

ENGLAND AND WALES / JUDGMENT

M v F (Children: Treatment of Expert Evidence)

COURT

to do so will be a contempt of court.

BEFORE

MR RECORDER ROWBOTHAM

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IN THE FAMILY COURT SITTING AT NORTHAMPTON

Case No. NN22P00645

Neutral Citation: [2025] EWFC 442 (B)

Wednesday, 5 November 2025

Before:

MR RECORDER ROWBOTHAM

Between:

M
– and –
F
– and –
X & Y
(children by their Children’s Guardian,
NYAS Caseworker,
Natalie Bell)

Representation: Applicant
1 st Respondent
2 nd – 3
rd Respondents
Ms Charlotte Osborne (Counsel) for the Applicant mother
Ms Rachel Watkins (Counsel) for the 1st Respondent father
Ms Harriet Lavis (Counsel) for the 2nd and 3rd Respondent children
Hearing dates: Wednesday, 23rd to Friday, 25th July, Monday, 29 September to
Tuesday, 30 September and Wednesday, 1 October 2025
Introduction

JUDGMENT

1. I remain concerned with the welfare of two boys, X aged 14 years and Y, who will be aged 12 years in one week's time. The children's mother is M, who is represented by Ms Osborne of Counsel instructed by Duncan Lewis Solicitors. The father is F, who is represented by Ms Watkins of Counsel instructed by HCB Group for this hearing (the father conducts litigation in person). Both parents share parental responsibility for the children. For ease of reference, I shall refer to M as "the mother" and to F as "the father" throughout this judgment. The children themselves were originally represented by Ms Patel of Counsel in July but have been represented by Ms Lavis for the final three days and closing submissions; they act through their Children's Guardian, Natalie Bell, a NYAS caseworker.
2. The originating application was made by the mother as long ago as 5 October 2022 by Form C100 issued that day, almost exactly three years ago. That application was made without notice and sought inter alia orders that the children live with the mother and prohibiting the father removing the children from her care. By Form C100 dated 13 October 2022, a cross-application was made by the father. It is common ground between all parties that these proceedings have become drawn out and require resolution now. The "no delay" principle under s.1(2) of the Children Act 1989 looms large in this case.
3. The matter appeared before me for a four-day fact-finding hearing, following which I handed down a written judgment dated 9 February 2024, published in an anonymised form under

[2024] EWFC 65 (B). I made a number of findings against the father concerning his behaviour during the final years of the marriage, which – when taken together – formed a pattern of controlling or coercive abuse within the meaning of PD12J. I found his conduct to have been 'oppressive, controlling and psychologically abusive', not least the occasions when he manipulated the mother into believing that she had been sleepwalking. As for the father's actions taken post-separation, I found that he had sought to undermine the mother's entitlement to social housing, legal aid and State benefits; his behaviour was controlling, coercive and malicious, 'designed at first to prevent or frustrate the mother's attempts to leave; then once she had left, he embarked on a concerted campaign to punish her for

doing so’.

4. The matter now appears before me to determine issues of welfare. This case raises questions as to how the court should approach welfare decisions where findings of controlling and coercive behaviour have been made; what (if any) significance do the particular findings have when determining arrangements for these children? How is any risk to be assessed and what is the role of professionals in this regard? The father (through Counsel) makes the point in written submissions that ‘[i]t is not part of the welfare checklist to punish the father for his conduct towards the mother’. That is a submission with which I agree entirely: the Family Court has no business in punishing the conduct of either parent. The fundamental principle enshrined at s.1 of the Children Act 1989, that a child’s welfare is paramount in all decisions concerning a child’s upbringing, makes no room for such penalisation. Factual background
5. A detailed factual background to this case is set out in my previous judgment and so is not repeated here. 6. In summary, the parties cohabited from 2010 until separation in October 2022, a relationship of some twelve years from which there are two children, X and Y. The family home at the point of separation was a three-bedroom rental property in Northamptonshire, where the father continues to reside and which is local to the paternal grandparents. The mother now lives in her own property; I understand that her family mostly reside abroad. The father (as he informed the expert) is self-employed, helping community groups raise money. The mother has previously worked as a teaching assistant but has not done so for several years following an accident at work; she is reliant on State support to meet her income needs. Procedural background
7. Again, a detailed procedural background was set out as at the time of the fact-finding hearing and is not repeated here.
8. These proceedings commenced some three years ago when the mother made a series of ex parte applications issued on 5 October 2022. The father’s on-notice cross-application for child arrangements followed on 13 October 2022. Upon reflecting how the proceedings have unfolded in the following three years since without notice orders were made against the father, I am reminded of the words of Mostyn J in *UL v BK* [2013] EWHC 1735 (Fam) at [52], albeit those comments were made in the context of financial remedies: It is worth remembering not only that the ex parte procedure is intrinsically unfair but also, and very importantly, that a case which begins with an ex parte order is usually poisoned from that point onwards. The unilateral step taken at the beginning of the case echoes down its history. Often the respondent is enraged by the step taken against him and looks to take counter-offensive measures. Every single subsequent step is coloured by that fateful first step. Costs tend to mount exponentially. And even after the lawyers close their files and render their final bills the personal relations of the [parties] will likely remain forever soured. A nuclear winter often ensues. How true that warning has sadly been proven. That is not to criticise the mother’s initial steps but, rather, to acknowledge the sad reality of how heated and protracted these proceedings have become, to the extent that all parties urged

upon the court the making of a s.91(14) bar to shield this family from further litigation.

9. This summary will pick up from the point of the fact-finding hearing, judgment for which was handed down on 9 February 2024. Both parties were directed to file statements in response to the judgment, confirming whether or not they accepted the findings. Cafcass were directed to undertake a report pursuant to s.7, to be filed by 17 May. That report was to deal specifically with the guidance at paras. 36 and 37 of PD12J (on which, see below). Final evidence was timetabled through to a dispute resolution appointment in June 2024. In the interim, the children were to spend time with the father for three hours on alternate Saturdays (or weekly for two hours if the father could afford it), professionally supervised in the community, with videocalls on alternate Thursdays.
10. The matter was restored to the court on 18 April 2024, when the mother sought – unsuccessfully – to vary the child arrangements. That request was refused by Her Honour Judge McCabe, DFJ, who maintained the arrangements as previously ordered while at the same time emphasising by way of recitals a number of expectations for both parties. It is clear from that order that both parties were concerned about the children’s knowledge of proceedings, the order recording that ‘should the children ask about the proceedings or the child arrangements in the interim or longer term, the joint message that will be given to them, is that the judge is going to work out what is best for the children so that they can have the best life with each parent’.
11. A s.7 report was prepared by Rinku Sharma-Lail of Cafcass dated 15 May 2024. Ms Sharma-Lail assessed the mother as being ‘at significant risk of ongoing abuse from [the father]’, noting that the father ‘does not accept the findings ... as well as evidence that he lacks insight about domestic abuse and the negative effects it has on a child’s development’. She expressed concern that the quality of professional supervision was deficient and exposed the children to emotional harm from ‘inappropriate conversations’. Oddly, the report concluded that the ‘safeguarding risks identified’ could not be resolved by a s.7 report and required an ‘in-depth assessment by the Local Authority’ via a s.37 direction. It was said that no further role existed for Cafcass.
12. At the DRA before me on 13 June 2024, all parties expressed their dissatisfaction with the recommendations of the s.7 report. The order records that I did not consider a s.37 assessment to be appropriate and that it was for the s.7 author to have undertaken a full risk assessment following my findings. In this regard, I consider that the Cafcass officer – having identified complexities arising from a risk of controlling behaviour – attempted to “pass the buck” to the local authority to do the hard work. I also noted that criticism was made of the contact supervisors and the paternal grandparents, and yet those individuals had not been spoken to. I declined the mother’s suggestion of an addendum s.7 report and acceded to the father’s request for the children to be joined as parties, with a rule 16.4 Guardian to be appointed from the National Youth Advocacy Scheme (“NYAS”). The Guardian, once appointed, was directed to provide an initial analysis ahead of a further hearing listed on 16 September.

13. NYAS was able to allocate a caseworker and Natalie Bell was duly appointed. In her initial report dated 1 September 2024, Ms Bell echoed many of the concerns raised by Ms Sharma-Lail surrounding the level and quality of supervision. At the hearing on 16 September 2024, therefore, a detailed 'Contract of Expectations' was agreed, to be appended to the order. Permission was given for the parties to instruct a single joint expert ("SJE") to undertake a psychological assessment of the parents, the identity of that expert to be agreed within the next seven days. Provision was also made for the Guardian, with input from the parents, to agree a child-centric narrative. Final evidence was timetabled through to a DRA on 21 January 2025.
14. Sadly, the matter was returned to court before the DRA due to the parties being unable to agree on a number of points. The parties could not agree on an appropriate professional to supervise contact, nor on the wording of the proposed narrative for the children. There was also a dispute as to whether or not the SJE should be provided with documents arising from the mother's historic application for Personal Independence Payments ("PIP"). At a hearing before me on 11 December, the narrative statement was finalised; I made clear my view that the life-story work with the children was now very much overdue and needed to be undertaken as a matter of urgency. For reasons not relevant to this decision, it was accepted by all parties that a new worker was required to supervise contact and directions were made for the appointment of the same. The SJE report was to be filed by 31 January 2025, with final evidence re-timetabled through to a two-hour DRA on 15 April 2025.
15. The Guardian's second report was dated 24 March 2025 and extended to some 84 pages plus appendices. Ms Bell proposed that matters concluded with 'a child arrangement order of shared care (equal time)' and attached at Appendix 7 a six-week transition plan that would move to a one week on / one week off model, with handovers via school on Fridays. The father agreed with that recommendation, as confirmed in his statement of 8 April 2025. In her statement dated 11 April 2025, the mother opposed the recommendations.
16. At the hearing on 15 April 2025, Dr Kevin Wright (the SJE) was directed to provide an addendum report and the matter timetabled through to a three-day final hearing on 23, 24 and 25 July 2025, with a pre-trial review on 26 June. The interim child arrangements remained highly contested, with the father and the Guardian seeking a progression to overnights, which was opposed by the mother. Upon hearing submissions, I gave a detailed ex tempore decision in which I discharged a previous prohibited steps order made against the father and directed that contact was to progress to unsupervised, with four hours every Thursday as well as on alternate weekends (four hours on Saturday and then again on Sunday). All handovers were either to be via school or the paternal grandparents.
17. The pre-trial review was heard by me on 26 June 2025. Time was extended for the parties' final evidence, with permission given to both parties to rely on letters/reports from their treating therapists regarding any work being undertaken. Otherwise, the final hearing remained as listed. It was necessary for the court to give a detailed ex tempore decision on several disputed issues, not least the question of whether or not the SJE should be called to

give live evidence, the mother's request for the same having been made out of time; for the reasons I gave on that occasion, the SJE was to attend the final hearing to be cross-examined. In the interim, the children's time with the father at weekends was extended from four to six hours, notwithstanding the father's request (as recorded on the order) for overnight stays to begin. The final hearing – Part 1

18. The matter appeared before me for final hearing over three days, commencing Wednesday, 23 July 2025. Even before the hearing had commenced, however, it was beset with challenges due to the fact that the mother had not been granted public funding and was therefore without representation. This issue having come to light very late in the day – and with no provision having been made for (for example) a qualified legal representative – the ability to proceed as an effective hearing appeared in doubt. The reasons for this situation are not apposite to this decision but, I note, may well be relevant to a costs application made by the father against the mother's solicitors, to be determined separately.
19. The children were due to meet with me at the start of the first day. With the prospect of an adjournment and the consequent risk of reallocation due a limitation on Recorder sitting days, however, I remained concerned that I should not meet with the children until it was confirmed I would be the judge determining final issues of welfare, a concern I canvassed with the parties. By the time the mother's funding position had been resolved with the LAA, the children had been waiting for some time and the order of 25 July 2025 records as follows: Regrettably the children had been waiting at court for 3 hours before they were able to meet with the judge. This was due to issues arising from the mother's lack of representation and the question of reallocation in the event the hearing was ineffective. It was not considered appropriate for the judge to meet the children where there was a risk the final hearing might be heard by another judge. That was plainly most unfortunate, if unavoidable. Be that as it may, the meeting did go ahead and I met with both X and Y, accompanied by the Guardian and their Counsel. An approved note of that meeting was duly circulated.
20. By the morning of the second day, the mother was able to attend with representation. The SJE was due to give evidence and the decision was made to proceed to hear his oral evidence over the two days available. This proved difficult when it emerged that the SJE had not been sent the updated bundle with the parties' final evidence and the Guardian's final reports; he required until 14:00 to read the same. Despite some initial teething difficulties with the technology (the SJE attending remotely), the evidence of the expert was finally (if belatedly) up-and-running by the afternoon.
21. Ms Patel appeared as Counsel for the children at that hearing. Following very limited evidence-in-chief, the remainder of the second day heard the mother's cross-examination of the SJE. His evidence resumed the following morning, with cross-examination on behalf of the father followed by some re-examination by Ms Patel. At that stage, the matter was adjourned part-heard for a further three days. The court was informed that the earliest dates available were 19 to 21 November 2025. I directed that a revised witness template be lodged seven days in advance. The final hearing – Part 2

22. Though I do not intend to summarise the evidence of Ms Bell at this stage in the judgment, events following the July hearing require that I dip into them at this stage. The Guardian had met with the children on 11 July, when the children told her that 'they had been informed by their parents ... that they agree to a shared care (50:50) arrangement'. Ms Bell concluded that the mother had 'demonstrated a lack of insight into the emotional harm that misinformation and inconsistent messaging can cause'. What was said to the children and by whom will be considered in due course; for now, it needs to be noted the children were in a considerable state of confusion as to why proceedings had not ended in circumstances where their parents were in agreement. This in turn had eroded 'the children's sense of emotional security and stability'. The children themselves 'reiterated that their preferred outcome remains a 50/50 shared care arrangement' and the children are said to have questioned whether or not the Guardian was properly advocating their views.
23. This situation was not assisted by the inability to conclude matters at the July hearing. The children, I understand, had not been prepared for such a scenario. The Guardian visited the children at the mother's home on Friday, 25 July to share the outcome of that hearing with them. X is described as having expressed 'significant frustration about the delay'. Y refused to speak to the Guardian and 'appeared angry and upset, displaying a mix of emotions'.
24. The reaction of the children on 25 July caused those acting for the children to make an application via Form C2 dated 29 July 2025, seeking a hearing before Her Honour Judge McCabe on earlier dates identified in September. The application failed to mention several material facts *inter alia* that the matter was part-heard, that oral evidence had been heard from the expert, and that the children had already met the Judge. Fortunately, the DFJ was able to release dates to me and the adjourned hearing was therefore brought forward to Monday, 29 September to Wednesday, 1 October.
25. At the beginning of the adjourned hearing, an oral application was made by NYAS to rely on an updating report by Ms Bell, it being acknowledged such a report had not been directed. The report is labelled 'NYAS Caseworker Risk Assessment' and explains that it was produced 'following [the father's] presentation at the hearing on 25th July 2025'. It is accompanied by a note of a meeting with the children on 12 September, when it is said that X indicated support for a different arrangement, whereby he would be with his father from Sunday to Wednesday and then with his mother from Wednesday to Sunday. The Risk Assessment ultimately included an amended recommendation in line with the discussions with X.
26. So it was that, by the time the matter returned part-heard on 29 September, all three parties were presenting different cases where (in July) the father and the Guardian at least were broadly aligned in their positions. Ms Patel having been released, the children were now represented by Ms Lavis of Counsel. No party objected to the Guardian's additional evidence being adduced. Meanwhile, a witness template and timetable had been agreed by the advocates; I endorsed the same and made clear that each advocate would be held to their timings. Oral evidence was heard from the mother on day one. The father gave oral evidence on day two and the Guardian on day three, following which I heard oral submissions from

all parties before reserving judgment. For completeness, I note the children had been made aware they would not receive a decision on the final day of the hearing.

