

ENGLAND AND WALES / JUDGMENT

Z, Re

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Neutral Citation Number: [2026] EWHC 1012 (Fam) IN THE HIGH COURT OF JUSTICE FAMILY DIVISION Before: MRS JUSTICE THEIS DBE

- ----- Between: The Father
- and - Case No: FD23P00273 Royal Courts of Justice Strand, London, WC2A 2LL Date: 30 April 2026 Applicant
- (1) The Mother
- (2) Z (by his Children's Guardian) Respondents
- ----- Brendan Roche KC and Justin Slater (instructed by Goodman Ray) for the Applicant Michael Gration KC and Katy Chokowry (on 18, 19, 25 March) and Frankie Shama (on 23 April) (instructed by Dawson Cornwell) for the First Respondent Jonathan Rustin (on 18, 19, 25 March) (instructed by CAFCASS Legal) and Christopher Osborne (on 23 April) for the Second Respondent Hearing date: 18th, 19th, 25th March and 23rd April 2026 Judgment date: 30th April 2026
- ----- Approved Judgment This judgment was delivered in private. The judge has given leave for this version of the judgment to be published. Nobody may be identified by name or location. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court. Mrs Justice Theis DBE:

Introduction

1. This is the final welfare hearing for Z, now age 8 years. There have been significant delays in this case. Z's mother brought Z to England in May 2022 without the father's knowledge or consent. Z has lived here with his mother since then. Z has not seen his father since May 2022 although more recently they have had indirect video contact three times a week which all parties agree has gone well. 2. In May 2023 the father applied for an order seeking Z's return to Egypt. The mother resisted that application, and both parents made allegations against the other.
3. At the fact finding hearing in November 2024 (Re Z (A Child) Fact Finding) [2024] EWHC 3012 (Fam)) I found that the mother had made arrangements to come here by applying for a passport for Z without the father's knowledge and also applied for a skilled persons visa

without the father's knowledge, with Z listed as her dependant. The mother and Z travelled here without the father's knowledge and the mother registered Z to attend school here using a false Egyptian custody order. The mother made allegations of domestic abuse against the father. I found only some of the allegations made were established. Findings were made that there had been arguments between the parents and the father had lost his temper as alleged by the mother, which had been witnessed by Z, but I rejected the allegations of sexual and physical abuse, including the allegation that the father had shook Z, and coercive and controlling behaviour by the father.

4. At the conclusion of the hearing in November 2024, I made directions leading to a welfare hearing in February 2025. The father appealed. His appeal was refused in May 2025 (Re Z (A Child) [2025] EWCA Civ 594). Further directions were made in June 2025, leading to a final welfare hearing in October 2025. The hearing in October 2025 had to be adjourned on the second day due to a combination of factors, including the father's non-compliance with court orders, although the court was able to hear the evidence from Ian Edge, the jointly instructed expert. In the light of that expert evidence the parties were encouraged to enter into a Dispute Settlement Agreement ('DSA') which could be made into a court order in Egypt. This would have helped provide a secure legal framework in the event of Z's return to Egypt. The parties were able to agree a number of matters in a draft DSA. I heard further evidence from Mr Edge in December 2025. With the parties' agreement I gave a short judgment as to the way forward on the remaining issues. Despite that the parties remained unable to agree a final DSA.
5. In January 2024 the mother applied for asylum for herself and Z. That claim was rejected in May 2024, the mother appealed. The appeal hearing has had to be adjourned twice and finally took place in March 2026. That appeal was unsuccessful. The mother has applied for permission to appeal, and may make a fresh application.
6. At the hearing in March 2026 I heard the oral evidence from the mother, father and Ms Demery, Z's Children's Guardian ('the Guardian'). The position of the parties at the start of the hearing was that the father maintained his application for Z to return to live in Egypt. He accepted that Z would remain in the care of his mother at least until the age of 15 years. He offered to provide a declaration with those assurances. The mother continued to resist the father's application. She does not accept the findings of the court regarding the father's behaviour, she fears without the relevant legal framework in place in Egypt that Z will be removed from her care and she would struggle to support herself in Egypt. The Guardian considers this case to be finely balanced, but in the end concluded that Z's welfare needs are best met by his return to Egypt with the father providing the support he sets out. In the closing submissions on behalf of the Guardian her overall conclusion remained the same, but it was conditional on the parties entering into a DSA, the father making payments in advance and orders being made in the Egyptian courts prior to any return. Relevant background

7. The parents were both born in Egypt. They married in 2016 and are both Christians of the Egyptian Coptic faith. Z was born in 2017. They separated in November 2021, the mother went to live with her parents with Z.
8. Whilst they were together both parents worked for the same company and Z attended nursery.
9. After their separation the father had some contact with Z although the mother did not consider it was enough.
10. The mother and Z came here in May 2022, after the mother had obtained Z's passport and her visa without the father's knowledge. The mother worked for her brother-in-law here and she and Z stayed with her sister and her husband.
11. The father had no knowledge of the mother's plans. With the assistance of the church the father sought to reach agreement with the mother; when that failed this application was issued.
12. In July 2022 the father sought a Notice of Disobedience ('NoD') in Egypt against the mother for leaving the matrimonial home and not returning without a legitimate reason. On 14 December 2022 there was a declaration that the father has proved the mother's disobedience from this date. The practical implication of this is that the father does not have to provide any financial support for the mother in the event of her return to Egypt.
13. In July 2023 the mother applied for maintenance for Z in the court in Egypt and an order was made on 3 October 2023 for the father to pay 5000 EGP per month.
14. In November 2023 the mother was dismissed from her employment with her brother-in-law. In December 2023 she and Z left her sister's home but remained living in the locality until January 2024. The mother emailed the father's solicitor on 9 January 2024 stating that she intended to return to Egypt with Z due to her changed circumstances and planned to do that by 20 January 2024. The mother later said this was due to the enormous pressure she was under at the time when she didn't have any solicitors.
15. The mother applied for asylum on 25 January 2024 and she and Z have been accommodated in a hotel since then. The hearing listed on 29 January 2024 had to be adjourned.
16. On 13 February 2024 the father declared to the Cairo Ministry of Justice that Z should live with his mother until he is 15 years old.
17. Z was joined as a party to proceedings and directions were made for a fact finding hearing, which took place in November 2024.
18. The mother's asylum interview was on 22 April 2024, the asylum application was refused on 2 May 2024 and the mother launched her appeal on 7 May 2024. That appeal hearing did not take place until March 2026.

19. At the fact finding hearing in November 2024 I made the following findings:
- a. M left the family home in November 2021 due to F's verbal and physically abusive behaviour, namely i. ii. iii. In October or November 2017, when pregnant, M thought F was going to hit her pregnant belly. In 2020, when M got up early to go to work, F shouted at her for disturbing his sleep. F called her stubborn and dumb for not understanding that he needed to sleep. He was so angry that he tried to hit her in the face, but instead knocked on the door and broke his finger. In October 2021, in the morning, when M and Z were getting ready for nursery and work, F was complaining that they were making too much noise. He came to the kitchen and shouted at them. F told M that he was sick and tired of her. Then he spat on her face. Z was present during this incident and he was shocked and started crying. iv. On 24/11/21, F got angry during a conversation about Z's operation. M and F were in the car on the way to the nursery and work. F got really aggressive and told M to 'do what he says'. While M was driving, F hit M's arm with his fist. M was shocked and in pain because of this behaviour. Then F made her stop the car and he slammed the door of the car very aggressively causing damage to the door.
 - v. On 24/11/21, Z [aged 4 ½] asked M if F would kill them. vi. F would shout and be verbally abusive to M, he would call her 'stupid', 'dumb' and 'ignorant' to 'shut up and do not talk' in front of his friends. vii. F used to say that he regretted marrying M and that he deserved a better woman. He also told M that she made his life miserable and she was good for nothing. F used to say to M that she was not a good mother. F would say these things to her approximately twice or three times per week; viii. F used to make Z sleep longer while he was meant to look after him so he could get some sleep. F used to leave Z alone in the flat, while M was at work, despite her warnings. ix. In November 2021, F did not allow M's parents to attend Z's operation. He threatened M saying he would 'show [her] what he was going to do' and told M that he would make sure that she would not have any relationship with her family.
 - x. F did not care about Z's health. After the parties' separation in November 2021 he threatened M that he would cancel Z's operation and reschedule it without telling her.
 - b. M's allegations against F of sexual abuse, coercive and controlling behaviour, and financial abuse are not proven to be true upon the balance of probabilities.
 - c. M's allegations that the Father physically abused Z and shaking Z are not proven to be true upon the balance of probabilities;
 - d. Z witnessed either directly or indirectly (if he was not in the same room) the arguments between the parties and the physical abuse by F to M;
 - e. M applied for and obtained a passport for Z in December 2021 in Egypt without F's knowledge or consent.

