." 36. Key principles in *Re S (Permission to Seek Relief)* and *S v S* [2007] 1 FLR 1532 relevant to this application include: i) It is not permissible to attach conditions to a s.91(14) direction (for example, requiring a parent to engage in treatment); ii) It is however permissible for the court to indicate that unless a particular issue is addressed, any application for permission to make a subsequent application is likely to be unsuccessful.

37. Whilst it is possible for permission to be granted without notice to the Respondent the proper course should be for the permission application to be considered on paper or at a without notice hearing to determine whether it has merit. If the application is not dismissed it should be adjourned to be heard on notice. 38. r 4.1 FPR 2010 provides that that court may "(m) dismiss or give a decision on an application after a decision on a preliminary issue;" and "(o) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective." 39. r 4.4 FPR 2010 provides that the court may "(1) Except in proceedings to which Parts 12 to 14 apply, the court may strike out a statement of case if it appears to the court –
- (a) that the statement of case discloses no reasonable grounds for bringing or defending the application;
 - (b) that the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings;
 - (c) that there has been a failure to comply with a rule, practice direction or court order; or Page 14 Approved Judgment
 - (d) in relation to applications for matrimonial and civil partnership orders and answers to such applications, that the parties to the proceedings consent. (1A) When the court is considering whether to exercise the power to strike out a statement of case, it must take into account any written evidence filed in relation to the application or answer.
- (2) When the court strikes out a statement of case it may make any consequential order it considers appropriate...
- (5) If the court strikes out an applicant's statement of case and it considers that the application is totally without merit –
- (a) the court's order must record that fact; and

- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order. 40. Part 18.13 Family Procedure Rules 2010 provides that: If the court dismisses an application (including an application for permission to appeal) and it considers that the application is totally without merit –
- (a) the court's order must record that fact; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order. 41. A District Judge does not have the power to make a civil restraint order. 42. If a court is satisfied beyond reasonable doubt that a person has failed (without reasonable excuse) to comply with the provisions of a s.8 child arrangements order, it may make an 'enforcement order' imposing sanctions on the person in breach – s11J Children Act 1989.

Analysis

43. I am very pleased that the Father has reflected and decided to undertake the therapy recommended by Dr A. Nothing within this judgment is intended to detract from that Page 15 Approved Judgment positive step or discourage Father from continuing. 44. It is notable however that the Father appears to have been seeking a therapist to undertake the work recommended by Dr A in September 2024. Not once did he refer to that in the previous proceedings, he was adamant that he did not accept the recommendations of Dr A and was focused on what he expected to be an ASD diagnosis at the final hearing. I note in one email now supplied Father said to the therapist on 7 November that the court has made its judgment that therapy is needed for me, when in fact I had not actually delivered judgment then. I can only conclude this whole issue is another example of Father not being transparent which is bizarre given, in fact, it would likely have assisted his case and given everyone some confidence that he intended to undertake the therapy if this was known at final hearing. 45. Father now relies on my conclusions that he would not undertake therapy as being undermined by him undertaking it, and part of the reason why permission should be given. That is however a significant simplification of my determinations. I was abundantly clear that the work recommended by Dr A would need to be successfully completed and for him to have been re-assessed before there could be reconsideration. On his own case Father accepts that he has not successfully completed the work. Dr A envisaged the work would take twelve to eighteen months of between 25 to 30 sessions. Given the work started on 19 December 2024, there has only been two months and eleven sessions, and the therapist says Father "has a number of sessions remaining in order to complete the MBT-I protocol, at which time further treatment recommendations can be explored." The work therefore is incomplete. 46. Even if the work were complete, the therapist says in terms that she said at the outset to Father that she is "unable to comment on any transferrable skills gained within the treatment, nor would I be able to make a judgement on any behaviour change or reduction in risk." This simply reinforces the necessity for re-assessment by Dr A (preferably) or another expert that has the same qualifications if Dr A is unable or unwilling to undertake that. Without the work being successfully completed, and that having been