27. In preparing this judgment, I have before me a core bundle (824 pages), what is called a 'supplementary' bundle of contact notes (70 pages) and a 'supplemental' bundle of updating material and documents otherwise missing from the core bundle (264 pages). In addition, there are several loose documents which have come in piecemeal, as well as two written position statements on behalf of the father and a position statement for the children. The professional evidence in this case is considerable: the written evidence of the SJE amounts to 120 pages spread over one report and two addendums; meanwhile, the Guardian's reports total 137 pages plus appendices spread over five reports and a statement. I have had the benefit of reading the transcript of the SJE's oral evidence and my own detailed notes of the evidence and closing submissions.
28. I am very grateful to Counsel for their assistance in ensuring these last three days were effective. The advocates were largely able to contain their cross-examination within their own time estimates, with a little flexibility given to all parties where appropriate. All parties have had the opportunity to put before the court the written material they wished to rely upon and all were represented by able and experienced Counsel who endeavoured to put their clients' respective cases. Screens were made available in the courtroom itself. I am satisfied that the hearing has been conducted fairly and in a manner entirely compliant with the parties' Art. 6 rights. The expert evidence
29. I will deal first with the evidence of the SJE, Dr Kevin Wright, a chartered counselling psychologist. In doing so, I wish to make clear that his evidence has not been considered in isolation. Rather, a proper appraisal of his evidence has awaited the conclusion of the hearing and closing submissions, so that I can weigh it properly against all of the evidence and the arguments made on behalf of the parties. I turn first to the written evidence.
 - (i) Report
30. The SJE's report is dated 3 February 2025. It is a lengthy report which in summary concludes:
 - (a) Both parents were assessed as being of average cognitive ability, with little difference in their respective IQ levels (para. 1.4.1);
 - (b) The mother may have unresolved issues from childhood around not feeling as valued as her sister and some trauma experienced aged 8 years, which experiences might be explored 'with a therapist' (para. 1.4.3);
 - (c) The father may wish to explore 'with a CBT therapist how he found himself in a relationship where he perhaps became a Compulsive carer which would have arisen from insecure attachments in childhood' (para. 1.4.4). He could then explore 'how this tipped over to being seen as controlling and coercive';

- (d) In assessing the evidence (including the contact notes), the SJE's professional opinion was that it 'does not show that he is insensitive to his children's communications' and 'that he can be child-focused most of the time' (para. 1.4.8). In his opinion, notwithstanding the s.7 report, 'the children would not be harmed by their contact with [the father]' (para. 1.4.23);
 - (e) Rather, the issue of being child focussed 'may more [sic] something for [the mother] to address as it seems that her real struggle is accepting that both parents may have to recognise that they were in a toxic relationship which has ended' (para. 1.4.11).
 - (f) The mother 'now needs to let go of the fact that her relationship, for many reasons both from her and [the father's] actions, was toxic and move on to how they need to agree on the fact that their children need both of them, equally' (para. 1.4.13).
 - (g) The mother needs help to manage the ending of her relationship and how she may have developed 'Learned Helplessness' (para. 1.4.17). Her problem 'is that she has yet to accept or own her part of the problem' (para. 1.4.18). In contrast, the father is felt to be 'able to own some parts of his problems' (para. 1.4.16); and
 - (h) The children's needs are 'also to be balanced with the expressed wishes of the children to spend equal time with their father and the importance of this in their development' (para. 1.4.26). The above is lifted from the executive summary as section 1.4 of the report.
31. The first report might be described as unconventional in several regards. It begins at paras. 1.2.2 to 1.2.4 with a paraphrased version of the expert's instructions, which both omits questions from the letter of instruction while adding new ones. An example of the latter being the addition, 'I am asked to comment on each parent's insights concerning the breakdown of their relationship'. With respect, such a request did not appear anywhere within the letter of instruction. In other areas, the SJE offers an unusual level of insight into his own experiences, for example, 'as a former school governor for 20 years' (para. 3.84), as a 'an ardent photographer' (para. 3.252) or as a 'foster carer of a teenage boy' (para. 3.254). This latter practice is not necessarily wrong, just unusual.
32. As for responding to his instructions, the SJE's answers appear within section 3, 'Responses to Instructions'. Section 3 runs to 333 paragraphs, with no sub-headings or any clear signposting as to which instruction is being addressed. In that regard, it is not what one might describe as "user friendly". Even where there is signposting, it is not followed: at para. 3.4, we are told that we will start with the psychometric testing of the father. In fact, the report then meanders between analysis of the father and the mother interchangeably, moving away from the psychometric testing into broader welfare issues before looping back round to further tests.
33. In places, the report goes off at tangents. For example, at para. 3.42, there is a one-sentence paragraph stating that the mother changed school aged around 8 due to her sister being bullied. This then leads to paragraphs (if not pages) of academic referencing on the potential harm suffered by children who move school or relocate (paras. 3.46 to 3.54), with some

specific reference to ‘armed forces families’ (para. 3.53). In responding to the mother’s concern that the father may be reading inappropriate books to the children on ‘death and war’ (para. 3.79), we then find a detailed paragraph (with citation) on the need for children’s literature to address topics of death and loss (para. 3.85).

34. In hypothesising that the mother has developed a form of ‘learnt helplessness’ by placing herself in a dependent role, a page later the SJE remarks, ‘However, to find the causes of someone’s behaviour, it is useful sometimes to look at their childhood experiences’ (para. 3.121). This then leads into an academic narrative of the concept of attachment theory, replete with citations dating back to 1985 (paras. 3.122 to 3.128). The report then moves on to an analysis of the potential impact of the father growing up as the eldest child (paras. 3.131 to 3.140), which leads to the suggestion he may be a ‘compulsive caregiver’.
35. The father’s comment that his father ‘was around a lot at home’ (para. 3.143) appears to be the springboard for the SJE to shoe-horn in an extended section on the academic literature around the importance of fathers in their children’s upbringing, especially for boys (paras. 3.144 to 3.149). We then are taken through some literature of what is meant by meeting a child’s needs (paras. 3.152 to 3.154). Looping suddenly back round to the contact as reflected in the records, the expert announces at para. 3.157, ‘However, back to [the father’s] attachment issues’ and his role as eldest child, from which he had moved on several paragraphs before. What then follows is more academic narrative on attachment (paras. 3.158 to 3.165).
36. After commenting a little on the relationship dynamic between the parents (para. 3.166 to 3.170), the SJE touches upon Autism and the genetic probability of inheriting ASD (paras. 3.171 to 3.172). He then looks at the parties’ respective IQs, a detailed consideration of different types of intelligence with full academic citations (paras. 3.175 to 3.179), before returning to ASD, with some narrative of the history of how ASD is assessed (paras. 3.181+). The report carries on in this vein, meandering around the themes of compulsive care, learned helplessness, potential ASD and obsessive behaviour. A section on ASD sufferers struggling with personal space concludes that neither parent displays such difficulties (so why, one might wonder, spend three paragraphs on it?). At para. 3.273, the potential of Obsessive Compulsive Disorder is raised before moving into a discourse on the importance in childhood of friendships (paras. 3.287 to 3.291) and physical exercise (paras. 3.299 to 3.301).
37. Finally, the report concludes with some welfare recommendations and suggestions for therapeutic intervention for both parties. (ii) Material omission
38. The expert’s report is dated 3 February 2025. It is an uncontroversial fact that there is a complete absence of reference in that report to my judgment following the fact-finding hearing. This is important for several reasons, not least because question 6 of the letter of instruction had expressly asked the SJE to: Please consider the Father’s insight and understanding into the Court’s findings and the emotional impact of the same upon the

children and their mother. Nowhere in the report was there evidence that the expert had (a) read the judgment, (b) discussed the findings with the father to explore his insight and/or (c) explored the impact of the father's behaviour (as I had found it to be) on the mother.

39. Following receipt of the report, the parties elected to raise questions in line with rule 25.10, FPR 2010. By letter dated 10 February 2025, the mother's solicitors wrote to the expert raising a number of questions, amongst which he was asked to confirm whether or not he had read the judgment and to 'explicitly answer question 6 of the letter of instruction'. These questions resulted in a set of written answers dated 8 March 2025. The questions raised by the mother elicited somewhat curious answers. To the request to confirm whether or not he had read the judgment, the expert declined to give a direct answer; rather, he complained that the judgment 'was not included in the bundle received after several requests to receive a bundle in a form that could be read'. When he finally received a legible bundle, the judgment 'was not included in that last readable bundle'. The answer to the question, then, would appear to be "no".
40. The SJE continued, however: It was also clear that the judgement [sic] was made before any request was issued for a psychological assessment of the parents. Thus it can be assumed that the request was made to gain a sense as to what were the psychological causes of the behaviours of each of the parents. And The report does not disagree with the finding that the father's behaviour could be seen as coercive and controlling ... It was a professional suggestion that in his efforts as a compulsive carer, he was coming over as being controlled [sic] and coercive. [emphasis added] Quite why such an assumption would need to be made in the face of (if I may say) an exceptionally clear letter of instruction is not expanded upon. As for the second observation – that the SJE's approach does not disagree with the court's findings – I will return in due course.
41. On question 6 of his instructions, the SJE gives no direct answer (see response to questions, paras. 4.1 to 4.8). Instead, he argues that the 'focus of the report was on how the mental health of each parent might have been affecting each other, their insights into their mental health and how these issues might be impacting the children'. He suggests that the question posed by the letter is 'wrong' in light of the father possibly being on the autistic spectrum, making the somewhat bold statement that – if the question is rephrased as whether or not the father can learn what is expected of him – the answer is 'most definitely yes'.
42. At the hearing on 15 April 2025, the father's position was that the work had been completed as instructed at question 6. Concern was raised that one (if not the key) purpose of the SJE's instruction was to enable the court to assess what (if any) risk arises to the children and/or the mother following the findings made against the father, in accordance with the guidance in PD12J. The SJE was therefore directed to provide an addendum report to address expressly whether or not he had read the judgment and whether or not he had completed his instruction in accordance with question 6; in the event the work had not been completed, he was instructed to ensure it had been.

43. This direction resulted in an addendum report dated 20 June 2025. Removing the title pages and declaration, the body of the report amounts to a little under two sides. The report is phrased as a ‘response to questions’ rather than an addendum, with the first response being somewhat surprising: I believe I have made it clear, I thought, in my addendum report dated 8th March, 2025, that I have read and considered the court’s judgment and findings following the fact-finding hearing. Certainly, that was not the impression given by his original response to questions; rather, the expert appears to be saying that – since his original report – he has now read the judgment.
44. The SJE continues to explain that his ‘report does not disagree with the findings that the father’s behaviour towards the mother while they were in a relationship, which has now ended, was seen as coercive and controlling’ [emphasis added] before asserting ‘this was discussed with the father during his assessment’. At para. 2.10, the expert appears completely dismissive of his instructions, querying the very basis for question 6: Thus, it is thought that the question raised could be seen as somewhat redundant, as it does not serve any of the parties to remain focused on the issues that caused the relationship not to function appropriately. He concludes by commenting that, if either of the parties struggles to ‘move on from the problems of the previous relationship’ or is ‘expressing anger about the end of the relationship’, this might signify a ‘form of addiction’ with which they need help, citing (without explanation) a work entitled *The Science of Revenge: Understanding the World’s Deadliest Addiction: How to Overcome It* (2025). (iii) Oral evidence, appraisal and analysis
45. I head from the SJE over the course of several hours, spread over two days. I have had the opportunity of reviewing my own notes as well as the full transcript of that evidence. Even making all due allowance for the difficulties of giving oral evidence remotely (having been the expert’s preference), I found him to be an unhelpful and unimpressive professional witness. He was very often high-handed and condescending in his answers, a tone he adopted throughout much of Ms Osborne’s cross-examination and at times with the court. On occasion, I found him to be unnecessarily rude; when it was put to him, for example, that a passage of his report conflicted with the court’s findings, he answered, “Sorry, is that a question?”. The one and only time Ms Osborne erroneously addressed him as “Mr” he interrupted her question to say “It’s Dr”. At times, his answers sought to draw Counsel into arguments with him: for example, when Ms Osborne put to him his conclusions were flawed concerning the mother not accepting the relationship was over, his response was to ask “Based on what?”. When asked why he had commented on the mother being angry about the relationship breakdown but nothing about the father, he responded, “I’ve not said that have I?”. When asked whether or not he disagreed with the court’s findings, he told Ms Osborne, “You’re not understanding”. This, in my view, was said in condescension.
46. As for what he actually said (as opposed to how he said it), at times it was very difficult to get a straight answer to a simple question. When asked if he had read the papers before conducting interviews with the parties, he accepted he had not read them “in detail”; when

pressed, he accepted he had done most of his reading after the interviews and only read “some” beforehand, though he could not tell me what. He was asked if it was correct that he had spent two hours with the mother and four with the father, to which at first he said interviews are “normally” the same length before adding that he does not “keep a record” of interview times. I pause to note that both these answers – that he had not read the papers before the interviews nor kept a note of the interview lengths – seems to me to be poor practice, not least given the scope of his instructions.