- f. M wrongfully removed Z from Egypt to this jurisdiction on 1 May 2022 without F's knowledge or consent.
 - g. M produced a forged custody order from the Cairo Appeal Court dated 14.10.20 within these court proceedings and continued wrongly to maintain she had not read it.
 - h. M relied upon the forged custody order dated 14.10.20 in an application to the Home Office to obtain a visa for Z to facilitate his removal from Egypt to live in England.
 - i. M produced the forged custody order dated 14.10.20 to Z's school in Brighton to prevent the school sharing any information with F about [Z].
 - j. Between May 2022 and July 2023 there had been a significant period when Z did not have consistent regular indirect contact with F which M should have taken steps to put in place.
20. In their evidence during this hearing neither parent accepted the findings made. At the conclusion of the fact finding hearing directions were made leading to a final welfare hearing in February 2025.
21. The father appealed the court's conclusions in November 2024. As a result, the hearing in February 2025 had to be adjourned. The father's appeal was refused in May 2025. Following directions given in June 2025, the final welfare hearing was listed for three days in October 2025. The father failed to comply with the directions made by the court and filed a detailed statement very late on the eve of the October hearing. I refused the mother's application for an adjournment on the first day of the hearing. Following hearing the evidence of Ian Edge, the jointly instructed expert, the mother renewed her application which I granted. Directions were made leading to this hearing, which was scheduled to be when the outcome of the mother's asylum appeal would be known and to enable the parties to continue negotiations regarding finalising the DSA.
22. At a further hearing in December 2025 Ian Edge gave evidence about the remaining issues between the parties. With the agreement of the parties the court heard evidence from Ian Edge and I gave a ruling as what I considered to be the way forward regarding the outstanding issues in the draft DSA. Sadly, that did not result in the parents being able to reach agreement. On the eve of this hearing the father filed a document, a declaration, which set out what he was prepared to agree to.
23. The mother's asylum appeal hearing did not take place in February 2026, was re- scheduled for 12 March 2026, a week before this hearing. At the time of this hearing the result was not known. The parties filed written closing submissions on 27 March
2026. Once the result of the asylum appeal was known the parties were given the opportunity to file any further written representations and a short hearing took place on 23 April 2026 to consider those representations on that issue and the proposals in the written submissions on behalf of the Guardian. The SSHD also attended that hearing to deal with any legal issues that arose regarding G v G [2021] UKSC 9. The evidence The father

24. In his statement in March 2024, his third in these proceedings, he set out his position on various matters. Regarding the NoD he stated ‘This is not a document that I can simply withdraw. The process is that the [mother] can object to that notice (which she has done) and she does not need to implement the terms of that notice. This means that it essentially becomes obsolete, meaning that [the mother] is at no risk of any legal issues and there is nothing that I can do about it anyway. I will continue trying to take steps to withdraw the notice, as I understand the impact that this must have on [the mother]...’. In that statement he said the mother obtained an order that he pay 5,000 Egyptian pounds per month in late November 2023, and that he will pay that sum ‘on [Z’s] return to Egypt’, backdating the sums to the date of the order.
25. The father has filed two statements since the fact finding hearing in November 2024. He sets out that his ‘priority is having a meaningful relationship with [Z]...I do not seek for [the mother] to be punished for abducting [Z] nor to separate him from his mother, and to pay [the mother] maintenance.’ Attached to his 10th statement undated he attached the version of the DSA he could agree to, which excluded him agreeing to withdraw the NoD. In that statement he states he will ‘do my best to ensure that, where there has been agreement, those are put into practice – updating the court and the parties as that takes place.’ He continues in that statement ‘I can only agree to the wording I have proposed in respect of the Notice of Disobedience. That wording achieves the same practical objective. Importantly, the underlying issue has already been substantively addressed and resolved through clause 10 of the agreement, which provides for maintenance to the mother as an alternative mechanism agreed between the parties. When the agreement is considered as a whole, it is clear that I have made extensive and substantive concessions in order to progress matters. These include: a. Agreement to the mother retaining care of the child until the age of 18, notwithstanding that Egyptian law provides for custody until the age of 15. b. Agreement to maintenance payments for a period of up to 18 months, specifically to address the issue relating to the Notice of Disobedience. c. Withdrawal of the police report. d. Payment of housing rent for a period of six months. e. Agreement not to pursue any legal action in relation to the child’s abduction, including the waiver of associated legal rights’.
26. In his final statement dated 5 March 2026 he repeats his position regarding the NoD continuing ‘I have agreed to every request put forward, and the only matter on which I have sought limited rewording of a single paragraph of the Heads of Agreement that has already been substantively covered elsewhere in the agreement. I have also provided a formal, official, and stamped declaration issued by the Ministry of Justice confirming these matters. In these circumstances, it cannot reasonably be suggested that I am refusing to cooperate or acting unreasonably. My position is limited, proportionate, and legally reasoned, and it preserves fairness while still addressing the Judge’s underlying concern. In respect of the involvement of the Coptic Church, as I have mentioned, there is neither a valid nor feasible route with which the Church can be involved. The Church in Egypt is not a legal entity and does not have the authority to approve or validate such a settlement agreement.’ He said he fears that the mother has not been truthful to her family in Egypt about the contact he has

been having with Z.

27. In his oral evidence the father confirmed that the version of the declaration he was prepared to sign was circulated on the morning of this hearing in English. He had not seen a translated version of the document. He confirmed that he agreed to paragraph 7 of the document that stated that in any legal dispute regarding Z's custody he would not seek to rely upon the NoD. He confirmed that the WhatsApp messages that had been produced very recently by him confirmed that he had withdrawn the complaint he had made about the mother abducting Z before the police, the messages were in October 2025. The father accepted he had been directed to provide evidence of the withdrawal of the complaint by 8 March 2024. He agreed when he went to the police station to withdraw the complaint it had been referred to the prosecution, he said it had been filed at the police station but the only person who can withdraw the case is the prosecution. He thought it was automatically referred to the prosecution to take a decision but was vague in his answers as to what the status of his notice is. Mr Gration KC took him to his statement made in March 2024 when he stated there are no pending criminal charges in Egypt, but he couldn't remember dates. He said he made enquiries when the English Court asked him to do that and said he needed to make a power of attorney with a lawyer, as only they could deal with the prosecution. As regards the document produced on the morning of this hearing, the father said that it was an official declaration from him that he would be bound by. He maintained that the document would be legal and took issue with any suggestion by Mr Edge that it would be insufficient protection, although he accepted it could be withdrawn but stated he 'couldn't make a declaration to oppose a previous declaration I have made. I am legally bound by it.'. In his oral evidence he accepted the need for a DSA to be put before and approved by the Egyptian court.
28. The father gave assurances that Z would be able to attend the school they had originally planned for him as he had spoken to the school. He considered they would be able to provide the same support for Z as he has in his school here. It is an English- speaking school, stating the only subjects in Arabic were Arabic language lessons.
29. As regards payment of maintenance for 18 months for the mother he said he agreed to that. When asked what if the mother was unable to support herself after that time he said he considered 18 months was enough time for her to be able to find a job. When pressed why he had not withdrawn the NoD he said it was because the mother had accused him that he had kicked her out of the family home and he risked imprisonment. When taken to his statement that said the primary purpose was the partial withholding of financial support for the mother he agreed at that time he was responding to allegations made by the mother. He denied he had been abusive to the mother and had not discussed the findings made with anyone in Egypt. As regards support for Z he referred in vague terms in his oral evidence to having sent money for Z whilst he has been in England. When pressed on details he said 'I am not sure – every month or two months', as regards the amount he stated 'one time £60, £70 or £40'. He said it started in May 2024 or 2025 'he would check'. He made no proposals

regarding payment of back maintenance for Z in his evidence, stating 'what use it for'. As regards payments up front for the mother's maintenance the father's evidence was unclear, at times saying he could pay a quarter up front, then stating he would pay some of the backdated maintenance to Z upfront. He said he had 80,000 EGP in savings and his salary had risen. He could give no details about costs of renting anywhere for the mother and Z. He ended up saying he could pay 49,500 EGP up front and would transfer that prior to any return. The mother