assessed to have worked, the court is unable to risk assess whether Father has made the required changes to safely have contact with Z. It is not sufficient that Page 16 Approved Judgment “Father is engaging well and taking the process seriously” as Mr Pullinger submitted, he is. 47. It cannot be ignored that a concern that has featured repeatedly is Father’s behaviour towards Mother. It is entirely consistent with Father’s behaviours previously that the Father has sought to blame Mother for the reason the school are not offering him parent’s meetings. At most, and I make no findings about this, the Mother may have sent an unredacted version of my order to the school. That can scarcely amount to the Mother obstructing Father from attending parent’s evenings as Father suggests. That was, on his own evidence, the decision of the school. It reinforces the need for the Father to undertake therapy and suggests there is substantial further progress required. 48. As is abundantly clear from my judgment in November, and my order the court did not impose conditions to the s.91(14) direction. Rather, I concluded the risks posed by Father’s conduct needed to be addressed before there could be reconsideration of contact. It was always for Father to decide if he wanted to undertake the therapy, and that was merely the vehicle by which the Father is to address his conduct based on expert opinion from Dr A. 49. The case law is clear “it is self-evident that a party who is the subject of an order under section 91(14) [of the Act] which has been made because of particular conduct by that party must have addressed that conduct if his application for permission to apply is to warrant a renewed judicial investigation or to present an arguable case.” The fact that Father has not successfully completed the therapy, and not been re-assessed positively means that the defects in his behaviour and conduct particularly towards others, that have been repeatedly found to be a risk to Z and Mother, have not been addressed. Accordingly, there is nothing to warrant renewed judicial investigation into child arrangements nor is he able to present an arguable case. The test is not, as Father suggested in his statement whether “he has demonstrated significant positive change” or indeed as set out by counsel in the position statement – albeit in the hearing he accepted that the tests as in para 34 above is the correct one. 50. In his application the Father in fact identified no grounds to merit reconsideration of child arrangements and was only concerned with parent’s evenings and Mother’s alleged disclosure of the full order. Turning to those issues the Father understands the Page 17 Approved Judgment court is not able to make orders against the school, as it is an almost identical issue to redacted school reports being provided raised in the previous proceedings and he even says in the application it is a matter of education law. Misinterpretation of the court order by the Local Authority is not the responsibility of the court or indeed the Mother. 51. A C79 enforcement of a child arrangements order application is as exactly as it says, enforcement of the s.8 child arrangements which are for indirect contact. It is not an application for breach of ancillary terms of an order. I specifically asked counsel in the hearing how it was that supplying an unredacted order was a breach of the child arrangements order however the position maintained was that there was a breach of the order. I regret that this substantially misses the point. The Mother is manifestly not in breach of the child arrangements order. The court order is a matter of public record. If it was sent by someone unredacted that is unfortunate but not capable of being part of an

enforcement application. Moreover, Mother could not be in breach of the child arrangements order by the school deciding not to offer parent's evenings. That was a decision of the school. In my judgment this is simply the Father seeking to find another means of having his grievances heard by the court and to provide a platform for criticism of the Mother. Even in the hearing counsel accepted that the purpose of the enforcement application was really to resolve the issue with the school which could, as the Local Authority suggested, have been resolved by an appropriate application for clarification of the order which it was said was exactly what was sought. No explanation was given as to why it could not have been pursued in another, more appropriate way. The application for enforcement is hopeless and has no basis in law. 52. I said in my judgment in November that "I do appreciate Mother's concerns about school information being shared with Father however these orders resolve the consent issues but at the same time do not prevent Father being kept informed or attending parents evening virtually, for example. In circumstances where the parents do not communicate at all, and this is not a case where there is no contact at all, that he needs to have some mechanism for Father to be kept informed about Z's progress. I recognise this puts the responsibility back on the school to manage the flow of information to Father, but I consider on balance these are the right orders for Z." I Page 18 Approved Judgment accept that there appear to be legitimate concerns as to how the Local Authority have interpreted my order, and for that I have sympathy with the Father, but equally he did not seek to clarify it with the court, as they suggested, but rather made these applications which are very different. In all the circumstances I do consider that it would be entirely appropriate for this paragraph of this judgment to be disclosed to the Local Authority so there is clarity as to what the court said. I make plain though, this court is not obligating the Local Authority/school to do anything and whether the school decide to offer parent's evenings is a matter for it – something Mr Pullinger accepted. I did not, as Father asserts, give Father any reassurance at the last hearing and what I said was that what I was not willing to do was be prescriptive about what the school should/must do by way of recitals which effectively amounted to orders against the school 'by the back door'. Decision 53. There shall be a separate order to be disclosed by Father to the Local Authority containing paragraph 52 of this judgment. 54. The application for permission to apply for a child arrangements order and specific issue order is dismissed. 55. The application for permission to apply, for all the reasons given, was totally without merit. 56. The application for enforcement is manifestly an abuse of process, is totally without merit and accordingly this application is struck out under r4.4(1)(b) Family Procedure Rules 2010. 57. Pursuant to Part 18.13 FPR 2010 the court should consider whether to make a civil restraint order. Accordingly, I do reallocate these proceedings to a Circuit Judge for consideration of the making of such order and shall refer them to the Designated Family Judge for allocation. 58. I have considered extremely carefully whether the Mother should be informed of the court's decisions. This hearing is without notice to her. I have concluded on balance that she should be sent a copy of this judgment at the expiry of the time for Page 19 Approved Judgment permission to appeal or after determination of an appeal if permission is given. If the issue of the parent's meetings is to be remedied the school will have to be informed that the court

has provided clarification. Almost inevitably Mother will also have to be informed. If she knows nothing of these proceedings she will be 'in the dark' as to what happened, and why. Whilst I consider that regrettable, I can see no alternative to there being transparency. 59. This judgement, duly anonymised, will be published. Page 20

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