47. The expert was asked about the comments in his report at paras. 3.304 and 3.306, which it was suggested amount to a welfare recommendation for an equal, shared-care arrangement: But most of all, the parents need to stop the process of litigation if they really care about X and Y and come to an agreement about the amount of contact they have, which was thought to be 50/50 ... I would recommend that to be really child focussed, the change [handovers] should not happen during the school week as this is very disrupting, and both the parents should have equally full weekends, in order to have quality time with the children where they can just be together without having to be doing things all the time ... And in the response to written questions at para. 3.5: ... if she [the mother] were to work, through a therapist, on accepting that their clearly, [sic] toxic relationship has now ended, she might find this can help her to focus on the importance of the children having equal time with each of their parents ...
48. At first, the SJE said that this was not a recommendation but simply reflected the father’s view, that “there had been an agreement for 50:50”. On being pushed, however, he eventually admitted: I’m going to say well, I’ve never seen any reason why there should not be [50:50], yeah ... and I’m asked for my view. It was put to him that he had not been instructed to make welfare recommendations for the children, at which point – rather than accept the obvious – the expert knuckled down saying he was asked to: “[i]n any report I’m asked to make, to look at what the problems might be and what would be in the best interests of the children”, with welfare (he said) being “part and parcel” of such a report. Later, on being taken to the letter of instruction, he further sought to justify his approach by praying in aid the final question of the letter, which invited him to comment on “anything else that would assist the Court”.
49. In my view, Ms Osborne’s criticism in this regard is well made. The SJE had not seen the children and was certainly not asked to give a recommendation as to the child arrangements moving forward. To suggest that he is asked to do so in “any report” completed in children proceedings is a nonsense, as is the suggestion that the final line of the letter of instruction – which invites comment on any other relevant matters – was a tacit request to provide welfare recommendations. With respect, on that reading, the last point on the letter of instruction is doing an awful lot of heavy lifting.
50. Later on, it was put to the expert that he had recommended 50:50 shared care before he had properly read the fact-finding judgment; he would not make such a recommendation now. He replied, “I would have been, yes”. This is because, he explained, the impact of the mother

of the father's coercive behaviour "was an issue for about them ending, why they should have ended that relationship before". When asked by Ms Osborne how he could recommend an equal care arrangement in the face of the court's findings, he explained, "they're completely separate issues".

51. With respect, I do not consider it appropriate that the expert trespassed into the arena of giving welfare recommendations. For an expert who states to have given hundreds of reports, I am surprised that he would suggest as much. As for the suggestion that the right welfare determination for the boys is "completely separate" from the findings made against the father, that is plainly wrong as a matter of law and ignores the clear guidance contained in paras. 36 to 37, PD12J.
52. When asked directly about the court's findings, the expert replied, "I was not required to assess the findings. I was made, was asked to be aware of those findings". He confirmed in oral evidence, however, that he only read the judgment after completion of his report, while preparing the addendum. On being asked about question 6 of the letter of instruction – the need to assess the father's insight into the findings and the effect on the mother – he simply said "And I have done that". But in the absence of the judgment (or a schedule of findings), the question remains: how could he have undertaken that assessment of the father? He was asked if he had seen the Scott schedule of allegations, which he indicated he may have seen but he had assumed those allegations remained undetermined. I have to say, that assumption baffles me given question 6 of his instructions referred very clearly to findings which had already been made.
53. The SJE eventually admitted in express terms that he had not read the judgment or my findings before he spoke to the father. How, then, could he possibly have assessed the father's insight into the same or the impact of that behaviour on the mother? I raised this with him directly, at which point he simply repeated that he had not been given the findings and so "wrote the report with all the information [he] had in the bundles". When I asked why he did not ask to see the findings clearly required to undertake question 6 of his instructions, his answer was peculiar, "Because I thought that was what was in the bundles. I didn't realise that it was a different finding". He admitted, however, that he had provided expert evidence before in cases following fact-finding and is therefore familiar with the need to assess parents' views in light of the same; when asked (again) why he had not sought clarification before commencing his assessment, he responded, "Because I had a deadline that the report was required by".
54. Eventually, the expert accepted that he had been unable to undertake question 6 of his instructions, explaining, "That's why ... I was asked to do the addendum". The addendum, of course, did not complete the missing work; the expert did not speak to either parent regarding the findings. At this stage, the SJE was evidently defensive. He told me "but I was able to ask him [the father] about his concept of coercive control and that was a discussion I had with him". How did he know this was an issue? "I must have found some references to it". On it being pointed out that nowhere in his report is there a clear record of any

discussion with the father about whether or not he accepts his behaviour was controlling or coercive, he responded “good point”.

55. I was struck by the extent to which Dr Wright appeared to have become drawn into elements of the father’s narrative:
- (a) The best example of this, in my view, arises from his bizarre focus on the mother’s PIP application, the father having strongly argued for its inclusion in the expert’s papers. I addressed within my judgment at fact-finding the extent to which the father had become obsessed with that application, a theme that has pervaded these proceedings ever since; the thrust of the father’s arguments has always been that the mother misrepresented matters to the DWP. It is with some concern, then, to note the SJE drawn into the same exercise of examining what the mother said to the DWP several years ago as opposed to what appears in her GP records (e.g. paras. 3.30-3.35). This theme of comparing what the mother says in her PIP statement then continues throughout the report (e.g. paras. 3.78, 3.103, 3.192, 3.207, 3.215 etc);
 - (b) At para. 3.78, the SJE hypothesises that the mother’s ‘focus on her medical problems may also affect how much emotional time she can give to the children’. In which case, he says, the children ‘would be the first victims of her inability to manage her day-to-day life’. This, again, is an argument that has been raised repeatedly by the father, notwithstanding there is no evidence to corroborate such an assertion. I say, in passing, that the use of the word “victim” to describe the children in this context is most unfortunate given my findings; and
 - (c) An assertion that the father has made throughout these proceedings has been the issue of the mother suffering Munchausen syndrome (albeit, he used the term by proxy in the context of the children). It is notable that the SJE similarly appears to alight on such a potential diagnosis (paras 3.100-3.110). He begins by hypothesising – with no clear forensic basis – that the mother should ‘recognise that much of what she presented to her GPs at least since 2010 ... might have some considerable psychological causes behind them’. I question how a psychologist can feel so confident in questioning formal medical diagnoses which include epilepsy, asthma and joint pain, which are plainly outside his expertise. He ultimately concludes, however, that the mother’s ‘symptoms appear to be real’ (para. 3.110). In this context, I’m afraid, I consider the expert’s postulating discourse on this point somewhat bizarre and unhelpful. (iv) Conclusion
56. The advocates for all parties indicated in closing submissions – albeit to varying degrees – that caution is required in determining what weight should be placed on the SJE’s conclusions.
57. Despite the lack of structure, there is some form of logic to the expert’s opinion; whether or not it is a logic upon which I can rely with confidence is another question. The underlying theory of the SJE (when boiled down to its bones) is that, during the relationship, the mother adopted a role of ‘learned helplessness’ where the father entered into one of ‘compulsive carer’. The mother may have perceived the father’s behaviour as controlling. It is, however,

the mother who has failed to move on from that behaviour which itself was limited in time to the course of the relationship.

58. What conclusions can I draw? I am afraid I have reached what seems to me to be the inescapable conclusions that the expert had not properly read the papers before interviewing the parties; that he had not read the judgment before forming his opinions and writing his report; that he was unaware findings had already been made such that they did not remain allegations; that he failed to discuss with the father his level of acceptance of those findings; and that he elected to make a welfare recommendation for 50:50 shared care in circumstances where he had not seen the children and where he was completely unable to assess risk in a vacuum.
59. I do not consider that his review of the contact records (however positive they are) was sufficient to form a welfare recommendation nor do I consider that the instruction to address 'any other matters' was an invitation to tread into that arena. Even had welfare formed part of his instruction, the approach adopted was severely lacking; as he eventually accepted in oral evidence, he had not attempted to assess the impact of the father's conduct on the mother. His approach to risk, on the other hand, was to say he did not need to assess it because "the relationship had ended". On being asked about controlling behaviour perpetrated by the father many months post separation, he had no answer.
60. I remain concerned that the expert's approach does – as Ms Osborne submits – conflict with my findings. His written report refers expressly to 'allegations' (e.g. para. 2.1.30) in circumstances where findings have been made that the father has acted in a controlling and coercive (i.e. an abusive) way towards the mother, not simply during the relationship but for many months post-separation in his attempt to inter alia impact her access to housing, PIP and legal aid. In that context, I consider it wholly unhelpful that the expert – even given the benefit of the written judgment – continues to acknowledge no more than that the father's behaviour 'could be seen as coercive and controlling'. With respect, I have already found that it was.
61. In light of the court's findings, I remain surprised that the expert elected to stand by his comment that the behaviour complained of by the mother is no more than her 're-constructing' her own helplessness and the father's compulsive carer role as controlling. Given the level of abuse which I have found to have taken place, I consider the question 'who is controlling who?' to be in poor taste. A critical flaw in his analysis arises from his failure to recognise that the controlling behaviour extended beyond separation and was not (as the SJE repeatedly asserts) limited to the relationship. His conclusion that the mother is simply failing to 'move on' from her anger post separation is just wrong; I have already found that she continued to be targeted by the father during these proceedings.
62. I have considered the expert's conclusions very carefully. Given the foregoing analysis, I cannot with any confidence draw conclusions (to the civil standard of proof) from the evidence of the expert. His case theory was developed in a complete vacuum of the facts as

the court has found them to be. In oral evidence, he denied that the helplessness / carer dynamic conflicts with the findings, proposing that it is simply “another possibility” from a “different perspective”; ultimately, he emphasised it is but one possibility. With respect, I cannot accept his theory. While a helplessness / carer dynamic may explain some of the father’s actions during the relationship, it does not in my mind provide any real explanation for the gaslighting or the campaign to punish the mother post-separation. Nor was the expert’s answer satisfactory when it was pointed out to him that the father had painted himself – in terms – as a carer, such that the expert’s conclusion he is a ‘compulsive carer’ might to a large extent be seen as the expert simply accepting the father’s own account at face-value.

63. I find myself unassisted by the SJE evidence in determining the issues of welfare now before me, save in one regard. It seems to be accepted by all parties that both parents would benefit from therapeutic intervention in some form. The evidence of the parents
64. In the judgment following fact-finding, I set out in some detail my impression of the parents in their oral evidence. Nothing has materially changed in this regard.
65. I found the mother to be anxious but capable of being assertive; I also considered that she could be prone to exaggeration. Ultimately, I considered her to be an honest witness who answered to the best of her ability. At this hearing, some attempt was made in cross-examination to undermine the mother’s credibility; for example, it was suggested she had deliberately misrepresented in her statement that the father remained unaware of her address; or that she misled various professionals by describing X as having been diagnosed with autism. I am not persuaded that either of these examples (nor the others put to the mother in cross-examination) demonstrate dishonesty. The latter example, in particular, is certainly an exaggeration of the fact that X had been referred to an autism assessment pathway; I do not accept that her description of X as having ASD, however, was an outright “lie”.
66. Rather, I found the mother on the whole to be very candid. She does not paint herself out to be a perfect parent; she readily accepted that the home dynamic can be difficult and that there is a need to prioritise Y more, ensuring his needs are not overshadowed by his brother’s. Her evidence was compelling in her account of what impact the father’s behaviour has had on her: “I find him a very scary individual ... he made me into not even a person at all, he let me believe I would hurt the children”.
67. The father continues to present very much with black and white thinking. At times, he speaks very passionately; at others, he becomes agitated and impatient. I identify in the father a habit of latching onto specific arguments or “facts” that he then allows himself to run away with. A stark example of that behaviour was the flurry of correspondence received by the court but also repeated during hearings throughout 2024, that X was failing in his mother’s care, that he was being emotionally harmed and had resorted to self-harm. This suggestion, of course, was taken very seriously. Ultimately, the father’s repeated assertions

of self-harming– what Ms Bell described in oral evidence as the father’s “fixation” – resulted in a letter being obtained from X’s GP dated 28 November 2024. X had been seen by his GP on 25 November, when the child himself confirmed ‘that he has not self-harmed in years and has no urge to do so’. The GP concluded, ‘I am not aware of any current mental health concerns’.

68. In his statement dated 23 February 2024, para. 1 opens with the words ‘I do not accept the judgement’ [sic]. It is unambiguous in its rejection of my findings and seeks, over seven pages, to re-litigate the fact-finding hearing. To some extent, I accept the point made by Ms Watkins that the father has been acting in person and so presents a case without the varnish of legal representatives. That is no reason in my mind, however, not to accept the contents of this statement as the father’s rejection of the court’s findings in a raw, unfiltered form.
69. In my view, his case is very much a tightrope walk in which he seeks to avoid accepting the findings made by the court in any meaningful sense, while at the same time wanting to show change. In doing so, he attempts to argue that he accepts (at least some) of the abusive acts found to have occurred as a matter of fact but otherwise denies that they were controlling or abusive, save he admits “they were perceived by [the mother] as controlling”.
70. In his final statement dated 6 July 2025, the father makes the following comment: ‘I made it clear in previous statements that I accept findings have been made’ (para. 32). But does he accept the findings of abuse or simply the fact of their existence? The answer to that question is to be found, in my view, by the evidence he himself relies upon from his therapist. The father has been at pains to point out that he has engaged with a therapist, Ms Z. He has, he says, ‘gone beyond what the court has asked me to do’. It is accepted that when he commenced that work with Ms Z, he had failed to provide her with a copy of the judgment, which is hardly indicative of him heaving embraced my conclusions. More concerning, however, is the letter Ms Z has written dated 29 September 2025.
71. In that letter, Ms Z expresses the view that her work with the father ‘has suggested that neither historical nor present patterns of coercive control are evident in my professional opinion’. I note at this stage that no Part 25 application has been made for permission to rely on Ms Z’s opinion as an expert. She continues, ‘I have questioned the coercive control label given to your behaviours’ while expressing the view that the father ‘did not show characteristics of perpetrator behaviour’. The father referred to this conclusion at several points in his oral evidence.
72. With respect, it seems abundantly clear that Ms Z’s comments are wrong, both as matters of fact and law. Whether or not an individual has perpetrated abuse is not a question for a therapist; it cannot be medicalised, with the father effectively “diagnosed” as showing the characteristics of a perpetrator (whatever they might be). I find these comments alarming and ignore them, for similar (if not the same) reasons as the Court of Appeal gave when faced with a “diagnosis” of alienation in *Re C* (‘Parental Alienation; Instruction of Expert’) [2023] EWHC 345 (Fam).