30. In her written statements since the fact finding hearing the mother sets out that her concern if she returned to Egypt are there would be no effective safeguards. In her oral evidence she made clear she did not accept the findings made by this court regarding her allegations of the father's behaviour towards her and Z. She fears that if she returned to Egypt Z could be removed from her care due to the uncertainty about whether the abduction report has been withdrawn. She relies on what Mr Edge has stated that if she returned to Egypt, she may lose custody by being castigated by the father as being disobedient. She maintains that previous complaints she made to the police regarding the father's behaviour when she lived in Egypt were not acted upon. Her concern is she will remain married to the father as no current grounds of divorce apply to their situation and the way the father may use this to control any decisions regarding Z.
31. Her statements outline her proposals for contact between Z and the father at a contact centre here if his visa application was successful. If she returned to Egypt contact could be facilitated by her father or a cousin. She recognised the importance for Z of knowing and seeing his father and agreed Z had formed a relationship with the father through the indirect video contact. She said she had informed her father about Z's contact with his father but agreed she had not shared with him that it was going well, stating she did not want to put another strain on him. She agreed she didn't provide any school reports to the father as the father had not asked for them. If they returned to Egypt the mother agreed Z would have contact with the wider family. She agreed her parents were elderly, her mother is unwell and her father has to care for her as well as her brother which affects his health. Z has regular daily video calls with them.
32. In her oral evidence the mother acknowledged their current living circumstances were sub-optimal and bleak in the hotel where she and Z have been for 2 years. She stated it will not last for ever and Z is settled in his school and that they have support from the church and friends. She did not consider it caused Z harm as it is a 'temporary situation'. When asked what she would do if she lost her asylum appeal she said she would further appeal or may take another route, making it clear she wants to stay here. Mr Roche KC pressed the mother on why she was resistant to the Guardian seeing Z. She said Z had had nightmares following their meeting in 2025 as, according to the mother, Z reported to her that he will be going back to Egypt which caused him distress which she didn't want to repeat. Mr Edge

33. In his initial report in January 2025 Mr Edge set out the safeguards that would be required to ensure so far as possible that Z remained in the mother's care on return. These included (1) religious oaths given by each member of the family the child was to stay with; (2) a financial bond of high value; and (3) a consent order obtained in the Egyptian court, but with the caveat that 'the success of any such agreement ultimately lies in the integrity of the parents and the parents' families'. His advice was to include as much detail as possible.
34. As regards the NoD he considered it may be used as a ground of removal of the mother's right of custody and that the father could cancel/withdraw any report made to the police regarding the mother's abduction of Z.
35. He concluded in his first report as follows: 'By way of final summary, it must be noted that a Coptic Mother seeking recourse in a family matter in Egypt would need to refer to both the local Church Councils as well as the courts and the Coptic Law rules are in a number of respects more stringent than those of ordinary Egyptian law (normally applied to Muslims). If the mother returns to Egypt with the child then in my opinion there are the following possibilities: (i) the mother may lose custody of the child by being castigated by the father as being disobedient; (ii) the mother may lose custody on the basis that the child will be 7 years old; or (iii) the Coptic Church Councils will bring pressure to seek to persuade the mother to return to the matrimonial home'.
36. Mr Edge produced two further reports in November 2024. In those reports he took issue with the father's position that he could not withdraw the NoD, continuing 'the court decision of 14 December 2022 is based upon a notice issued to the wife and is a purely consensual process commenced by the father which the court will accede to if certain facts are proven. Just as it can be obtained by notification, it can also be withdrawn by simply notifying the court. The effects of the court decision are not that the recalcitrant spouse fears being forced back to the matrimonial home but that it provides a valid reason for a husband refusing to pay maintenance to his wife while the parties remain married but separated'. In relation to a signed notarised document by the father he confirmed there is nothing stopping the father from withdrawing the declaration or making one that contradicts it. To obtain a consent order he advised that a DSA would need to be drafted which was acceptable to both parties and drafted or translated into Arabic. The parties would then both need to be represented and their legal representatives would submit the DSA to the personal status court in Egypt. The Family Prosecution would consider the document to check that it is not against public policy, and a hearing date would be set to consider all matters including any representation or amendments by the Prosecution. Once the terms were settled then the court would simply make an order in the terms of the DSA. In his oral evidence in October Mr Edge estimated this process would take about six months.
37. Following the process put in train by the court to enable the parents to reach a DSA the parents were able to agree that Z would remain in his mother's care until the age of 15 years, and from 15 – 18 years providing that is consistent with Z's wishes. The DSA also recorded that the father's brother and sister would provide oaths in accordance with the terms set out

in the DSA. There remained two issues in dispute in the DSA, first in paragraph 1 regarding the parents' divorce and, second, in paragraph 9, regarding the NoD. The father proposed wording to the effect that the parents would do all they could to progress the divorce, the mother sought wording setting out the grounds of divorce. As regards the NoD the father proposed wording that he would not seek to rely on it and the mother sought wording that the father withdrew the notice and not to apply for any further notice.

38. In his oral evidence in October 2025 Mr Edge stated that the father's re-assurance not to rely on the NoD in legal proceedings would be sufficient to nullify its effect but he may apply for a further NoD in the future. Mr Edge regarded the withdrawal of the NoD as desirable, but not necessary. He considered the NoD would only affect maintenance and whilst it may affect custody arrangements it would not be determinative. In his view the Egyptian courts would treat the DSA as superseding the NoD in any event, even if not withdrawn. Mr Edge considered the procedure regarding the withdrawal of the NoD to be simple, the father just needs to write to the court and this could happen relatively quickly. Mr Edge stated he could not understand why the father said he may need to rely on the NoD in response to any future application made by the mother. Mr Edge confirmed that on the parents' divorce the NoD would lapse and have no effect. As regards the divorce, Mr Edge confirmed there are specified grounds of divorce, he considered the mother's proposed wording was unworkable as it would be seen as seeking to pre-empt the authority of the Egyptian court and in his view would have been removed by the Egyptian court when considering the terms of the DSA. Having heard the evidence from Mr Edge I preferred the father's wording regarding paragraph 1, on the basis that the mother had not issued or drafted a detailed application for divorce for the father to agree to, and the mother's wording regarding paragraph 9 because there was no need for the NoD to remain in place and it was the best way to protect and manage Z from risk if he returned to Egypt, particularly if the parties remained married. Mr O'Leary
39. Mr O'Leary was jointly instructed to consider the mother and Z's immigration status. He confirmed the mother was granted permission as a Skilled Worker from 1 May 2022 until 15 January 2028. The mother stopped working for her employer in November 2023. The relevant HO guidance provides that the mother's employer should have notified the Home Office of that change. Mr O'Leary had not seen any evidence that the mother's permission has been curtailed; as a result, her permission (or visa) remains valid, but she is not permitted to work for anyone other than the sponsor who employed her. He notes that when the mother's application for asylum was refused in May 2024 she was issued with a BAIL 201 form which he considers may have been a mistake. The summary of his advice is
- a. Until it is curtailed, the Mother's skilled workers visa remains valid even though she is no longer employed by her sponsor and neither working nor permitted to work for anyone other than her employer sponsor;

- b. Should the Mother's asylum appeal fail, provided that her permission is not curtailed, she would be entitled to remain in this country under the skilled worker visa, albeit unable to travel and not permitted to work and without recourse to public funds; and It is not completely clear whether it is open to the court or any party other than the Mother to request an expedited hearing of her asylum appeal, but I am not aware of this occurring in any cases in which our firm has acted.' c. Guardian
40. Ms Demery has been Z's Children's Guardian since 2024. She has filed four reports. In her final report she recognises this is a very finely balanced case and recommends, on balance, that an order is made for Z to return to Egypt subject to certain conditions being met. An earlier report in 2023, prior to the Guardian's appointment, when Z was in a relatively settled position here, the recommendation was, on balance, that Z remained here, in part based on the many unknowns that a return to Egypt would mean for Z.
41. In her first report in October 2024, after Z had been joined as a party, the Guardian stated she was unable to make any recommendations without a fact finding hearing. In her second report in September 2025 on a fine balance, she recommended Z's return to Egypt. In her third report in February 2026, after she had met Z to discuss the court's findings and assess the suitability of the mother's family to supervise contact she noted that Z found it hard to understand that the mother acted wrongly in bringing him to the United Kingdom and she considered Z to be very aligned to the mother. In her final report she set out her assessment that supports Z returning to Egypt. One of the main factors that influenced her conclusion is the difficulty in Z being able to have a proper relationship with his father if he remains here. Her recommendation is contingent on the court being satisfied that Z will remain in his mother's care and the father having done everything he can to mitigate the risk of Z being removed from the mother's care.
42. In her final report she observed 'Even if [the father] has done all that he can to ensure [Z] remains with his mother, there is always a small risk, of [Z] being separated from his mother. The emotional impact of this on [Z] would be profound as he is so closely aligned with his mother, who has always been his primary carer. He has not lived with his father for four years, and although there is no indication that his father has deliberately sought to harm him, they would have to re-establish their relationship in quite fraught circumstances. From my understanding of [Z's] grandparents' situation, they may not be in a position to care for him. In summary, while [Z's] welfare is the paramount consideration, neither option before the court presents the best outcome for [Z], who has experienced so much disruption in his young life. There is no certainty for [Z] in either his living arrangements or education after February 2026 in whichever jurisdiction he lives. It seems inevitable that if he remains in the UK, he will move home and in all probability school, once again. In Egypt [Z] will need to attend a new school and make new friends. His housing situation there is also unclear in the longer term, even if initially they stay with his grandparents.'

43. In her oral evidence the Guardian laid emphasis on the mother's inability to accept the court's findings, the concern she has that Z has been left believing that he had been abused by his father and the dissonance between Z's worries regarding the father being aggressive and his enjoyment in having the video contact with his father.
44. When considering the risks for Z of him returning to Egypt the Guardian agreed there was the potential that the mother would lose custody of Z, but she considered there was no suggestion that would indicate the father has any intention of that. In the six months following the parents' separation the mother complained the father had no interest in Z. She agreed the financial risk had been addressed to a certain extent but agreed there were financial risks that remain. The marriage still remaining in place was also a risk although she did not get the impression the father wished to reconcile or for the marriage to continue which makes it hard for her to understand why the father won't agree to end it. She considers he fears the mother could use that against him. The major risk for her is of Z being removed from the mother's care, although she did not think that would happen.
45. Turning to the protective factors the Guardian considered none of the options are risk free. The arrangements for financial support if Z returned to Egypt could be secured. She considers the mother is very resourceful and the risks of domestic abuse are low. In her view there was no evidence after the parents separated and the mother and Z lived with her parents of the father going to the maternal grandparents' home. The behaviour the court found during the time the parties were together was not a pattern that continued post separation.
46. In her final analysis the Guardian considered a return order should be made. In this jurisdiction she considers the mother and Z's future remains very uncertain, they remain living in hotel accommodation. Z spoke to her about missing his grandparents and if he returned to Egypt he would be able to see his father, which providing there were no difficulties could counter any false narrative. The Guardian recognises Z is very close to his mother but would benefit from having the wider family available if he returned to Egypt. She considers the lack of trust between the parents means that Z misses out. In answer to questions from Mr Gration, the Guardian accepted Mr Edge's evidence that through guardianship the father has all the rights. She also agreed with the suggestion that the two matters the parties have been unable to agree on impact on the risks of Z being removed from the mother's care. She agreed that the father maintaining the NoD is a shield by the father against any further financial burden. The Guardian also accepted that the declaration now proposed by the father as a safeguard was not enforceable, she said she had taken it on trust but recognised the parents don't trust each other. She recognised the father had not paid the periodical payments for Z for 2 ½ years stating that was 'not acceptable' for Z. The Guardian considered that this behaviour underpinned the importance of the money being paid upfront. Whilst she recognised that the current declaration being offered could be withdrawn or changed which undermined it being an effective safeguard, she remained worried Z would be without his extended family in Egypt. The Guardian agreed in the

absence of a DSA the NoD could be weaponised which, in turn, increases the risk of Z being removed from the mother's care although she considered there is no evidence the father wants that. She acknowledged that where there is such an imbalance the father may leverage power. The Guardian agreed a relevant factor is the impact on the mother of the inadequacy of any legal protection for her in Egypt, although she observed the mother has been able to access the Egyptian courts. She considers Z has lived with uncertainty over the last four years with no end in sight for him. In answer to questions from Mr Gration as to whether she had properly factored in her balancing exercise the relevant legal framework in Egypt she said 'probably not to the extent – absence of trust makes it difficult – both use that to the detriment of the other parent. Impact on Z.'

Legal framework

47. The relevant legal framework is not in issue. The court is being asked to make a welfare decision which is in Z's best interests having regard to all the evidence and considering, in particular, the matters set out in the welfare checklist in s1(3) Children Act 1989. Whilst this is an application for a summary return the court has conducted a detailed welfare investigation in this case (see R & Y (Children) [2023] EWCA Civ 131 at [67] and [79]).
48. Mr Gration is right to draw the court's attention to the relevant parts of Practice Direction^{12J} Family Procedure Rules 2010 (PD12J), in particular paragraphs 35 to 37.
49. The court needs to undertake a global holistic analysis of all the options that are available to the child which must take account of the findings made and apply the relevant provisions of PD12J.

Submissions

Father

50. On behalf of the father Mr Roche KC and Mr Slater submit the principles in G v G apply to this case, even though the application is not brought under the Hague Convention. Z's welfare is the court's paramount consideration and they submit that following the extensive welfare enquiries made in this case the court is in a position to 'calibrate the degree of risk that F would seek to unilaterally remove [Z] from the care of M. It is submitted he has taken no steps to do so in either jurisdiction. He has offered and continues to offer protective measures'.
51. Mr Roche reminded the court of the background. Describing the mother's actions in bringing [Z] here as being a 'highly deceitful pre-meditated abduction' which involved her producing forged documents within these proceedings and to the Home Office to obtain visas for herself and Z. Her asylum claim was made 20 months after being here and was founded on allegations, the most serious of which this court has found not to be established. They submit the effect of the mother's actions has been to deny Z the opportunity over the last 3 ½ years to be able to see his father or maternal grandparents other than via video

contact. They remind the court of the salutary reminder of Peter Jackson LJ in *Re S* (Transnational Marriage Abandonment) [2025] EWCA Civ 1058 that the act of abduction is a pernicious form of domestic abuse that is likely to cause lifelong harm and damage to the child who has been uprooted from their home and prevented from enjoying a relationship with their other parent.