73. Equally, it is not the role of a therapist to determine whether a finding of fact as to categorisation is correct or not. Although said in the context of sexual abuse, the guidance of the Court of Appeal in *Re O (Description of Sexual Abuse)* [2024] EWCA Civ 126, [2024] 2 FLR 96 appears to me applicable on the broader issue of when and when not to apply a label. At [41] Cobb J observed: ... Judges in the Family Court are accustomed to making an evaluation of the evidence, and where possible reaching findings on the facts; judges always need to think about whether describing the conduct alleged by reference to a generic label will add to an understanding of the facts. I would counsel against over-analysis. Judges should use descriptions that they consider appropriate to describe their findings and to convey their nature and relative gravity. In the present case, I have already made findings that the father's actions perpetrated against the mother fall fairly and squarely into the definitions of controlling and coercive behaviour within PD12J, and thus under the umbrella definition of domestic abuse. The decision to use those descriptions was appropriate to convey the nature and relative gravity of my findings.
74. The Guardian submits that Ms Z has effectively become an advocate for the father, rather than helping him to challenge his understanding of events. I have not heard from Ms Z and am aware that she disputes some of the things attributed to her in the Guardian's fifth report; to be clear, I make no findings in this regard. Of more immediate importance is the fact that the father has sought to hide behind those views expressed by his therapist in writing: that he is not an abuser, that he does not have the "characteristics" of an abuser and that his actions perpetrated against the mother were not controlling or abusive. Stepping back and considering the father's evidence as a whole, it is obvious to this court that he does not accept the findings made against him in any meaningful sense. Rather, he remains angry with the mother and adopts the flawed framework proposed by the SJE; that he is merely a compulsive carer who may on occasion have made the mother "feel" controlled.
75. I was struck by the level of the father's negativity towards the mother, which if anything has only worsened since the fact-finding hearing. His written evidence continues to criticise many aspects of her parenting, with his final statement continuing to undermine the mother's parenting capacity on the basis of 'multiple physical and mental wellbeing challenges'. I found myself agreeing entirely with Ms Bell's observation in her second report, that the father 'struggles to filter his concerns, often presenting with a broad range of grievances at once', which in turn makes it difficult 'to distinguish between issues that are significant to the children's wellbeing and those that may be rooted in the unresolved conflict' (para. 5.9.22.1).
76. He demonstrated in oral evidence a marked ability to turn many topics of questioning into a criticism of the mother. For example, when explaining how he had discovered the mother's confidential address in X's e-mail inbox, he commenced with a remark about needing to wade through a "whole load of e-mails" for first-time shopper discounts which he said the mother signs up to in the children's names. Quite what that pertained to remains unclear. More indicative was his response to a question about how the parents might work to

improve co-parenting. “Communication,” he said, before adding “but [the mother] has a history of escalation”. He then observed they have different styles of responding to issues, with him being “calm” (he did not tell me what word he would use for the mother). When asked to say anything positive about the mother, he explained that they were “chalk and cheese” in their differing approaches to parenting; the mother, he said “is patting the balloon up in the air, everything is jolly” whereas he is better in a crisis. If that can be classed as a compliment at all, it is certainly a backhanded one.

77. His evidence also betrays an astonishing lack of insight. When asked what the impact of court proceedings has been on the family, he told me “for me and my family, it has been horrendous ... for the children, it has been truly devastating and it has gone on far longer than [we] thought it would ... things need to settle down and smooth over”. I have no doubt that is true and it is in that spirit that all parties urge upon the court the making of a s.91(14) bar for a period of two years. And yet, it is quite clear that the father himself has continued to moot the prospects of an appeal (‘depending on the outcome of the current proceedings’, see Guardian’s fifth report at para. 3.2) or else a further application if he does not get the 50:50 outcome he desires. When I asked him what he will do if I do not accept his case for equal care, he responded “I would consider another application to vary if it is impacting the children”. I find it surprising, given the devastation he accepts this litigation has already caused for the children, that he already contemplates returning to court and embarking on further litigation. The Guardian’s evidence
78. Ms Bell was allocated on 19 July 2024. Her first report is dated 1 September 2024 (31 pages), she acknowledged that the reason the s.7 report completed by Cafcass had been deficient was because it lacks any risk assessment following the court’s findings (para. 4.8). The issue of interim living arrangements was addressed briefly, Ms Bell observing that the mother ‘has been assessed as providing a stable and nurturing environment’ (paras. 5.4 and 11.1). The report was not universally positive about mother, acknowledging concerns she can misrepresent and overreport important facts.
79. The issue of interim contact arrangements was addressed in more detail, the Guardian concluding she had ‘significant concerns regarding the emotional safety of the children during their contact with their father’ (para. 5.2). She observed at para. 6.2: ... concerns have been raised about [the father’s] communication with the children, which has been identified as emotionally harmful. His obsessive behaviour patterns, lack of insight into the emotional impact of his communications, and tendency to discuss adult issues, court proceedings and [the mother] negatively, indicate a lack of child- focused empathy. Such behaviour not only demonstrates a lack of understanding of its potential harm to [the children] but also suggests a broader difficulty in managing and reflecting on the emotional implications of his interactions with his children ... The Guardian further identified in the father what she described as ‘patterns of behaviour characteristic of ASD’, leading in turn to his communication with the children focusing ‘more on his own needs and frustrations’ (para. 6.7). Concern was expressed around the supervision of contact, a point to which I return

later.

80. In terms of interim recommendations, the father needed to engage in parenting work around domestic abuse which would, she said, 'be crucial in potentially moving towards unsupervised contact or a live-with arrangement in the future' (paras. 5.7 and 11.10). Contact should remain supervised, with additional steps taken to ensure the adequacy of the supervision. A psychological assessment was recommended along with a clear, age-appropriate narrative for the children.
81. What was intended to be Ms Bell's final analysis is her report dated 24 March 2025. It is a hefty piece of written work, totalling some 85 pages plus appendices. It is clearly the result of many hours of meetings with the parents and the children. While it is not possible to outline the totality of the detail encompassed, I note the following by way of summary:
- (a) The mother 'recognises the father's potential to be a good father and acknowledges the positive aspects of his character' (para. 4.3.2.10). She wished, however, for contact to remain supervised, fortnightly on Saturdays, 09:00 to 18:00. She was 'open to future compromise, if [the father] is able to adapt [sic] a more positive approach' (para. 4.3.3.1). She wished to avoid in-person interactions with the father as she 'feels threatened by him' (para. 4.3.3.3);
 - (b) Questions around the mother's parenting capacity arise from concerns that she has misrepresented X's healthcare needs to professionals (para. 5.8.6+). Her account of X's incontinence needs, sleep patterns and ASD diagnosis, for example, suggests a lack of understanding of his needs;
 - (c) The father framed himself very much as the compulsive carer described by the SJE: he 'acknowledges that he often focused heavily on managing her [the mother's] needs while neglecting his own emotional wellbeing' (paras. 4.4.1.1 and 5.8.3.1). This 'self-awareness', it was said, 'has led him to appreciate the importance of balance and self-care in relationships'. In discussions with the Guardian, the father 'highlight[ed] his efforts to shield them [the children] from adult conflicts and maintain healthy boundaries' (para. 4.4.1.2);
 - (d) The father informed the Guardian that, with the assessment of the SJE, he 'recognises how some of his behaviours may have unintentionally contributed to the tension' (para. 4.4.3.3), insisting that he is 'committed to fostering a calmer, more constructive approach' with the mother (para. 4.4.1.7);
 - (e) The father continued to allege that the mother's 'physical and mental health ... have impacted her parenting capacity' (para. 4.4.5) and alleged that the mother has attempted 'to alienate' the children from him and their paternal grandparents (para. 4.4.6). The mother's friendships are criticised (para. 4.4.8.6), her relationship with X (para. 4.4.8.2) and her ability to provide boundaries (para. 4.4.8.4);

- (f) As to his position, the father 'seeks a shared care arrangement, believing it aligns with the children's wishes ... [and] argues that equal time with both parents would provide balance, consistency, and stability' (para. 4.4.9);
 - (g) Both children are described as 'articulate, thoughtful, and sensible' but both are vulnerable as a result of 'heightened anxiety and uncertainty' (para. 6.1). They both expressed a wish to live with both parents for equal periods of time. Y in particular described such an arrangement as being 'fair' (para. 5.3.9). The need for equality of time with each parent was a point reiterated by both children;
 - (h) The Guardian agreed with the expert that the mother 'appears entangled in unresolved conflict with [the father]' (para. 5.9.8.1). She did not, however, accept his hypothesis that the mother has adopted a "sick role" with the children, instead observing that she maintains appropriate boundaries (para. 5.9.9.1.5);
 - (i) On father's parenting capacity, 'concerns remain regarding the impact of his communication with the children about the court proceedings and his relationship to [the mother]' (para. 5.9.14). The Guardian noted that, while the contact reports indicated a level of restraint in the father's discussions with the children, further therapeutic work may be needed to ensure this was sustained (para. 5.9.14.1); and
 - (j) Concern was expressed in the father's inability to 'regulate his emotions' (para. 5.9.16), sometimes allowing his 'frustration ... to consume him' (para. 5.9.16.2), the example given being his access to the children's medical records. In this instance, she said, the father demonstrated a 'tendency to fixate on grievances rather than address them methodically' (para. 5.9.16.3).
82. The impact on the children of the abuse perpetrated by the father against the mother is touched upon at paras. 5.8.3.1 to 5.8.3.2. The father was noted to minimise the children's own account of hearing their parents argue. On the father's framing of his controlling conduct as unintentional and borne from his anxiety for the mother, the Guardian observes: 'irrespective of intent, controlling behaviours within a relationship can create an environment of instability and emotional distress for children'. There was, however, some indication of a shift in the father's thinking given a 'noticeable shift in his communication style'. It was, however, 'too early to determine whether these changes are sustainable'. The risk of emotional harm to the children, therefore, remained.
83. The Guardian's analysis of risk is set out under the heading 'Ensuring safety' (paras. 5.9.19 onwards). Whether or not contact should progress to unsupervised, she said, 'requires careful consideration' in light of the findings made. She identified that the father had acknowledged his role through the framework of the expert's analysis, i.e. as a compulsive caregiver. Acknowledgment, however, is but a first step: the key question, Ms Bell explained, is whether or not he has 'taken meaningful steps to address these concerns'. He had not, for example, engaged in any therapeutic support to explore his patterns of behaviour, despite the expert's recommendations. She concludes at para. 5.9.19.2: Although he has

demonstrated some reflection on the impact of the parental dispute on the children, his ability to regulate emotions, manage conflict, and prioritise their needs over his grievances with [the mother] remains a crucial factor. Without completing the recommended therapeutic work, there remains a risk that unresolved behaviours could influence his parenting approach, particularly in the face of challenges within a shared care arrangement. While there are no immediate safety concerns that would warrant all contact being supervised, any increase in unsupervised time or progression towards shared care should be contingent on [the father] engaging in the recommended therapeutic work. This would provide reassurance that he is developing healthier relational patterns and reducing the risk of conflict affecting the children's emotional wellbeing. While the work is being undertaken, a gradual and structured approach to increasing contact, leading to shared care arrangement, would be necessary, with ongoing monitoring of the children's wellbeing to ensure their continued emotional safety. [emphasis added]

84. In her concluding section of the report, the Guardian suggests that '[s]hared care is a long-term goal that would support the children's right to meaningful relationships with both parents'. For that to be implemented, however, there are 'vulnerabilities within the current co-parenting dynamic [which] need to be mitigated'. The father, she says, 'must engage in the recommended therapeutic work' and 'demonstrate that he can provide an emotionally secure environment for the children'. The mother, too, needs to engage in therapy to manage her stress and anxiety. The father should also 'undertake a comprehensive course on domestic abuse and its impact on children'.
85. On this basis, Ms Bell recommended a 'structured and gradual approach' to increasing contact, 'leading towards a shared care arrangement'. This would be achieved by way of a child arrangements order for 'equal time'. The transition, she said, would need to be 'carefully managed'. Appendix 7 to the report set out a six-week transition plan, building to a one week on / one week off pattern.
86. In her third report dated 23 June 2025, the Guardian's recommendations remained essentially unchanged. The father's insight 'remains limited and inconsistent', while his ability to regulate emotions and manage conflict remained areas of concern. That being said, he was now engaging with a therapist. As the Guardian saw it, the balancing exercise was as follows: The court must weigh the children [sic] expressed wish for continued contact with both parents against the risk of harmful relational patterns re-emerging. In line with [the expert's] recommendations and my own professional assessment, I believe that with robust safeguards in place and clear professional oversight, therapeutic work can continue alongside a cautiously structured shared care arrangement. A progression to shared care was still recommended but 'only if [the father] continues to engage consistently and meaningfully with his therapeutic programme, as prescribed by his therapist, [Ms Z]'. Once that work was complete, it was suggested that the father should then complete a recognised domestic abuse intervention course; it was later accepted (orally) that the domestic abuse work might be completed by Ms Z alongside the therapy. Ultimately, this resulted in Ms Z's

letter and troubling approach to domestic abuse, as already highlighted above.

87. The Guardian's fourth report (17 July 2025) is addressed below when considering the children's wishes and feelings. Her fifth and final report is dated 20 September 2025 (11 pages) and was filed several days before the second part of the final hearing commenced. There are, in fact, two documents of the same date: the first being a "NYAS Caseworker Risk Assessment" and the second being a further statement (just over 2 pages) addressing recent visits with the children.
88. The latter document, in summary, records a proposal made by X for an arrangement whereby he would live with the mother from Wednesday to Sunday (four nights), and the father Sunday to Wednesday (three nights). Y's preference remained 50:50. Both children report feeling safe in their father's care. X's new suggestion is phrased by Ms Bell as 'a modified schedule due to social complexities around [his extracurricular activity] and [the mother's] circle'. What this means in reality, I am told, is that the mother's friends involved with an extracurricular activity on Saturdays hold negative views of the father; this is (for obvious reasons) deeply awkward for X, who has therefore suggested spending every Saturday with the mother to avoid unpleasant situations.
89. Neither report was directed, Ms Bell's explanation being 'following [the father's] presentation at the hearing on 25th July 2025, I considered it necessary to review my assessment to determine whether my position had changed'. She held meetings with the father on 26 August and 15 September, in order to 'explore key areas, including emotional regulation and his courtroom outburst on parenting capacity, his history in relation to coercive and controlling behaviour, and any ongoing risks'.
90. Under the subheading 'Controlling and Coercive Behaviour', the Guardian sets out her work with the father around the findings of the court. The father, she concludes, 'does not accept the majority of the Court's findings in relation to coercive or controlling behaviour' (para. 3.1). He believes his actions have been misrepresented and do not amount to abuse; rather, he continues to point out that the children have reported hearing both parents arguing (a point, I observe, he reiterated in his oral evidence). When discussing the findings, he indicated that he believes he had grounds to appeal (an assertion he has made since the findings were made). He apparently made one concession, that he showed the children a written article; otherwise, he disputes my findings concerning 'use of an AirTag, sleepwalking, social control, [the mother's] mental health comment, phone records, and contact with third-party or public bodies' (para. 3.3). The Guardian notes that his position remained the same at their second meeting, the father 'viewing past incidents as misrepresented arguments involving both parents'.
91. In her analysis, the father continues to minimise the findings, positioning himself as misunderstood or misrepresented (para. 6.2). In the Guardian's view, this lack of accountability continues to limit 'his capacity to reflect critically on the potential emotional harm caused'. It is, she notes, positive that he is engaging with therapy and is developing

strategies to tackle ‘patterns of over-involvement and obsessiveness rooted in anxiety’ (para. 6.3). The Guardian remains concerned, however, about the rejection of the court’s findings and the risk that abusive patterns of behaviour may persist. While the written communication has improved considerably, the father’s negative attitude towards the mother ‘suggests an ongoing preoccupation’ (para. 6.4).

92. Taking the two documents dated 20 September 2025, the Guardian (in essence) suggests that the children’s wishes and feelings must be given ‘sufficient weight’ given their respective ages and maturity. There are no direct risks posed by the father to the children, with the only risk ‘primarily linked to his emotional regulation and co-parenting conflict with [the mother], as well as his limited acceptance of past behaviours’ (para. 6.7). On balance, Ms Bell endorsed a final arrangement for shared care in line with X’s 4:3 proposal. For completeness, I note that the Risk Assessment document includes at the back two, one-page tables, one setting out a risk analysis of the father and one of the mother in basic form, listing identified risks and grading them low, medium or high.
93. The Guardian’s last-minute adjustment in her recommendations, albeit modest, formed the focus of much cross-examination. At one point, she indicated that an important reason for her change in recommendation was because X had plainly thought hard about his proposal and that it was important his extracurricular activity was maintained, as he has already suffered too much loss. On being cross-examined by Ms Watkins, however, she was asked again about her change in final proposals. This time, the Guardian confirmed she had not changed her views because of the father’s outburst at court but added “also, controlling and coercive behaviour, the risk is still there, therefore I am trying to mitigate the exposure”.
94. In chief, she explained such a final order might be achieved via a three-week transition plan. When asked about the holidays, she explained that the children should not spend two consecutive weeks with the father: There are still concerns around the father not fully accepting the findings, therefore I do take that into account. That does not change because overnights will already have started. So one week with the father, then with the mother, not two weeks. That would not be in line with the risk assessment. Work around co-parenting still needs to be done. Later, she amended this suggestion, indicating that a two-week trip abroad should be permitted, but not if the two weeks were to be spent at home, where ‘risk factors are still present’. The Law
95. As with any application made pursuant to s.8 of the Children Act 1989, the paramount and overriding consideration for the court is the welfare of the children pursuant to s.1 of the Act. I must also have regard to those factors set out in s.1(3), otherwise known by lawyers as the “Welfare Checklist”. I must consider the “no delay” principle, that is, the assumption that delay will usually be prejudicial to a child’s welfare, and also to the “no order” principle, that is, that I should not make an order unless I am satisfied that it would be better for X and Y that I do so.

96. In the context of findings of controlling and coercive behaviour, I have (as I did at the fact-finding stage) reminded myself of the relevant guidance. The broad definition of “domestic abuse” as enshrined in the FPR 2010 at PD12J, para. 3 includes ‘any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse’. As to what is meant by controlling and coercive behaviour, in *F v M* [2021] EWFC 4, Hayden J observed as follows at [4]: ... The nature of the allegations included in support of the application can succinctly and accurately be summarised as involving complaints of “coercive and controlling behaviour” on F’s part. In the Family Court, that expression is given no legal definition. In my judgement, it requires none. The term is unambiguous and needs no embellishment. Understanding the scope and ambit of the behaviour however, requires a recognition that ‘coercion’ will usually involve a pattern of acts encompassing, for example, assault, intimidation, humiliation and threats. ‘Controlling behaviour’ really involves a range of acts designed to render an individual subordinate and to corrode their sense of personal autonomy. Key to both behaviours is an appreciation of a ‘pattern’ or ‘a series of acts’, the impact of which must be assessed cumulatively and rarely in isolation. There has been very little reported case law in the Family Court considering coercive and controlling behaviour. I have taken the opportunity below, to highlight the insidious reach of this facet of domestic abuse ...
97. No party has sought to draw my attention to case law. There are, however, many points of law engaged, not least in the suggestion that an order for shared care (that is, an order that the children live with both parents) ought to be made. On shared care, I have reminded myself of the following principles drawn from the authorities:
- (a) The correct approach is, first, to determine the child arrangements and, second, to determine how that is best expressed as an order, see *Re K (A Child)* [2008] EWCA Civ 526;
 - (b) The court should ask itself whether it is in a child’s interests to grow up believing that they ‘live’ with one parent and have ‘contact’ with the other, or vice versa. Shared care can reflect the reality of the situation in the eyes of a child: that the home of one parent is, in reality, their home too – where they live – when they are not living with the other parent: see *Re A (A Child: Joint Residence: Parental Responsibility)* [2008] EWCA Civ 867 at [66];
 - (c) There is no need for parents to co-operate with each other and – in fact – the court can order that a child lives with both parents where the parents are at loggerheads, see e.g. *T v T (Shared Residence)* [2010] EWCA 1366 at [26] per Black LJ (as she then was). It is not a pre-requisite for a shared lives with order that the periods of time spent with each adult should be equal, nor is it necessary that there should be co-operation and goodwill as opposed to hostility; and
 - (d) An order for shared care can be important for all parties and the children so that they are all clear that, in the eyes of the law, the parents are equal in their position and responsibilities, see *A v A (Shared Residence)* [2004] 1 FLR 1195 per Wall J at [124]- [126].

98. More recently, the issue of a shared lives with order was revisited by Poole J in *AZ v BX*

[2024] EWHC 1528 (Fam). At [81], his Lordship outlined a number of welfare advantages of a shared lives with order (albeit on the specific facts of the case before the court): (i) It would make it more difficult for either parent to regard themselves as being in control of contact or to seek to control contact ... (ii) In particular, it would mitigate the effects of the Respondent's attempts to control contact ... Rather than ordering the Respondent to make sure the children spent time with the Appellant, a shared lives with order would set out arrangements for the division of time in the same terms for each parent, if not the same periods of time. It would thereby put the parents on an equal footing when seeking to make arrangements for the children. (iii) It would also put the parents on an equal footing with regard to holidays abroad including during school holidays when the children are going to spend equal time with each parent. (iv) A shared lives with order would signal to each parent that each was of value in the lives of the children, something the Judge had found each parent failed to appreciate.

(v) It would also signal to the children that each parent has, in their capacity as parent, the same inherent importance in the children's lives. (vi) It would promote a sense of stability within the family: whatever the disagreements between the parents, the court had ordered that the children shall live with both of them. 99. Finally, I have considered the guidance set out in Practice Direction 12J of the FPR 2010, in particular from paras. 35 onwards Factors to be taken into account when determining whether to make child arrangements orders in all cases where domestic abuse has occurred 35 When deciding the issue of child arrangements the court should ensure that any order for contact will not expose the child to an unmanageable risk of harm and will be in the best interests of the child. 36 (1) In the light of-

(a) any findings of fact,

(b) admissions; or

(c) domestic abuse having otherwise been established, the court should apply the individual matters in the welfare checklist with reference to the domestic abuse which has occurred and any expert risk assessment obtained.

(2) In particular, the court should in every case consider any harm-

(a) which the child as a victim of domestic abuse, and the parent with whom the child is living, has suffered as a consequence of that domestic abuse; and

(b) which the child and the parent with whom the child is living is at risk of suffering, if a child arrangements order is made.

(3) The court should make an order for contact only if it is satisfied-

- (a) that the physical and emotional safety of the child and the parent with whom the child is living can, as far as possible, be secured before, during and after contact; and
 - (b) that the parent with whom the child is living will not be subjected to further domestic abuse by the other parent. 37 In every case where a finding or admission of domestic abuse is made, or where domestic abuse is otherwise established, the court should consider the conduct of both parents towards each other and towards the child and the impact of the same. In particular, the court should consider –
 - (a) the effect of the domestic abuse on the child and on the arrangements for where the child is living;
 - (b) the effect of the domestic abuse on the child and its effect on the child's relationship with the parents;
 - (c) whether the parent is motivated by a desire to promote the best interests of the child or is using the process to continue a form of domestic abuse against the other parent;
 - (d) the likely behaviour during contact of the parent against whom findings are made and its effect on the child; and
 - (e) the capacity of the parents to appreciate the effect of past domestic abuse and the potential for future domestic abuse. Wishes and feelings
100. I must have regard to the children's ascertainable wishes and feelings, to be considered in the light of their ages and understanding, pursuant to the Children Act 1989, s.1(3)(a). In a case where the boys are aged 14 and 12 years respectively, their wishes must be given great weight. Having met with the children, I agree with Ms Bell's appraisal that they are 'well-mannered, intelligent, and thoughtful'. Their wishes and feelings are not determinative, however, and feature – however significantly – as but one of the factors to be considered under the welfare checklist, within which list there is no hierarchy, see e.g. *Re P-S* [2014] 2 FLR 27.
101. The father has been vocal throughout these proceedings in his view that the court (quoting his statement of February 2024) has been consistent in its 'failure ... to consider the voice, wishes and feelings' of the children. He has remained consistent in his reporting that the children want a "50:50" shared care arrangement.
102. The first objective evidence of their wishes and feelings came in the s.7 report of Ms Sharma-Lail in May 2024. In speaking to the school, X's teachers reported that he wanted to spend 'equal' time with both parents. In her interview with the boys on 13 May 2024, however, I note that Ms Sharma-Lail makes no reference to the children volunteering such a wish to her, although it is plain that both spoke very highly of their father and challenged the need for the limited and supervised nature of their time with him. The children were next spoken to by Ms Bell on 28 August 2024. At that time, she expressed concern as to their 'lack of understanding regarding the domestic abuse concerns in their parents' relationship';

again, there is no record in that first report of the children overtly expressing a wish for equality or 50:50.

103. Ms Bell undertook her substantive work with the children over four sessions in January through March 2025. X spoke highly of both parents, explaining that he would often argue with his mother for not allowing him to see his father; he described her, however, as a 'strong, confident, and loving person'. Equally, he was clear that he felt safe with his father, who he describes as kind and supportive, and expressed much frustration about the limited time (then two hours) permitted. He enjoyed living with the mother but would like to live with both parents, observing that 'if he could not spend equal time with both parents, it would not be a healthy plan for him, nor would it create a positive home environment'. He was clear in his view that he 'just wants to be able to see [the father] as equally as he sees [the mother] or as close to that arrangement as possible'. From a worksheet completed with Ms Bell and appended to her report (Appendix 3), I can see that X wrote "Where I want to be. 50:50 or as close as it can be".
104. Y expressed a strong desire for the adults to stop being angry with each other, telling Ms Bell that he wants "everyone to stop arguing". He was at pains to explain that he 'loves his father just as much as he loves [the mother]' and (as with X), stated that while he 'enjoys living with his mother [he] wishes to have equal time with both parents'. He explained that he would like to see his paternal grandparents every Saturday and 'to divide the remaining time equally between each parent, stating that he believes this to be fair'. He too mentioned the two-hour contact sessions as being short, telling Ms Bell he wanted more time with his dad and stating that 'he sees no reason why he should not have equal time with both parents'. As with his brother, on his worksheet (Appendix 5) Y wrote "50:50. Spending time with both equally".
105. As already detailed above, by the time of the adjourned final hearing in September 2025, X had apparently shifted slightly in his wishes, suggesting a 4:3 shared care arrangement. Y maintained his wish for equality. Having read Ms Bell's reports and heard her oral evidence, she appears satisfied that the children are expressing their authentic views. For my part, I do not share her confidence. At para. 5.9.23 of her second report, Ms Bell observed: Regarding the children's wishes and feelings, both X and Y have expressed a clear desire for a shared care arrangement with their father. Their views align with what [the father] is requesting from the court. The father himself makes similar comments in his statement dated 6 July 2025. The children have made clear 'their expressed wishes for 50/50 shared care'; it is time, he says, that '[t]heir voices must finally be heard'. That is very much in the vein with which he pleads his case for an equal childcare arrangement: it is not his wish but the children's wish that he pursues.

106. I agree that the boy's wishes align with the father's position. I am not satisfied, however, that it is the father who has aligned with them. Indeed, the canvass of the evidence before me when considered as a whole points strongly towards the children having been heavily influenced by their father:
- (a) The father has made no secret of his wish for "50:50". It is a phrase he uses throughout his own oral and written evidence. That has been his consistent position throughout. As noted in my previous judgment, as far back as September 2023 the father was messaging the children via X-Box telling them 'we will all keep fighting' for 50:50 care and that he could not afford to keep 'paying mummy £658 a month to look after you'. I reject entirely his suggestion that he has in anyway shielded the children from his clear view, that equality is "fair", an argument parroted by Y to Ms Bell. It is notable that both children use the specific term "50:50", echoing their father's language;
 - (b) In the summer of 2024, Ms Bell attached to her initial report an example of 'recent' communication seen via X-Box messages between the father and Y. The father could be seen telling Y that his room would be redecorated, before commenting 'All we need then is for all this to stop and you to come home'. The implication being that the children are not 'at home' in their mother's care but with their father and/or in what was previously the family home;
 - (c) Ms Bell also considered the discussions between the father and the children during an indirect contact held via Zoom on 31 July 2024, at that time supervised by a family friend. Her observations highlighted the fact that contact was not being monitored properly. The discussion on that occasion included the suggestion that the children would soon be old enough to 'make their own decisions', when 'people can't stop you';
 - (d) When speaking to the Cafcass officer in May 2024, there is no record that the boys informed her of their strong wish for equal shared care (although there is reference made to X having made such comments at school). Nor is there a record of the boys expressing such a clear wish for equality when they first spoke to Ms Bell in August 2024. It is only when the children are spoken to in early 2025 that references to 50:50 or "equality" begin to arise in their discussions with professionals tasked by this court to gather their wishes and feelings;
 - (e) I remain concerned the extent to which the father has failed to shield the children from his own feelings. In May 2024, for example, X told Cafcass that his mum was saying she wants him to see his dad but "Dad is saying that mum is lying". When discussing his wishes and feelings, X reported he was worried about his dad because he is alone and "he said to us he really misses us. He started to cry when he said this to us ... Me and Y need to keep seeing him". He made similar comments to Ms Bell in Spring 2025, when she records that X 'worries about his father and feels bad that he is often alone'; and
 - (f) When X spoke to Ms Bell in early 2025, he described a situation in which both parents have their own individual strengths; the example he gave was that his mum is good with schoolwork whereas his dad is good with physical activities. In X's view, 'neither parent alone could fully meet his needs' (first report, para. 5.2.15). Y too made a very similar

comment, about the mother not being able to engage in physical activity like his father due to asthma, but that she is very supportive with schoolwork. This narrative – that the mother alone is not able to care for them and that the father remedies her perceived physical deficiencies – echoes strikingly with the reasons for shared care advanced by the father himself, not least his repeated references to the mother being incapable of promoting physical and sporting interests due to her own health.