52. Mr Roche refers to the mother's own evidence about her independent lifestyle in Cairo. In 2008 completing her BA in educational and teaching studies and starting work for the same company the father worked with as a customer service agent and becoming fully independent. She said she owned a car and enjoyed a good standard of living with her parents. When she lived with the father she returned to work when Z was 16 months old. She returned to live with her parents when she separated from the father in November 2021.
53. Mr Roche recognises the seriousness of the findings made against the father, but submits they should be kept in proportion and reminded the court of the observations of Moylan LJ in the judgment of the Court of Appeal in this case that he considered it 'unlikely that the limited findings which have been made by the judge would have a determinative or even a significant effect on the ultimate welfare decision'.
54. When considering the risks that the father poses if Z returned to Egypt Mr Roche submits the evidence of what took place after the parties' separation in November 2021 is important, in particular the mother's complaint that the father did not take a more active part in Z's life after their separation. He relies on the assessment by Ms Demery that she had no sense that the parents will reconcile or that the father wishes to remove Z from the mother's care.
55. As regards the NoD he submits it is solely concerned with the financial arrangements, as it releases the father from payment of any maintenance to the mother. He submits it has no automatic effect in relation to custody although recognises that if there is a DSA between the parties then the NoD is not important because it is superseded by the DSA regarding custody. The father has refused to withdraw the NoD as he considers it provides some protection against the mother seeking redress against him for non-payment of maintenance to her and/or eviction from the matrimonial home. Mr Roche submits the father has particular reason not to trust the mother as she has relied several times on a forged Egyptian court order.
56. In proposing the notarised declaration in the way that he did, Mr Roche submits he was following what had been suggested by the Guardian in her position statement that the court made a return order conditional upon the father providing a signed, notarised declaration in the terms of the DSA that are agreed by him, together with a lump sum payment to the mother of 15,000 EGP. In his closing written submissions Mr Roche states that whilst the father does not accept that he could withdraw the NOD at any time the father is offering to go further as he agrees to the incorporation of these terms into an English court order and an Egyptian court order. If that path is taken the father proposes the orders should include those things the mother has previously agreed to, summarised in the father's closing

submissions as follows:

- a. The Mother agrees and consents to the Father being the Child's guardian with the caveat that the Mother be permitted to have equal rights as to where and how the Child shall be educated and where and how any medical issues shall be dealt with and both Parties may have access to all documents relating to the Child.
 - b. The Mother agrees that the Father shall have contact with the Father on a regular basis to be determined. The Mother agrees that as a minimum the Father should speak to the Child, [Z] via videocall 3 times a week for 30 minutes.
57. It is submitted this would mean that if Z returned to Egypt with the mother the father would not hold all the cards, Z would remain in the mother's custody until the age of 15 years, longer if he wished, and such an order would not be liable to unilateral withdrawal.
58. As regards financial support the father has offered to pay 49,500 EGP in up-front payments. He has 80,000 EGP in savings, which Mr Roche estimates is about £1,143 on the current exchange rate. 15,000 EGP being part of the 18 months he offers to pay, 22,500 EGP as part of the back payments due to Z and 12,000 EGP towards the payment for housing for the mother and Z. The father agrees to pay for Z's schooling if he returned to Egypt.
59. Mr Roche relies on the conclusions reached by the Guardian and submits when all the considerations set out in his written closing submissions are taken into account a return order would be in the best interests of Z. Mother
60. On behalf of the mother, Mr Gration KC and Ms Chokowry, submit the court should dismiss the father's application. They submit the court must undertake a global holistic analysis of all the options that are available for Z and that analysis must also consider the findings that have been made in relation to the father's abusive conduct and apply those as PD12J requires.
61. In his written closing submissions he raises arguments as to the extent the principles in G v G applies in this situation but accepts, in the light of the parties' respective positions, that they are not relevant now.
62. Mr Gration submits since the joint instruction of Mr Edge, it has been a feature of this case that the court has made detailed directions for the father to provide evidence regarding the matters raised by Mr Edge's evidence which the father has repeatedly failed to comply with, for example the directions order made on 28 February 2025. He submits the legal landscape in Egypt as set out in Mr Edge's reports have not been in dispute and the court should be cautious in placing weight on any best interests test as it would be considered in the light of the underlying legal framework in Egypt. There is no enforcement of English orders available in Egypt and reminds the court of the conclusion of Mr Edge in his first report that if the mother returns to Egypt then in his opinion there are the following possibilities '(i) the Mother may lose custody of the Child by being castigated by the Father as disobedient; (ii) the mother may lose custody on the basis that the Child will be 7 years of age; or, (iii) the

Coptic Church Councils will bring pressure to seek to persuade the Mother to return to the matrimonial home'. Mr Edge confirmed any signed, notarised declaration made by the father can be withdrawn unilaterally and in order to regularise her legal position in Egypt the mother would need to bring an action for custody which could be challenged by the father on the basis that she was untrustworthy. Mr Edge did not consider that it was certain the mother would retain custody.

63. Mr Gration relies on the evidence given by Mr Edge in December 2025 that if the parents were divorced the NoD would fall away, the NoD has no effect save as to maintenance and Mr Edge could not imagine what applications the mother might be able to make against the father which he would need the NoD to defend against. If a DSA was reached it would supersede the NoD and so the NoD would not be relevant to custody. Mr Gration submits it is of importance that the Father has not agreed to withdraw the NoD, which he could easily do.
64. As regards the position relating to the criminal complaint, the father produced a document on the first day of this hearing which he relied upon to confirm he had withdrawn his criminal complaint against the mother. This evidence was directed in February 2025. The document produced by the father made reference to 'withdrawing and waiving the minutes of No. (1932) of 2022'. In his oral evidence the father then suggested that he could not withdraw a complaint that was no longer active. Mr Gration submits the documents in the bundle No 1932 of 2022 appears to refer to what is described as the proceedings for Reconciliation and Waiver. Mr Gration submits the status of this complaint remains unclear.
65. Mr Gration observes that despite being provided for in the various iterations of the DSA there are no separate oath documents from the father's brother and sister as advised was necessary by Mr Edge to secure Z remaining in the care of his mother.
66. Drawing the threads together Mr Gration submits the legal framework in Egypt shows the vulnerable and uncertain position that the mother and Z would be placed in upon any return and it is likely that any issues between the parties will need to be determined by the court in Egypt, such as arrangements for contact if agreement is not possible.
67. He submits the court needs to carefully scrutinise any protective measures put forward and the reality of the mother's position. No DSA has been able to be reached, and the father seeks to maintain control by way of the NoD which in practice limits the mother's ability to seek maintenance from the father. It may also be relevant to custody. The mother would not be able to obtain a divorce, notwithstanding that the father accepts the marriage is over. It is another matter the father retains control over. The mother would not be able to move on in any other relationship should she wish to or have the benefit of the impact a divorce would have on the NoD. The lack of a DSA means that the mother is without any effective safeguard. Mr Edge's evidence is that the latest proposal for a notarised declaration is that it can be unilaterally withdrawn.

68. Mr Gration submits the father has failed to comply with the order made by the court in Egypt in October 2023 of 5,000 EGP pm to the mother for Z and 100 EGP pm to the mother. The order was backdated to July 2023. As at March 2025 the father is liable for 165,000 EGP for Z and 3,300 EGP for the mother. In her closing submissions it is stated on behalf of the mother that since February 2025 the father has made sporadic payments amounting to £350, as a result 143,835 EGP remains outstanding. As regards accommodation the father offered to pay 28,000 EGP by way of one month's deposit and six month's rent but only offers in his evidence 12,000 EGP upfront. In his evidence the father proposed a total sum up front of 49,000 EGP. This Mr Gration submits leaves the mother vulnerable, in circumstances where she can claim no maintenance from the father in Egypt.
69. Mr Gration submits if the court is minded to order a return it should be on the following conditions:
- (1) The court should require the obtaining of a DSA as a condition precedent, although this may cause further delay.
 - (2) The withdrawal of the NoD.
 - (3) The court should reconsider requiring the father to consent to an application for divorce made by the mother, as that would also nullify the effect of the NoD.
 - (4) As much maintenance as possible is paid prior to any return.
70. Whilst recognising the extent of the findings made, Mr Gration submits the father has shown limited recognition of the findings made against him. He submits they demonstrate a clear negative attitude from the father towards the mother, which has shown no change during these proceedings. He submits the Guardian has not fully engaged with the potential risks if Z was returned to Egypt. It is not, he submits, limited to domestic abuse which is only part of the picture. The findings are relevant to the situation that Z and his mother would face in Egypt, the father holds all the cards. He retains all the decision-making power. By retaining the NoD he has shielded himself from the obligation to maintain the mother and will not relinquish that advantage. The consequence of that is that the mother remains wholly reliant upon her elderly and infirm parents, who already have significant caring responsibilities and the goodwill of the father to maintain her, leaving her and Z in a precarious position.
71. It has been open to the father to financially support Z during these proceedings, he has not done so deciding that he would only do so upon Z's return to Egypt, which is not in accordance with the order. This is despite him being aware of the difficult circumstances the mother and Z are living in.
72. Mr Gration submits the Guardian's final report does not properly engage with the realities for the mother and Z on a return. In stating in her report that the father has done everything possible to mitigate the risk of Z not being removed from his care aside from withdrawing the NoD she has failed to properly balance Mr Edge's evidence as to the risks for the mother

of engaging in proceedings in Egypt. The mother may be pressurised into reconciling with the father, she may lose custody, will not have the protection afforded by a DSA and the NoD may be used against her. Mr Gration submits the father's continued refusal to approve a form of the DSA that includes removal of the NoD is of significance, as it removes the important protection for Z remaining in the care of his mother. The Guardian accepted in her oral evidence that she had not fully factored in the difficulties the mother will encounter and Mr Edge's evidence that a declaration could be withdrawn.