107. I find, on a balance of probability, that the children are highly aware of their father's view, that only 50:50 shared care will be "fair". I am satisfied that this is not a case of a father simply falling in line and advocating for his children's wishes and feelings. Rather, it is quite plain that it is the children who have aligned with their father. That alignment has not been without significant influence from the father, whether deliberate or through exposure to his ill-concealed opinions. I am further strengthened in this finding by an event which happened in the week prior to the part-heard September hearing.
108. On Friday, 12 September 2025, Ms Bell had spoken to X, who had proposed a 4:3 shared-care arrangement as already outlined above. The Guardian's updating report and statement detailing her discussions with X were received by the parties in time for the Thursday, when X was spending unsupervised time with the father. In the evening of Friday, 26 September, the Guardian received a text message from X which read as follows: Hello natalie I don't know if it is to late [sic] but I would like to change my mind about how often I would see my dad I would prefer having 1 week each I don't know what Y wants tho I think this would be better for me tho
109. In his oral evidence, the father told me that "X came to me and said he still wanted 50:50. I told him that the report said he wanted Sunday to Wednesday. I said if you want to change that, that's fine". I asked him why he was entering into discussions with X about what he had told the Guardian, to which the father told me that Ms Bell had discussed it with him, the mother had spoken to him, so why could he not. In any event, he said, X had been "asking me about it". On being asked to confirm what exactly X had been asking, the father made no reply before continuing, "I was trying to understand what his wishes were ... I have told them whatever their wishes are, I will go with".
110. I have no doubt that, upon realising the Guardian had amended her recommendations to a 4:3 shared care arrangement based on X's proposals on 12 September, the father took steps to ensure that X retracted his comments to Ms Bell. I reject as untrue the father's attempt to paint his discussion with X as an honest one, simply arising at X's instigation. The father's own admission, that he raised with X what was written in Ms Bell's addendum report, only demonstrates the extent to which he continues to lack insight into what is and is not an appropriate topic to explore with the children. He simply cannot help himself. I cannot say whether or not X was instructed to text Ms Bell the following day but I have no doubt – and find as a fact – that he did so following pressure from his father making very clear to him the outcome needs to be 50:50, one week on, one week off.

111. For all the reasons given above, I find that X's and Y's wishes and feelings – as strong and genuine as they may now be held – have not been formed independently but rather are the product of the father's influence. In those circumstances, I do not consider that their expressed wish for "equality" or "50:50" is authentically their own; I must therefore place what weight I am able to within that context.
112. For completion, I feel compelled to comment that the extent to which these two children have obtained a level of knowledge regarding these proceedings seems to me highly regrettable. In particular, I have remained concerned – and have made no secret of that fact – by the suggestion that the children should be told their parents' respective positions. The father in turn has remained critical of the court in that regard, commenting in his statement: Following the June hearing, I told the boys we now get an extra 2 hours and everything else will be decided in July. X stated that he knew we were in court because we could not agree, that he knew I wanted them home and that it must therefore be [sic] his mother who was not agreeing. I told him I could not comment. I note that NYAS wanted to explain this situation to the boys, but the court refused to allow this – it may have been healthier to do so, X and Y are not babies – they are intelligent 13 and 11 year olds, and will obviously draw their own conclusions.
113. The mother has been blamed and criticised by both the Guardian and the father for an incident which happened following the hearing on 26 June 2025. In her fourth report (dated 17 July 2025), Ms Bell expressed her concern regarding the 'conflicting narratives' the children were being given. During a visit on 11 July, the boys informed her that both parents had told them 'they agree to a shared care (50/50) arrangement'. Ms Bell was concerned that this was not true, the mother did not agree to such an arrangement. X had directly asked her to confirm the parents' respective positions in court, which she declined to do given the court's clear view expressed at the hearing.
114. I do not consider that the children's confusion arose simply from a conversation they had with their mother, as alleged. There is little corroborative evidence to that effect; there are (in contrast) repeated comments made by the father throughout his oral and written evidence that the mother had agreed "50:50" on separation and has resiled from that. It seems equally likely to me that the children have misunderstood a garbled version of that assertion than the mother having told them she agreed to 50:50 care, a position she has not held at any point in these proceedings. To be clear, I make no finding either way. I do not consider, however, that the matter is as straightforward as Ms Bell and the father would have it.
115. I note that Ms Bell had informed the children as far back as April 2025 that she was recommending an equal, shared-care arrangement with a six-week transition plan. She confirmed as much in an e-mail to the parties dated 5 April 2025. Given the boys plainly knew their father's position (50:50) and were now aware that Ms Bell was also advocating such an outcome, it must have been obvious to them that the spanner-in-the works (so to speak) at all following hearings was their mother's position. It is telling that the boys had no

questions when I met them save one from X: My mum said she asked my dad to have weekends with him and school days with her. That is something she asked. Do you know this? Plainly, in the end, the mother did discuss with the children her position, for which she has been criticised. I am not entirely sure what else she was supposed to do given the children's awareness of what everyone else was saying.

116. The basic point remains: the level of awareness X and Y have, not just of the proceedings but the positions advanced within them, is shocking. That is a situation for which everyone – lay party and professional – needs to accept at least some responsibility. Ms Bell has confirmed that the boys are at least aware that the court may not make a final order in line with their expressed wish for equal time with both parents. In my view, they need to know that they have been heard, their voices listened to, but that the burden of the decision is the court's. Children's physical, emotional and educational needs
117. In her second report, Ms Bell identifies no particular issues concerning Y's physical needs. There were, she says, some initial concerns regarding possible dyslexia but following an assessment it was identified that he has some difficulty with eye control and auditory discrimination, rather than dyslexia. His behaviour is described by his school as exemplary. There have been issues with attendance, which fell from 91% (2022/23) to 88.9% (2023/24) before rising to 94.2% (2024/25). Work between the mother and the school is reported to have led to a positive outcome with attendance and punctuality. I have seen some updating evidence that, as of February 2025, Y's attendance was up to 96.7%.
118. X has some additional needs. He has an Inclusion Passport at school, which refers to Dyslexia traits, anxiety and Ehlers-Danlos Syndrome. He is prescribed Melatonin for sleep. Ms Bell confirms in her report that his physical health needs are effectively managed and he is generally considered to be in good overall health. In addition, he has been on the Autism Spectrum Disorder ("ASD") assessment pathway since 2020. He is described within the papers as exhibiting traits which may be indicative of ASD, and his Inclusion Passport refers to a number of such traits under the heading 'Things I find difficult'. For example, he finds change and transition difficult, he takes things literally and he is 'struggling emotionally at the moment with changes' in his life.
119. School attendance has remained a topic of concern. In her second report, Ms Bell records that X's attendance in Year 7 was as low as 77%, rising to 91% in Year 8. As of August 2024, the school were reporting that X frequently arrived late but did not miss the start of lessons. His school reports indicated he was 'on target in all subjects and exceeding expectations in English'. The mother has since provided evidence that X's attendance is up to 92%, with a significant number of lates (39), 11 authorised absences and four unauthorised. The time period covered is not clear. The father's evidence for March through June 2025 shows one unauthorised absence and twenty-four lates. This appears to tally broadly with the mother's evidence. She explains that the lates are usually caused by X's resistance to going to school, with a number of lates in the afternoon being beyond her control as they reflect X not returning to class in time following lunch. In 2024, when Cafcass liaised with the school,

they reported that the mother ‘has always worked well with the school, and she has worked hard to get [X] to attend when his behaviour has been challenging’.

120. It is common ground between all parties that the boys have been emotionally harmed by their experiences at home and during these proceedings. Certainly, from the point of view of professionals, X’s teachers reported that he has been significantly affected by events, with increased levels of dysregulation. He has described the events of leaving the family home, moving school and having limited time with his father as having ‘lost everything’. While Y has not exhibited the same emotional health problems as his brother, the school have remained vigilant to the risk he has been masking his feelings. Both children have therefore received levels of intervention and/or counselling through school and Early Help services.
121. X’s difficulties regulating his behaviour at home and school is evidenced in the papers. While his behaviour on the whole is described as good, he has displayed challenging behaviours and can become frustrated ‘if he feels incorrect decisions have been made by the teaching staff’ (Cafcass, para. 24). Moving into Year 8, the school reported to Ms Bell ‘significant improvement in self-regulation’ with low-level disruption in class. Following some counselling and intervention work, his teachers have identified a ‘noticeable improvement in his ability to manage emotions’, although he does still require support.
Capability of parents
122. This is not a case in which I am concerned with either parent’s ability to provide basic care. The parents can each cook, clean and house their children. Both parents are loving towards and are loved by the children. The children report feeling safe in both parents’ care, notwithstanding the father’s assertions to the contrary.
123. That is not to say, however, that the care is perfect. The Guardian has criticised several aspects of the mother’s care. In particular, she has identified a concern around X’s morning routine, which is overly infantilising (e.g. putting toothpaste on his brush for him) and issues around the mother’s misreporting of X’s health needs. On this latter point, in particular, criticism is made that the mother reports X has being diagnosed with ASD when in reality he is on the ASD pathway awaiting further assessment. Further, that there has been inconsistency between what the mother has said about X’s difficulties with incontinence (which she reports is no longer an issue) as against his DLA entitlement. I am not sure it follows, however, as Ms Bell concludes, that the above puts X at risk of his medical needs not being met; to the contrary, the mother is otherwise painted as hypervigilant to the health needs of the children and there is no evidence she has failed to follow guidance from professionals.
124. The father has made much of the mother’s perceived failure to ensure X attends school; he sees this as an inability on her part to set proper boundaries and explains that the relationship between mother and son is poor. In his oral evidence, he attributed X’s improved engagement and emotional regulation at school as arising entirely from increased levels of contact with him. In my view, there is little evidence to support such a finding.

Rather, there is overwhelming evidence that X has received the benefit of support and intervention on the ground, as well as much hard work implemented between the school and the mother. That is not, of course, to say that X has not benefitted from spending time with his father; rather, I take a dim view of the father's apparent inability to recognise the mother's parenting ability.

125. X has openly discussed with the school that he argues with his mother because she forces him to attend. As with school attendance, the father has made much of these arguments and the tensions in the mother-son relationship. In particular, he points to an incident which occurred in March 2025, when X attended school and spoke to a family support worker, Ms J. Ms J describes X admitting he had sworn and shouted at his mother in frustration; she records that he then reported 'that mum threw him across the room when he refused to go to school when he did not want to go'.
126. The father alleges that this is evidence of a physical assault by the mother against X, and that X only later changed his story "under pressure" from the mother. In his final evidence, the father states that there 'has been one confirmed ... incident of physical assault by [the mother] on X, where she shouted and dragged him around the house during an argument'. X also sent a message to his father on 27 March 2025 at 08:23 stating: Dad tell the court to get me the fuck away from mum, I hate her so much I physically can't go in today and she grabs me and starts dragging me around shouting saying she will get a truancy officer on me ... I don't want to live with her for a while until I'm not annoyed at her ... I note the father exhibits the above but does not evidence his own response, which might have allowed him to demonstrate his ability to respond appropriately. He made further reference to this incident in his oral evidence, saying he will always be "highly critical of any parent who physically dragged their child around the house" and that "if she assaults the children, that will create difficulties in co-parenting". He has continued to repeat the assertion made in the written evidence, that the children tell him they feel unsafe with the mother (they have not repeated such an assertion to Cafcass or Ms Bell).
127. There is little in the way of direct evidence or contemporaneous records of what X said at school. The mother denies that she assaulted X. I have seen an e-mail from Ms J in which she confirms X later apologised, both for his own behaviour towards his mum and also for messaging the father, which he did because he 'was aware that messaging dad would get a reaction'. In another e-mail, she confirms that X knew that his father would be 'concerned and angry' on receiving the message. Standing back and considering the totality of the evidence, written and oral, I draw two conclusions.
128. First, that the mother has at times found X's behaviour difficult and frustrating to manage. He is a young man with ASD-traits and issues around dysregulation and school resistance. It seems to me likely that, in the highly-strung morning preparations to get both children to different schools, the mother has at times handled and physically manoeuvred X to get him out the house. I do not, however, find that he has been assaulted or thrown across a room by his mother. Indeed, there is a certain irony in the father's repeated assertion that the mother

cannot physically provide for the needs of the children due to her own limitations arising from her health and mobility; on the other hand, he now says, she is strong enough to launch a teenager across a room.

129. Which leads me to my second conclusion. The father is willing to weaponise any perceived deficiency in the mother's parenting, relentlessly and ad infinitum. X, in turn, is aware that he can play both parents against the other; that is a fact readily inferred from his admissions to Ms J, as summarised above. This in my view only increases the risk moving forward that the father will continue to focus on and wedge open what cracks exist in the mother-son relationship. In his interview with Ms Bell earlier this year, the father informed her that X: ... frequently reported intense arguments with [the mother], some of which he described as "really bad" ... [he] felt that these ongoing conflicts contribute to an unstable household environment and may have a negative impact on X's emotional development ... [he] is concerned that [the mother] has not fully acknowledged the frequency and impact of these conflicts on [the children]. X himself informed Ms Bell that the arguments have reduced and 'typically revolve around his father ... as he had previously blamed his mother for not allowing him to see [the father]'. The father's role in this dynamic concerns me, both as a topic of arguments but also in his presentation to X as a neutral ear to complain to, whereas in reality everything X says is repeated, misconstrued and weaponised in these proceedings.
- Analysis of risk
130. This welfare hearing has not been conducted in a vacuum. It is, in essence, a part-heard adjournment of the welfare determination following the fact-finding exercise, during which findings were made against the father. I repeat that a number of findings were made which fall within the PD12J definition of domestic abuse. I found his conduct to have been 'oppressive, controlling and psychologically abusive', especially the insidious and inexplicable way in which he manipulated the mother into believing she was sleepwalking at night into the children's bedroom. Post-separation, I found that where his conduct was 'designed at first to prevent or frustrate the mother's attempts to leave; then once she had left, he embarked on a concerted campaign to punish her for doing so'.
131. In light of those findings, the court is obliged to consider the guidance set out in PD 12J from paras. 35 onwards, as set out above. Those paragraphs are given a subheading, 'Factors to be taken into account when determining whether to make child arrangements orders in all cases where domestic abuse has occurred' [emphasis added]. I must ensure that any order will not expose the children to an unmanageable risk of harm and will be in their best interests (para. 35). While I must of course apply the s.1(3) welfare checklist, that exercise must be done 'with reference' to my findings and 'any expert risk assessment obtained' (para. 36).
132. That latter point – any expert risk assessment obtained – has remained a point of frustration in this case. Following the fact-finding hearing, Cafcass was directed to provide a s.7 report, in which (it had been hoped) a full assessment of risk would have been completed. In her report, Ms Sharma-Lail applied the Distinguishing Domestic Abuse and Harmful Conflict

Tool, through which she concluded that the mother ‘is at significant risk of ongoing abuse from [the father] which is now being subjected through the time which he is spending with X and Y’. She was concerned the children were ‘being exposed to emotional harm through exposure to inappropriate conversations held with them by their father’. She concluded, however, that the matter was too complex and required further risk and parenting assessments to be completed by the local authority under a s.37 direction. I did not accept that recommendation.

133. Next, it was hoped that the court would be assisted in its assessment of risk via the psychological assessment of the SJE, who was asked specifically to consider the father’s insight and understanding into the court’s findings and the emotional impact of the same upon the children and their mother. For all the reasons on which I have already elaborated, the expert singularly failed to perform his task in that regard.
134. Finally, the court tasked the Guardian with the role of undertaking a full welfare analysis and making recommendations. In her interim analysis dated 1 September 2024, Ms Bell identified ‘significant concerns regarding the emotional safety of the children during their contact with their father’ (para. 5.2). I have already set out above a passage from para. 6.2, in which Ms Bell observed that the father’s ‘obsessive behaviour patterns, lack of insight into the emotional impact of his communications, and tendency to discuss adult issues, court proceedings and [the mother] negatively, indicate a lack of child-focused empathy’. I understand, of course, that that report set out only the Guardian’s initial impressions following her instruction in July.
135. By March 2025, the Guardian had filed her substantive report. It will be noted, therefore, that her report followed the receipt of the SJE’s evidence (3 February) and response to questions (8 March). Nowhere in her report does the Guardian acknowledge the fact the expert had failed to even refer to the fact-finding judgment or the fact he had failed to undertake question 6 of his instructions.
136. I have already set out above what I consider to be the key parts of that second report. Despite its significant length, it does not contain any detailed record of her discussions with the father around the findings made against him. Rather, over the course of some nine pages, she describes the father’s portrayal of himself in the compulsive carer role while he himself complained about the mother’s inability to care for the children, alienation, her health etc. The risk analysis is largely limited to the section headed ‘Ensuring safety’ (paras. 5.9.19 onwards). Ms Bell’s references to the court’s findings are largely only ever tangential when considering risk. At para. 5.9.19.2, for example (already quoted but repeated here) she says: Although he has demonstrated some reflection on the impact of the parental dispute on the children, his ability to regulate emotions, manage conflict, and prioritise their needs over his grievances with [the mother] remains a crucial factor. Without completing the recommended therapeutic work, there remains a risk that unresolved behaviours could influence his parenting approach, particularly in the face of challenges within a shared care arrangement. While there are no immediate safety concerns that would warrant all contact

being supervised, any increase in unsupervised time or progression towards shared care should be contingent on [the father] engaging in the recommended therapeutic work. This would provide reassurance that he is developing healthier relational patterns and reducing the risk of conflict affecting the children's emotional wellbeing. While the work is being undertaken, a gradual and structured approach to increasing contact, leading to shared care arrangement, would be necessary, with ongoing monitoring of the children's wellbeing to ensure their continued emotional safety. I get no sense – considering that report as a whole – that the individual findings were explored with the father; that his insight into or acceptance of the same was properly explored; nor that the impact on the mother and the children of those events was properly weighed when recommendations were formulated.

137. Subsequent events have only confirmed my initial reading of that report and its apparent lack of risk assessment. As I have already noted, the Guardian presented her fifth report as a response to the father's outburst in court and/or X's updated wishes and feelings. That may be correct but it seems clear that there was, in fact, a further, more central intention. Over the course of the expert's oral evidence in July 2025, I had made clear my view that – on the written evidence before me – neither the SJE nor the Guardian's written analysis contained any real attempt to assess the risk arising from the court's findings of abuse in a meaningful way before proceeding to give recommendations.
138. It was only in September 2025 that the Guardian filed what is now described as a 'NYAS Caseworker Risk Assessment'. She provided further explanation for this in her oral evidence, when she told me there had been "some criticism of my original report having no risk assessment, [so] I produced a table ... In my first report, I was told there was no risk assessment. Obviously I had identified risks, I thought I would put it in a table, in written form". It is an 11-page document, the final two pages including tables headed 'Risk Assessment', one for the mother and one for the father.
139. Under the subheading 'Controlling and Coercive Behaviour', the Guardian sets out her work with the father around the findings of the court, conducted after the hearing in July 2025. She details how the father disputes the findings concerning 'use of an AirTag, sleepwalking, social control, [the mother's] mental health comment, phone records, and contact with third-party or public bodies' (para. 3.3). Ultimately, she says, the father 'does not accept the majority of the Court's findings in relation to coercive or controlling behaviour' (para. 3.1). He asserts he has been misunderstood and that his conduct was not abusive.
140. Significantly, the Guardian's fifth report represents the first time this specific exercise appears to have been undertaken properly with the father. It post-dates her recommendations by many months, notwithstanding it was plainly an exercise which should have been undertaken as part of her detailed work feeding into her substantive analysis and recommendations contained in the second report. This last-minute attempt to remedy such an enormous analytical gap is – with respect – entirely unpersuasive. It reads very much as if this information – that the father refutes the court's findings – has only just emerged unexpectedly, requiring the Guardian (in part) to revisit her original

recommendation.

141. In this final report, the Guardian expresses concern that the father's lack of accountability continues to limit 'his capacity to reflect critically on the potential emotional harm caused'. It is, she notes, positive that he is engaging with therapy and is developing strategies to tackle 'patterns of over-involvement and obsessiveness rooted in anxiety' (para. 6.3). His rejection of the court's findings, however, gives rise to the risk that abusive patterns of behaviour may persist. The father's negative attitude towards the mother, she notes, 'suggests an ongoing preoccupation' (para. 6.4).
142. Setting aside the impact this has on the Guardian's recommendations, I remain of the view that the assessment of risk – which is required by PD12J, para. 35 onwards – remains incomplete. Where does that leave the court? No party has sought to suggest that – faced with doubt in the professional analysis – the court is essentially hamstrung, unable to take its own view on risk and welfare. That must surely be correct. In determining what is best for the children, I am required to take a holistic view of the evidence; I am entitled to identify and weigh risk; I am obliged to conduct my own analysis of welfare; and I am entitled to depart from the view of the professionals, including the Guardian, where there are reasons to do so. That seems to me entirely uncontroversial and, as I say, no party has suggested otherwise.
143. I am supported in this view by the observations of Ryder LJ in the case of *W (A Child) v Neath Port Talbot County Borough Council* [2013] EWCA Civ 1227 at [80]: The courts powers extend to making an order other than that asked for by a local authority. The process of deciding what order is necessary involves a value judgment about the proportionality of the State's intervention to meet the risk against which the court decides there is a need for protection. In that regard, one starts with the court's findings of fact and moves on to the value judgments that are the welfare evaluation. That evaluation is the court's not the local authority's, the guardian's or indeed any other party's. It is the function of the court to come to that value judgment. It is simply not open to a local authority within proceedings to decline to accept the court's evaluation of risk, no matter how much it may disagree with the same. Furthermore, it is that evaluation which will inform the proportionality of the response which the court decides is necessary. [emphasis added] While that observation was made in the context of public law proceedings, I am satisfied that it applies with equal force in private law.
144. When it is said the father does not "accept" the findings, it does not appear to me that he denies all of the acts per se. Rather, he denies that they were abusive or else that his intention was in any way malign. This is confirmed in his comments to the Guardian, when he says the findings concern 'practical actions rather than abusive behaviour'. What he does not appear to do, however, is stop and reflect on the fundamental impact any of those actions had on the mother and/or the children. While there are some findings with which I might have had sympathy with this defence, I am afraid it falls down entirely when concerning the father's gas-lighting behaviour (for example), which led the mother to

believe she was sleepwalking into the children's room at night. Nor does it explain his campaign against her independence post-separation. Both the SJE and the Guardian referred to the risk posed by the father as being managed or limited by the fact the parents are separated. I disagree.

145. Pursuant to para. 36(2), PD12J, the court is required to consider not only the fact that the children and the mother have been harmed in the past by the father's actions, but whether or not they are 'at risk of suffering [harm], if a child arrangements order is made'. Here, then, the court is tasked with assessing the risk that harm may arise in the future. There is a body of authority concerned with how the court should approach the assessment of risk, helpfully summarised by Baker LJ in *Re G (A Child: Scope of Fact-Finding)* [2025] EWCA (Civ) 1044 at [75]-[88]. A child is likely to suffer harm if there is a real possibility, a possibility that cannot sensibly be ignored having regard to the nature and gravity of the feared harm in the particular case, see *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] 1 FLR 80, at
- p. 585. Any conclusions must be based on facts, that is, evidence of which the court can be judicially satisfied to the requisite standard of proof. Doubts and suspicions cannot form the basis of a finding that there is likelihood of harm in the future; for the court to find a likelihood of future harm, it must be satisfied on the balance of probabilities that the facts upon which that prediction is based did actually happen.
146. In my assessment, the father poses a risk of emotional harm to both the children and the mother. I have reached that conclusion for the following reasons:
- (a) The mother has been impacted by the father's conduct to date. It is clear, on any view, that her confidence as a carer has been knocked, both during the relationship and after. During their relationship, the father (for example) made the mother feel scared that she was sleepwalking and posed a risk of harm to the children at night, or that it might not be safe for her to leave the home without the father being able to track her location. Since separation, he has challenged her capability to provide care and her ability to live independently from him. I accept the mother's evidence that she is scared of the father: given her experiences of him, she has every reason to be. As Ms Bell told me, the harm caused by the father's actions "is continuing to impact her [the mother], she is scared and worried";
 - (b) It is plain that the father sees nothing wrong in his actions towards the mother. Instead, he continues to cling to the narrative that he has been misunderstood and wronged by this court process. I am unimpressed by his attempt to hide behind the expert's view that he was simply acting as a compulsive carer; in this regard, the SJE's flawed analysis may well be said to have done a great deal of harm in depriving the father with the opportunity or incentive to shift in his thinking;
 - (c) This lack of accountability has only been exacerbated and entrenched by the father's therapist. Ignoring the dispute as to what the therapist did or did not say to the Guardian, I am surprised by her letter, in which she states (in her own words) that her appraisal of the

father ‘has suggested that neither historical nor present patterns of coercive control are evident in [her] professional opinion’. She has ‘questioned the coercive control label given to [the father’s] behaviours’ while expressing the view that he ‘did not show characteristics of perpetrator behaviour’. The father endorsed these comments wholeheartedly in his oral evidence. I am now told in closing, however, that he recognises the need to find an alternative therapist;

- (d) On balance, I am satisfied that the father has shown no real acknowledgement of the court’s findings, nor is he able to demonstrate any insight into the impact his behaviour has had on the mother and/or the children. The mother told me in her oral evidence “I find him [the father] a very scary individual ... he made me into not even a person at all, he let me believe I would hurt the children”. The father sat using his phone throughout this evidence, apparently unmoved by the mother’s description of the harm he had caused her;
- (e) In turn, I question what benefit the father has received from the therapy and domestic abuse work completed to date. A precursor to making progress must inherently involve some level of acceptance that there needs to be a change; insofar as his abusive and controlling behaviours are concerned, he continues to provide only justifications and counterattacks. Hardly the basis for effective intervention moving forward. He is, I am told, signed up to complete a two-day intensive Freedom Programme. I hope that this work does assist him to gain insight into his behaviour but, at the time of this judgment, there is reason for pessimism;
- (f) Standing back and looking at the father’s written evidence, his comments to Cafcass, to the Guardian and in his oral evidence, I remain shocked at the level of negativity directed towards the mother. The father has maintained his constant and (in my appraisal) largely unsubstantiated criticisms of the mother, undermining her in multiple domains of her parenting. X’s dysregulated behaviour is placed at her door, as is his lateness and poor attendance at school; meanwhile, the father continues to invite the court to focus on the mother’s perceived deficits in the care she provides arising from her mental and physical health. I note that, at one point, he even made the unsubstantiated allegation that the mother abuses alcohol (Cafcass, May 2024). I accept the Guardian’s view that the father’s unrelenting negative attitude towards the mother ‘suggests an ongoing preoccupation’ (fifth report, para. 6.4);
- (g) I do not accept that the father is willing or able to shield the children from his views of the mother. The level of rancour he directs towards her, in my assessment, cannot and has not been contained. That is not to say that the father makes overtly abusive comments about the mother; rather, his modus operandi has always been to make subtle yet nevertheless insidious observations. As was explored in the fact-finding, for example, comments about the mother’s cooking, her physical limitations or inability to engage in sports, the fact that the father has to pay child maintenance etc. are all examples of how the father has chipped away at the children’s sense of security living with their mother;

- (h) The father now points to the 17 contact notes contained in the supplemental bundle, which cover the period 14 December 2024 to 12 April 2025. Those notes are universally acknowledged to be positive. Although there were further sessions pre-dating those 17 which were also positive, both Cafcass and the Guardian raised concerns as to the questionable level of supervision, such that confidence in those earlier records was damaged. Indeed, when the Guardian viewed a recording of a supervised, indirect contact session on 31 July 2024, she remained concerned as to the nature of the conversations held, the father introducing issues of adult conflict into his discussion with the children;
- (i) As to the most recent contact notes, the father points to this as evidence that he is able to maintain boundaries and that he does not say inappropriate things or make negative comments about the mother. The Guardian has also noted that the communication between the parties via OurFamilyWizard (“OFW”) has demonstrated a marked shift in his written messages to the mother. I agree that that this is all very positive evidence. I am conscious, however, that the contact notes demonstrate the father’s ability to manage himself in limited, two-hour sessions, in which he knew he was being observed. Equally with the OFW communication, both parties have sought to disclose the parts they feel assist their cases, indicating an awareness that such messages would be seen by the court;
- (j) Since April 2025, the father’s time with the children has been unsupervised. In that time, it is evident that he has discussed these proceedings with the children. I have already made findings (above) as to the extent to which the father has exposed the children to his views and influenced their request for “50/50” shared care. Most recently, there was the incident of X’s text to the Guardian on the Friday before this adjourned hearing; again, I have already made findings in this regard. In my view, this latter incident is a clear example of how the father – when faced with a situation or outcome he does not agree with – is more than content to exert pressure or influence on the children to achieve the outcome he desires;
- (k) There is a clear vulnerability in X and the mother’s relationship; that is demonstrated in the challenges of getting X to school and X’s admission to Ms Bell that he blamed the mother for the lack of time he spends with his father. On balance, I find that that is a vulnerability which the father has shown himself willing to abuse and exploit. His own written evidence is that X frequently complains about his mother, that the children feel “unsafe” in her care and that X has even resorted to self-harming behaviours. None of that is substantiated in what the children themselves have actually reported to professionals, and yet they are complaints the father continues to make; and
- (l) X’s message to his father in March 2025, complaining about the mother ‘dragging’ him across a room, is a case in point. The father demonstrates no attempt to deescalate nor to make sensible enquiries as to what had actually happened. Rather, he has continued to describe this event unquestioningly as the mother having ‘assaulted’ X, an allegation he repeated in oral evidence. X has even admitted that he messaged his dad because he knew it would get a reaction and yet, still, the father has shown no ability to reflect. As X gets older, it seems unlikely to me that his behaviour is going to become less challenging. It seems to me there is

a high risk that the father will choose to wedge open any crack in that relationship he can in order to destabilise the children's sense of security with the mother.