73. Mr Gration submits that this consideration needs to be weighed with the other welfare matters including his education, the current stability regarding Z's video contact with the father, the possibility of the father having direct contact here, the importance of remaining in his mother's care and that he has lived here for over half his life. When that is contrasted with a return to Egypt, whilst it is accepted it would be easier to organise contact with the father, he would be returning to the country he was born in and would see the wider family there remains uncertainty regarding plans for accommodation and education if Z returns to Egypt together with the risks due to the inadequacy of the reality of the protective measures proposed. Guardian
74. In his closing submissions on behalf of the Guardian, Mr Rustin reminds the court of the history, Z's current circumstances and the impact on Z, including the loss of direct contact with the father, the wider family and the years of uncertainty. He recognises the Egyptian legal system creates a power imbalance between the parents. He notes the NoD that the father refuses to withdraw allows him to be released from the payment of any support for the mother and the abduction report filed with the Egyptian police could be ground for removal of the mother's right of custody, which the father has not been able to obtain evidence that this is no longer effective.
75. Mr Rustin does not take issue with Mr Edge's evidence about the route for the parents to provide an enforceable order in the Egyptian Courts and the fact that the father could provide a notarised declaration but there is nothing stopping the father withdrawing it, or making one that contradicts it. He also notes the payments the father has agreed to make including his offer to pay 49,500 EGP up front towards arrears in Z's maintenance, rental payments and maintenance for the mother.
76. Mr Rustin submits the Guardian has assessed the risk of the father seeking to remove Z from the mother's care as low on the basis of the father's actions after the parties separated and that the father has agreed during these proceedings Z's best interests are to remain in the mother's care. However, he recognises there remains such little trust between the parents that it is likely following any return there will be applications to the Egyptian court.
77. Mr Rustin submits that the Guardian having reflected on the evidence and the available options still recommends that the Court makes a return order, but that it is conditional upon the parties obtaining an Egyptian consent order in the terms of the DSA amended such that paragraph 9 provides: 'In any legal dispute that relates to [Z's] custody, the Father shall not

seek to rely upon the Notice of Disobedience.’ Mr Rustin continues in his written submissions ‘Further, the agreement should be amended to reflect the parties’ agreement that the maternal grandfather should support F’s contact. F would also need to provide the lump sum payments: 15,000 for maintenance for M; 45,000 Egyptian pounds in backdated maintenance to M as a lump sum and 24,000 in accommodation costs prior to any return and after the Egyptian consent order is obtained. The Guardian proposes that M is ordered to return the child by no later than 1 December 2026, subject to the parents obtaining the Egyptian consent order by no later than 30 October 2026’.

78. Mr Rustin summarises the rationale that underpins the recommendation as follows. It is in Z’s best interests to return to Egypt as only a return order would allow Z to enjoy a meaningful relationship with the father. The Guardian regards this as a magnetic factor. Z’s living conditions here are insecure, bleak and are likely to inevitably involve further move of accommodation and school. The Guardian recognises a move back to Egypt involves similar changes, but he would be returning, at least initially, to stay with his maternal grandparents and the mother will be able to access employment. Whilst the Guardian recognises Z’s expressed wish is to remain in this jurisdiction, she considers those views are likely to have been influenced by the mother, either directly or indirectly. In addition, the Guardian remains concerned about the impact on Z of the false narrative regarding the father’s behaviour from the mother and the disconnect for Z as to how he experiences contact with the father. An Egyptian consent order would guard against the Egyptian legal system being weighted in the father’s favour and any risks of removal of Z from the mother’s care. It is in the mother and Z’s interests to have the protection of the Egyptian consent order in the event that the mother’s asylum appeal is rejected and she and Z face deportation back to Egypt without such protection. There is time available pending determination of the mother’s asylum appeal to secure the Egyptian consent order.
79. Mr Rustin analysed the risks facing the mother and Z on a return to Egypt as follows: that the mother may lose custody of Z for being castigated as disobedient; she may lose custody as Z is over 7 years of age; she may lose custody due to the abduction report filed with the Egyptian police; the Coptic Church may bring pressure on the mother to reconcile with the father; the father may use the Egyptian legal system to exert control over the mother, including about where she will live and how the child will be brought up; the mother may have limited financial support due to the effect of the NoD; the mother continues to be a victim of domestic abuse perpetrated by the father and the father may use the Egyptian legal system to determine where Z should live and how he should be brought up.
80. In the closing submissions on her behalf Mr Rustin submits that the ‘Guardian did not consider it realistic for the parents to agree the terms of an Egyptian consent order. Upon reflection, however, there is further time available for the parties to do so during the currency of M’s asylum appeal, during which any return order cannot be implemented. Further, any refusal of M’s appeal and the prospect of a forced return to Egypt may cause her to re-evaluate her position and sign up to any safeguards that are available to her by

obtaining the Egyptian consent order.... It is overwhelmingly in [Z's] best interests for there to be the protection of an Egyptian consent order in order to guard against the low, but possible risk that [Z] may be removed from M's care or that M is disadvantaged by the Egyptian legal system'.

81. As regards the impact of the NoD relating to any financial support for the mother in Egypt Mr Rustin recognises that if it remains in place there is a 'risk that F will cease all financial support for M upon any return in Egypt. This risk is minimised to some extent by virtue of the fact that, as guardian, F is obliged to pay for [Z's] upkeep, including medical bills and education and provide a place for M (as custodian) and [Z] to live if they do not have one.' To address this vulnerability the Guardian considers the father should provide more financial support up-front in advance of any return and after obtaining the Egyptian consent order, namely a lump sum of 84,000 EGP. This would enable the mother to have that safeguard. The Guardian considers that the mother would be able to access employment in Egypt.
82. As regards the risk of further domestic abuse Mr Rustin submits there are safeguards provided by the mother and Z returning initially to stay with her parents, her father's support of any contact (which should be incorporated into any revised DSA) and the parents being able to communicate via social media. Whilst the Guardian doesn't rule out any risk of Z being exposed to conflict between the parents the safeguards she supports helps to minimise that risk.
83. As regards Z's overall stability the Guardian considers Z's family ties in Egypt are likely to provide more stability for Z even if that return was delayed by a further six months to enable the Egyptian court order to be put in place.
84. Mr Rustin concludes the written submissions setting out that the court should order: M to return [Z] to Egypt by no later than 1 December 2026, subject to the parents obtaining an Egyptian consent order by no later than 30 October 2026 in the terms of the Dispute Settlement Agreement, [Supplementary, 1], amended such that:
 - i. Remove Cairo from the agreement so that it reads: "This Agreement is predicated and meant to apply only in the event that the Child returns to live in Egypt with the Mother." ii. paragraph 9 provides: 'In any legal dispute that relates to [Z's] custody, the Father shall not seek to rely upon the Notice of Disobedience' and; iii. Paragraph 5 provides: 'The Mother agrees that the Father shall have direct contact with the Father, supported by the maternal grandfather, on a regular basis to be determined...'
 - b. Prior to any return and after the Egyptian consent order, F to pay M a lump sum of 84,000 Egyptian pounds, comprising:
 - i. 3 months' maintenance for M totalling 15,000 Egyptian pounds; ii. 9 months backdated maintenance for M amounting to 45,000 Egyptian pounds; iii. 6 months' rent at 4,000 Egyptian pounds per month, totalling 24,000 Egyptian pounds. Discussion and decision