147. For all of the foregoing reasons, and having considered carefully the guidance contained at PD12J, paras. 35 to 37, I find that the mother remains at high risk of controlling and coercive abuse from the father. As Ms Bell suggests in her fifth report, the father's rejection of the court's findings gives rise to the risk that abusive patterns of behaviour will persist. I reject as factually inaccurate the notion that such behaviour was only ever limited to the relationship itself; it has plainly continued post-separation.
148. Last year, I found the father's conduct post-separation – his reports to professionals, his statement to the PIP Tribunal Judge, his e-mails to the housing authority and communication with the Legal Aid Agency – were controlling and coercive, describing it as a 'concerted campaign to punish her' for leaving. I acknowledge that, in recent months, there has been (as Ms Bell describes it) a "significant reduction" in the father's inappropriate behaviours towards the mother and the children. That reduction, however, is relatively recent and has happened during a time of intense scrutiny. I have seen no evidence to suggest that he has shifted in his thinking with regards to the mother, or that – when the oversight of these proceedings end – he will not immediately return to the objective of punishing and belittling her. The mother is plainly a vulnerable individual; the father poses a high risk of emotional and psychological harm.
149. What of the risk of harm to the children? While the impact of domestic abuse on children is well known, perhaps less well trodden and developing is the impact that controlling and coercive abuse of one parent by the other might have on children. There can be no dispute that inappropriate, adult discussions harm children emotionally and have, in fact, harmed the children in this case. As for the more insidious side of a controlling dynamic, Ms Bell cites in her report a Research In Practice paper from 2018, which concluded that exposure to such a dynamic 'can lead to anxiety, difficulties in forming healthy relationships, and issues with self-esteem'. Having lived in the primary care of their mother since October 2022, the father's willingness to question and undermine the children's sense of safety and stability with her cannot be sensibly ignored.
150. I find that the children remain at risk of significant emotional harm in the care of their father. Welfare analysis
151. The father seeks an order that the children live with both parties for equal periods of time, one week on/one week off. The Guardian proposes an arrangement whereby the children live with their father from Sunday to Wednesday (three nights) and Wednesday to Sunday with the mother (four nights). The mother's position is a little more nuanced. With her final evidence, she includes a schedule in which she proposes a two-week model, whereby in week one the children spend from Thursday to Monday with the father (four nights) followed by a Thursday overnight the following week (one night), giving a 9:5 divide in her favour. In her oral evidence, however, she described her position as being "really difficult"

and appeared to row back from putting any firm child arrangements before the court; on the one hand, she wants contact to progress to overnights but, on the other, she remains concerned that the father has not changed. I have much sympathy with that position.

152. The Guardian's second report recommends a fully equal, shared care arrangement. In my view, it does so with no proper analysis of the impact such child arrangements would have on the mother (and in turn on the children) when considered through the prism of the court's findings. Indeed, my criticisms of that report are twofold. First, the report is extremely thorough in identifying the various concerns surrounding both parents' capabilities and behaviours; in addressing those concerns in silos, however, one gets no real sense of how those different factors have been weighed against other. The impression I get is of a very detailed list with no real analysis, followed by recommendations. The result is that the report (however long) provides a list of the issues, Ms Bell's conclusions, but not her workings.
153. Second, in addressing the various concerns one after the other, there is a real danger that the criticisms of the mother are given some form of equivalence with the behaviour of the father as I have found it to be. Nowhere is this more evident or problematic than in the Guardian's criticism of the mother for failing to 'take full accountability for her children's emotional wellbeing' after she 'ultimately ... made the choice to remove the children from their familiar environment'. In removing the children from their home, causing a change of school for X, it is said she demonstrated a 'lack of insight into the long-term emotional consequences of this action', which in turn creates concerns 'when assessing overall parenting capacity'. With respect, I could not disagree more. The mother fled what I have found to be abusive conduct perpetrated by the father. That does not excuse the disruption caused for the children but it does provide valuable context that appears to me to go unrecognised in Ms Bell's report. The father, inevitably, latched on to this criticism, leading to the repugnant situation of an abuser criticising their victim for the way in which they elected to escape.
154. In addition to the foregoing, there are other reasons I feel compelled to depart from the advice of the Guardian. I remain concerned that, in the end, the Guardian's reports when taken as a whole lack coherence:
 - (a) Where the first report in September 2024 emphasised the risk of emotional harm to the children posed by the father's discussions and the consequent need for supervision, the second report in April 2025 went in the opposite direction to recommend 50/50 shared care;
 - (b) The recommendation for shared care was said to be 'contingent' on the father engaging in the recommended therapy. Here, I remain concerned that the underlying recommendation for therapy arises from the SJE's analysis, the basis for which is inherently unreliable for the reasons already trailed;

- (c) The recommendation for shared care was also made on the basis there would need to be a 'structured and gradual approach' to increasing contact, 'leading towards a shared care arrangement' which was described as the 'long-term goal'. Despite that, the Guardian recommended a rapid six-week transition plan from limited supervised contact to a full, 50/50 shared care arrangement. I could see little that was gradual or carefully managed in that plan, nor of there being a 'long-term' goal in any meaningful sense;
- (d) By the time of the adjourned final hearing in September 2025, the Guardian was recommending the 4:3 arrangement (Wednesday to Sunday, Sunday to Wednesday) on the basis *inter alia* X had thought carefully about it. I must admit to being somewhat alarmed by this sudden change in position and the adoption of such an inherently unsustainable pattern. As Ms Watkins correctly pointed out, the children would never enjoy a full weekend with either parent; in the event X stopped his extracurricular activity, the whole reason for such an arrangement would vanish. With respect, the advocating of this arrangement very much has the feel of a Guardian caught in the wind, responding to events while losing sight of the overall picture; and
- (e) I remain concerned as to the precedence the Guardian gives to the children's wishes and feelings. These are two boys trapped in the middle of warring parents, with knowledge of their parents' respective positions, most especially their father's. I cannot see in the Guardian's reports any attempt to weigh what the children have said to her critically within the context of the Guardian's own observation in her September 2024 report that the father was engaging in appropriate discussions with the children. I have made findings above as to the caution I believe should be adopted when weighing the children's wishes. The weight placed upon those wishes by the Guardian, in my view, undermines the basis for her recommendations. I emphasise that none of the above is meant by way of criticism. Ms Bell has dedicated much time and energy to this case for which she should rightly be commended. I do not agree with her and have done my best to explain, with reasons, why I consider it necessary to depart from her recommendations, see e.g. *W v W (A Minor: Custody Appeal)* [1988] 2 FLR 505.
155. I have assessed that the father poses a high risk of emotional harm, both to the mother and to the children. It is that risk which, in my mind, points strongly away from an "equal" arrangement being in the boys' best interests. The father's case is essentially that the mother provides deficient care but that a 50/50 arrangement would allow the harm she causes to be diluted by the time spent in his care. That seems to me to be a dangerous and patronising basis for shared care on the facts of this case. In my view, the longer the time the children spend unsupervised with the father, the higher the risk of their being exposed to his toxic and embittered views of the mother.
156. I remind myself, however, that it is not the role of the court to eliminate all risk. Neither can that risk overshadow all other items on the welfare checklist; it must be considered as part of, not instead of, the principles of welfare which underpin all private law decisions. Both boys have asked consistently for more time with their father and – by all accounts – very

much enjoy the time they spend with him. I have seen photographs exhibited by the father to demonstrate the positive experience the children can have with him. Ms Bell remains concerned that limiting their time with the father may well cause the children to feel ignored or not listened to, which in itself presents a risk of emotional harm. While the children's wishes and feelings have been heavily influenced by their father, that is not to say they are now irrelevant.

157. In my view, there is a difficult balance to conduct here: between the risk of harm posed by unsupervised time with the father against the children's clear wishes and love for him. There is no perfect solution. Contact has progressed to unsupervised and I have no doubt that, were that to be undone, the children would be distraught. To her credit, the mother does not suggest that contact should regress to supervised so that all risk might be micromanaged. Rather, she proposes an unequal split of the children's time. I agree with the mother that an unequal division is the only way of striking the correct balance here between risk, needs, wishes and feelings. Even if an equal division of time were provided, there is no evidence the father would be able to cease in his campaign of constant criticism of the mother; rather, I consider that he would continue to undermine the time the children live with her, risking a destabilisation of their home with her.
158. The Guardian explained that her change in position from 50:50 to 4:3 arose in part from the risk posed by the father identified in her September 2025 report. While I remain unconvinced by the Guardian's overall conclusion, her rationale in that regard does lend support to the notion that an unequal split of time better promotes the children's need for stability. I also recall the Guardian's oral evidence, that a two-week block of time with the father in the holidays would likely expose the children to emotional harm if spent in the UK (it was not entirely clear why such risk would diminish if they travelled abroad).
159. Having read and listened to the evidence, considered the written and oral submissions, and stepping back to consider the children's welfare as holistically as I am able, in my view the only way the children will achieve a proper sense of security and stability is on the basis they live with their mother and spend time with the father on alternate weekends (Friday to Monday) with Thursday teatimes each week. Handovers should remain at the school, or else via the paternal grandparents. For the avoidance of doubt, I agree with Ms Watkins that there is no reason the father cannot take the boys to their sporting activity on Saturdays.
160. I recognise, of course, that this falls far short of what the children have asked for and that they are likely to be disappointed; I have already explained why, in my view, their wishes should not be determinative. The arrangement I will order does, however, meet the children's request for increased time with their dad while balancing the risk posed to them and their mother from spending extended periods of time in his care. It provides the stability of knowing that they live with their mother, in whose primary care they have now been for the past three years. The mother has worked hard to establish a routine for the children, a fact which is beginning to shine through in increased school attendance and (in terms of X) improved behaviour; the risk of that work being undone seems considerable

were that routine to be turned on its head in the way proposed by the father. It would be a significant change of circumstances that, at this stage, remains largely untested.

161. I have reviewed the guidance on the making of shared care or “lives with/lives with” orders. In particular, I have considered the guidance of Poole J in *AZ v BX* [2024] EWHC 1528 (Fam). I do not consider that a joint lives with order would signal “equality” between the parents in circumstances where, at present, there seems to me a risk of real imbalance arising as between the father and the mother. The father clearly and unabashedly views the mother as the inferior parent; one can only imagine how much worse that dynamic would become were he to feel emboldened by such an order.
162. I recognise that to refuse the making of a shared care order in circumstances where the parents have agreed may not be considered usual; but the court is not a rubber stamp. Unlike the case before Poole J, I fear that in attempting to put the parents on an equal footing on paper, in reality I would be achieving the complete opposite. Neither am I satisfied that shared care would promote a sense of stability within the family rather than act as a base from which the father would be able to further undermine the mother. I found the submission of the Guardian troubling, that a shared care order would reduce the parental conflict in this case such that it would be more harmful not to make it; the unspoken rationale being that the father will continue to abuse the mother until the court has made the order he seeks. That seems a somewhat perverse basis for making an order that the children live with both parents.
163. In the same vein, I do not consider it safe to “share” the holidays equally. I am concerned that a full week with the father at this time would place both the mother and the children at an unmanageable risk of harm. I simply do not understand or accept the Guardian’s analysis that one week in the UK is manageable but not two weeks; either that sort of extended time with the father is or is not safe. As the Guardian herself informed the court, there is a need to “mitigate the exposure” of the children to their father’s behaviour. Of course, a similar criticism may be made of my decision to order alternate weekends but such time strikes, in my view, a far better balance between the prevailing risks. I consider, therefore, that the alternate week arrangement should continue throughout the term-time and the holidays, save that the children should spend a full week with their mother in the Easter and a full fortnight with her in the summer breaks; these children should not be deprived the opportunity to go on holiday, not least where much of their wider maternal family reside abroad.
164. Mother’s Day should be spent with the mother, Father’s Day with the father, with Christmas Day and Easter Sunday alternating between the parents each year. Birthdays should be spent where they land under the usual pattern, unless agreed otherwise.
165. The above course of action does not seek to eliminate risk while at the same time recognising that risk of harm exists and needs to be managed. It remains to be seen whether or not the father is able to behave appropriately during the increased and overnight time I

have ordered. The above arrangements do seem regrettable given how much the boys enjoy seeing their father; at the same time, any more extended time with a father who retains such negative views of their mother is neither appropriate nor safe at this juncture. I very much hope that, free from court proceedings, the father is able to reflect properly and engage in therapeutic input that is designed to challenge his view of events rather than simply to explain or (worse) excuse it, as seems to have occurred to date. Conclusion and final comments

166. My order is that the children should live with the mother and spend time with the father on Thursdays afterschool until 20:00 and on alternate weekends, from school Friday to school on Monday.
167. These proceedings have been going on for too long. Both parents strike me as exhausted, as do the children. I accept Ms Bell's submission that there is now a need for "space and time, for all involved to heal". All parties are agreed that a s.91(14) order is necessary and proportionate, and that it should last for two years. With the consent of all parties, therefore, I will order that no application for an order relating to the children under s.8 CA 1989 shall be made by either parent without the court's permission until 4 November 2027.
168. Two final points. First, while the paternal grandparents have not featured large in this decision, they have certainly not been forgotten. I am aware that both boys describe how important their grandparents are, how their home acted as a refuge during the breakdown of their parents' relationship, and how much the children enjoy staying with them. I hope that the mother and the grandparents are now able to agree between them arrangements. If not, I am aware that the grandparents have their own application before the court which can be restored if necessary.
169. Second, I am conscious that during the course of preparing this judgment, Parliament has legislated to remove the Statutory presumption pursuant to what was s.1(2A) of the Children Act 1989. For the avoidance of doubt, I make clear that such a change has had no bearing on this decision; regardless of any presumption, I have determined that the father's involvement in the children's lives does further their welfare.
170. As discussed, I intend to write to the children separately. 51

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