85. This is a difficult and complex case. At the most basic level the options before the court are either the court refuses the father's application with the consequence that the mother and Z remain living here, with continuing indirect contact with the father, and direct contact if the father is able to obtain a visa and this court retaining jurisdiction. How long term that would be is subject to the outcome of the mother's asylum appeal/further immigration application. Alternatively, the court grants the father's application and orders Z's return to Egypt and any issues regarding Z would be a matter for the Egyptian courts (whether through the Coptic Church or the Egyptian court).
86. There are variations within the latter option including a return to Egypt conditional upon a DSA being agreed and approved by the Egyptian court, or a return to Egypt with other conditions (such as the payment of money) or a return with the father having made a sworn, notarised declaration as he proposed at the start of this hearing.
87. A further layer of complexity to the second option is whether if the court did make a return order to Egypt could it be implemented whilst the mother's asylum application remains subject to an undetermined appeal.
88. To their credit the parties have managed to reach agreement on many of the substantive issues between them that address the inherent vulnerabilities for the mother and Z of a return to Egypt. Including that Z will remain in the mother's care until 15, and 18 if this accords with Z's wishes and feelings. The father will withdraw and not rely on the police complaint of abduction against the mother. The father will not sue or threaten violence and the father will provide financial support for the mother for 18 months at 5,000 EGP pm and will provide the mother with 6 months accommodation costs and a deposit. There is an issue about how much of these payments should be provided in advance of any return, if ordered.
89. There is agreement in principle of the need for an order to be made in the Egyptian courts prior to any return. However, the main issue remains regarding the NoD and any divorce proceedings. The addition to what this court determined was the way forward with each of those matters at the December 2025 hearing in relation to the DSA. The Guardian's submissions add the father agreeing not to rely on it in respect of custody. If the father's agreement to this was incorporated in a DSA and then in an Egyptian order it would provide another layer of protection relating to Z remaining in the mother's care. Taken together, according to Mr Edge, they should supersede any reliance by the father on the NoD to affect custody arrangements in Egypt, although Mr Edge's evidence was that it would be open to the father to issue a new NoD, if the circumstances justified it.
90. There is no issue between the parties that the court needs to undertake a welfare analysis before deciding what order meets Z's best interests, which is the court's paramount consideration.
91. Z's wishes and feelings as conveyed to the Guardian are that he does not wish to return to Egypt. I agree with the Guardian those wishes need to be put in the context of Z's close relationship and understandable alignment with his mother, he is aware of her views and

the lack of balance he has been exposed to regarding the history of the parents' relationship and the court's findings. The Guardian has sought to address this with Z and the now regular largely successful video contact with his father has enabled Z to experience his father in real time, which has been beneficial for Z.

92. Z's physical needs are for secure housing, stability and regular consistent schooling. There has been no issue that a critical part of Z's future welfare needs is to remain living with and being cared for by his mother and for that arrangement not to be put at risk. She has been his primary carer for many years, he is emotionally very close to her and she is very attuned to his day-to-day needs. Due to the level of her anxiety the mother has, at times, been unable to keep her own views about the father away from Z and, like the father, she is unable to accept the findings made in November 2024. However, the recent evidence is that the video contact with the father has been consistent and has, on occasions, exceeded the agreed time. Z was able to report his feelings about that contact to the Guardian and describe the positive aspects of it. It is clearly important to Z that he is able to maintain and build on his relationship with his father and, depending on his circumstances, have direct contact with him in a way that provides re-assurance to the mother. Z has had to endure a change of school which has led to him requiring extra support. The most recent report from the Guardian details that support, Z's excellent attendance and the mother's very positive engagement in Z's educational needs. It is likely whatever the court decides that Z will have to manage a change of school.
93. As regards the impact of any change on Z, sadly that has been a feature of his life in recent years. The parents' separation, the mother's unlawful removal of Z here, the move from his maternal aunt's home and since then living in temporary accommodation that has been described as bleak. The proposals by either parent will involve further change. If he remains here it is likely to be into further temporary accommodation, with either a settled immigration position or another period of uncertainty if further applications or appeals are pursued and the prospect of an unplanned return to Egypt. A return order to Egypt made in these proceedings is unlikely to be immediate, and may be overtaken by events and, if subject to conditions, may not materialise if those conditions are not met. Z has maintained close daily contact with his maternal grandparents and regular contact with his father, so they would be familiar people in the event of a return to Egypt.
94. Z was born in Egypt; he is an Egyptian national and save for his mother and maternal aunt's family it is where all his family live. Due to the age when he was brought here and the length of time he has been here he has limited memory of living there.
95. Z has suffered harm through being brought here in the way that he was, severing his relationship with his father and his wider family. There was an extensive period when he did not have any contact with his father. Whilst that, to some extent, has been changed there are inherent limitations to indirect video contact. The delays and uncertainties in these proceedings have had an impact on him. He has had to endure changes of accommodation and live in parlous circumstances. Whilst his mother has been able to provide consistency

and support together with the school his social development will have been impacted by his experiences.

96. In my judgment both parents have failed Z. They have each in many respects focussed on their own needs following the breakdown of their relationship rather than prioritising Z's needs and the exercise of their parental responsibility for Z. His mother by removing him here in the way she did without the father's knowledge or consent and through her deceit in completing the visa application and using a false court order. She was not proactive in keeping the father updated about Z's circumstances, resisted making arrangements for indirect contact although I accept she is now able to see the importance of it for Z. She should be more proactive about the sharing of information in relation to Z to enable Z's relationship with his father to develop further. The father's behaviour during the relationship and since has contributed to these proceedings being delayed. He has failed to comply with numerous court directions, the most egregious example was the failure to comply with filing a statement until the eve of the three-day hearing listed to take place in October
2025. Much of the missing relevant information from Egypt he could easily have obtained and simply has not done so for no apparent reason. Both parents have failed to accept the findings made in November 2024 and continue to maintain positions that have been detrimental to Z by causing further delay and uncertainty. One of the key welfare issues that has not been in dispute is that Z should remain in his mother's care. Whilst it is right the father has accepted that in his written evidence, he has failed to withdraw the NoD and take other steps within his power to take which would provide further important safeguards for the mother and Z. There remains concern and risks as a result of these failures by him. His justification regarding the NoD so it can act as a shield to any applications made by the mother does not stand up to any scrutiny in the light of Mr Edge's evidence, Mr Edge could not think of any relevant application the mother could make and none was suggested to him on behalf of the father. The father knows how important this is as a safeguard to the mother and the Guardian. His unwillingness to do so raises a real risk that he would use it in a way that would undermine the key welfare need for Z to remain living with his mother. This supports the conclusion that in the light of Mr Edge's evidence about the legal framework in Egypt the father would retain all the cards, which the Guardian accepted. Returning Z to such an uncertain situation would be wholly inimical to his best interests. I acknowledge the points made about how the father did not seek to care for Z after the parents separated, that the mother's complaint then was that he did not see enough of Z, and he has maintained the position in these proceedings that Z should remain in the mother's care. However, this has been bitterly contested litigation in which the father has failed to provide essential information in a timely and clear way with many important matters remaining unclear that he could easily have clarified. According to Mr Edge, regarding the steps that the father could easily have taken, such as the withdrawal of the police complaint, withdrawal of the NoD, the undertakings from the father's wider family these matters remain opaque and/or incomplete despite three years of litigation.

This also has to be viewed in the context of the father failing to comply with the Egyptian order for maintenance for Z and causing enormous difficulties in these proceedings by failing to comply with many court orders.

97. The court is now between a rock and a hard place. These proceedings have gone on for nearly half Z's life. Due to his parents' actions he has had to endure extended periods of uncertainty and instability. They have both, in my judgment, in various respects abdicated their parental responsibility and lost sight of Z's basic welfare needs.
98. The mother's actions in taking the steps she did to bring Z here in May 2022 were, in the light of my findings, disproportionate to the situation she and Z were in in Egypt. The consequences for Z have been significant and life-long. He was removed from all that he knew and was familiar with. Whilst from his perspective he was able to develop his relationship with his wider family here, that was relatively short-lived and whilst he retains a relationship with his cousin for reasons that are far from clear it has become much more distant. His links with Egypt are kept via video contact but that is a poor substitute for living there and seeing his father and wider family in person. He appears to be losing his Arabic language. The mother has sought to maintain unsustainable positions in these proceedings, such as the parents being divorced, which has further delayed matters and in the early stages her actions resulted in hearings being adjourned. However, it is right to recognise the evidence of the close emotional attachment she has with Z. Z remaining living with his mother is a key welfare consideration. She has supported Z with his schooling, has provided as much consistency and stability as she can in the very difficult circumstances they are in and now recognises the importance of the father's contact with Z.
99. The father's actions in these proceedings have also contributed to the delays. It is difficult to understand any rational basis for the father to take the position he has regarding withdrawal of the NoD, which has been such an evidential block to these proceedings moving forward. This has been on his often repeated evidence that he needs the NoD to use as a shield against any applications made by the mother. This raises the question as to why he needs that. Mr Edge was clear in his evidence that he could not think of any such applications that could be made by the mother and none were put to him on behalf of the father. So why is it needed? The father's actions have all the hallmarks of wanting to maintain control in a way that puts at risk Z remaining in the mother's care. Without any DSA and consequent Egyptian court order if this court orders Z's return the mother would need to make an application for custody to secure her legal position with Z and for him to remain in her care. The father would be entitled to oppose that and in Mr Edge's view the father could use the NoD as part of that opposition. Whilst its existence would not be determinative in relation to custody, he considered it would be relevant. If the parties enter into a DSA on the terms as suggested by the court in December 2025 and by the Children's Guardian in her closing submissions that risk would be significantly reduced, if not removed. 100. In the short to long term there are welfare benefits to Z returning to live in Egypt. He would be returning back to the country where he was born, he would re-establish direct contact with the wider

family, particularly his father and his maternal grandparents. His mother would have the opportunity of being able to support herself, with a history of having done so previously, and they would have the benefit of the wider family and social support. Whilst there remains some uncertainty about his schooling, precisely what support would be available and whether there are places available, the proposed school is one the parties were considering sending him to previously. When compared with the uncertain position if they remain here in unsatisfactory temporary accommodation, at risk of being moved and continuing uncertainty regarding immigration applications/appeals and the prospect of them being removed from this country without any safeguards. 101. Whilst recognising the importance of Z being able to re-establish his relationship with his father, I disagree with the Guardian that this is the magnetic factor. In my judgment until her closing submissions the Guardian had failed to properly engage with the realities of the legal framework in Egypt, as outlined by Mr Edge. Her assertion that the father had done all he could is simply not correct. There remains, over twelve months, after detailed directions were made by this court in February 2025, significant and important gaps in the evidence regarding the protective safeguards to support any order for Z to return to Egypt, with no satisfactory explanation by the father as to why those gaps still remain. The father's reasoning for failing to agree to withdraw the NoD does not stand up to scrutiny in the light of Mr Edge's evidence which I accept. In my judgment, the father's position increases the risk that the father seeks to retain this to undermine the mother's position in the event of Z returning to Egypt in her care. It remains, as the mother fears, a way of controlling her in the context that she will remain married to him, even though he accepts the marriage is at end. In response to the position statement filed on behalf of the Guardian at the start of these proceedings the father served a declaration that he said he would sign setting out the terms of the agreement he would agree to. I reject his evidence that it could not be changed unilaterally by him, as I accept the evidence of Mr Edge that he could do so. It is of concern that the father still continued to maintain his position in his oral evidence in the light of Mr Edge's clear evidence. I do not share the Guardian's optimism about the level of risk the father poses. She relies on the history which was at a different time in the parties' relationship, before the mother took the steps that she did in removing Z. It is of note that the father asserts that he does not want to separate Z from his mother's care but is unwilling to take the necessary steps that are open to him to secure that position before Z returns, based on reasons that are not supported by the evidence from Mr Edge. This is another factor that, in my judgment, increases the risk for the mother that she could be separated from Z if she did not have the security of a DSA supported by a court order in Egypt. 102. On a very fine balance I agree with the final position of the Guardian and conclude that Z's short and long term welfare needs would be met by returning to Egypt but that can only be conditional on effective security provided in the form of a court order in Egypt following a DSA entered into by the parties, as set out by the Guardian, and the advance payment 100,000 EGP by the father prior to any return. That should be provided by 30 October 2026, or such other date as is agreed by the parties. The father is currently in arrears regarding the payments for Z of 143,835 EGP (after taking into account the ad hoc payments he has made totalling £350), he has proposed

payment 28,000 EGP as a month's deposit and six month's rent for accommodation and 5000 EGP pm maintenance for the mother for 18 months. The sum of 100,000 EGP is broken down as 28,000 EGP for accommodation, 30,000 EGP as an advance payment of the maintenance for the mother and 42,000 EGP towards the arrears of the payments for Z. The order will need to clearly reflect the ongoing arrangements for financial support in the light of these advance payments to cover the outstanding arrears. 103. This conclusion is on the basis that it is, as set out in the closing submissions on behalf of the Guardian, overwhelmingly in Z's best interests to have this protection in place prior to any return, to guard against the risk that Z may be removed from the mother's care, or that the mother is disadvantaged by the Egyptian legal system. I assess the risk of that to be higher than the Guardian, who I consider did not properly assess or weigh in the balance the evidence from Mr Edge and failed to properly evaluate the father's rationale in refusing to withdraw the NoD in the light of the evidence from Mr Edge. The father was effectively seeking to remain holding all the cards and thereby retain a hold and control over the mother and Z with the resulting impact on the risks outlined above, the most important is the risk of removal of Z from his mother's care and the impact on the mother of returning to Egypt without those safeguards in place. These are important considerations in the light of the relevant parts of PD12J, which I have taken into account. 104. In his written response to the Guardian's closing submissions the father stated he was willing to cooperate in the obtaining of a consent order in the Egyptian court in the terms that had been circulated on behalf of the Guardian. I reject the father's position regarding the level of payments that should be made by him in advance of any return. He has largely failed to comply with the orders made in the Egyptian court for Z's support although he accepts that he currently has about 80,000 EGP in savings. He has not helped the court by failing to provide a clear picture regarding his financial circumstances and I note the observations made regarding his financial circumstances in the letter rejecting his visa application. I am satisfied on the information that I have seen that the father would be able to raise the sum set out above and it would provide the mother and Z with necessary financial safeguards on a return to Egypt. 105. The court has not been helped by either of the parents as to what figure should be included in the DSA to be held in an escrow account to fund any costs of an enforcement proceedings by the mother in Egypt relating to the agreement. I have considered the information on the ninth statement from the mother and the email representations on behalf of the father, both received on 24 April 2026. The mother has been able to access the courts in Egypt to secure the maintenance payments for Z. Doing the best I can on the limited information I have the figure should be 20,000 EGP. 106. Turning to the overall timeframe I agree with the Guardian that the parties should enter into the DSA in the terms she has circulated since her closing submissions without delay and then take the necessary steps to obtain the relevant court orders in Egypt reflecting the DSA as outlined by Mr Edge in his evidence, together with the payment up front of 100,000 EGP. This should be done by 30 October 2026. The order will be that Z should return to Egypt by 1 December 2026 conditional on the DSA and orders being made in Egypt outlined above and payment in advance of 100,000 EGP. This will enable these steps to be done and the relevant practical arrangements to be put in place, such as securing Z's

schooling. 107. I agree with the parties that in the light of the conclusions reached by the court any submissions regarding the effect of the decision in *G v G* in a case such as this do not need to be determined, at least not at this stage.

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