

JERSEY / JUDGMENT

V v W (Family)

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Family - review of maintenance [2026]JRC055 Royal Court (Family) 7 January 2026 Before : E. Daultrey, Judge, Family Division Between V Petitioner And W Respondent The Petitioner appeared on his own behalf. Advocate C. Hall for the Respondent.

REASONS

the Judge: 1. The court is asked to consider an application for a review of child maintenance. 2. The application relates to the Child born in 2009, aged 16. 3. The parties were married in 2008, they separated a month later in 2008, they then lived apart and subsequently reconciled in 2009. It is common ground that when they reconciled the respondent was pregnant with the Child, but the parties do not agree as to what was discussed or as to their understanding regarding the pregnancy. The respondent says that the applicant was fully aware that she was pregnant and that he was not the father, the applicant says that the respondent told him he was the Child's father. 4. The parties separated permanently in June 2013, they subsequently divorced by decree nisi on 27th June 2018 and decree absolute on 10th day of March 2020 following conclusion of ancillary financial relief proceedings brought by the respondent in the divorce. 5. The Child was referred to as a child of the family in the divorce proceedings and as a child of both parties in the accompanying statement of arrangements. In 2018 the petitioner applied for a residence order for the Child, this was later withdrawn. On 19th March 2019, the petitioner submitted an application for a paternity test upon the Child, in this he says: "Even after the applicant and respondent separated, the applicant's relationship with [the Child] has continued to be close; he sees her frequently and is totally committed to her, financially and otherwise" And "Whether [the Child] is biologically the applicant's daughter or not, it makes no difference to him as he loves her as his own but she and he deserve to know the truth". The court ordered a paternity test on 4th April 2019 following this application, the order notes that the respondent denies that the petitioner is the Child's natural father. The resulting paternity test carried out by Cellmark is dated 30th April 2019 and confirms that the Child is not the petitioner's biological child. 6. On 28th February 2020, 2 months prior to the scheduled 2 day final hearing, the court made a consent order ("consent order") providing final financial orders between the parties including financial provision for the Child as follows: "1. The petitioner shall pay child maintenance for the benefit of the child [name redacted] as follows:

- (a) £100 per week to be paid by way of automated payment to the respondent's bank account;

- (b) The payment set out in 1.a. shall be increased in line with the increase (if any) in the JRPI on the first and each anniversary of this order;
- (c) The petitioner shall pay [the Child's] dance school fees, to be paid by him direct to [the dance school], such payments shall be limited to fees for 3 terms per annum, currently in the sum of £640 per term. The petitioner shall pay any reasonable inflationary increases upon the fees;" It is noted that both parties were represented in the ancillary relief proceedings and with relation to the consent order. 7. On 3rd March 2025, the petitioner filed an application asking for: "a review court order for maintenance and dance fees". Applicant's evidence and position 8. The applicant asks the court to discharge the order for child maintenance because the Child is now 16 and he is not her biological father. He confirms that when he agreed to the consent order he was aware that the Child was not his biological child, he had not seen her since early 2019, he had intended to apply for contact but didn't do so due to the covid pandemic. 9. The applicant says that when the parties were discussing reconciliation in early 2009, the respondent "promised" him that he was the father of her unborn child, he recalls a meeting where the parties sat in a car and discussed the matter. He also says that after the Child was born, the respondent produced a paternity test showing him to be her father, he no longer has this document.
10. The applicant says that the order doesn't specify how long he would pay maintenance, but he thought this would be until 16, he has continued to pay beyond the Child's 16th birthday whilst his application is ongoing but wishes to stop, saying: "I've done my part for a child who is not mine ... I feel it should end". The applicant has not kept up with annual increases to the payments saying this is an oversight and that no one contacted him, although he concedes that there were proceedings in the petty debts court in 2021 and he increased his payment in February 2022. The applicant continued to pay dance fees for the Child until the respondent informed him in these proceedings that the Child had not attended dance lessons for some time. The applicant was able to secure a refund for all the overpayments he had paid.
11. In the event that the court does not discharge the order, the applicant asks that it be reduced. At the time the order was made he says he was a partner in a business, he left this business in 2022, the business could not afford to pay his tax as had been agreed and he is left with a significant tax debt which will take a further 3 years to repay upon a repayment plan he has verified with documentation. He is a tradesman working as a subcontractor for a builder. In 2024 his taxable profit was £58,867, the sums he earns each week are variable, not least as he works both inside and outside and can get rained off a job, he says his average receipts are £5,400 per month gross. He says his income will be broadly the same in 2025 although he received a pay rise of £2 per hour approximately 3 months ago.
12. The applicant is married, his wife runs a business, she draws £3,050 per month net. The couple do not pool their incomes, they each pay different sums and items of household expenses.

13. The applicant states his monthly outgoings to be £5,278.71, this includes £178.40 dance fees for the Child which he no longer pays, and maintenance for the Child in the sum of £453.39. He pays £1,000 per month tax including a contribution to arrears. His outgoings include £1,730 towards family rent of £2,500 per month, his wife pays the balance. Advocate Hall on behalf of the respondent challenges the way V and his wife divide their expenses and says that the court does not have a full picture. I note that the applicant does not pay household fuel costs or phone costs which offsets the higher contribution to rent he pays. He spends £250pm on food. I find his expenses and domestic financial arrangements to be reasonable and accept his expenses to be £5,100.31 which leaves him a net balance of £299.69 per month after payment of maintenance. Respondent's evidence and position
14. The respondent opposes the application, she says that the applicant was fully aware when the parties reconciled in 2009 that he was not the father of her unborn child, she denies that there was any paternity test before 2019 and says the respondent agreed to bring up the Child as his own child provided no one ever knew that he wasn't, and he falsely told third parties there had been a paternity test. The respondent says that the parties had experienced fertility problems, they had been together for 12 years prior to their marriage and throughout that time had tried unsuccessfully to conceive a child, the respondent appeared to contradict this claim in her oral evidence, claiming that the parties did not have intercourse for 2 years prior to the marriage, and did not consummate the marriage until after the Child was born. The applicant denies this saying that he wouldn't marry someone he was no longer intimate with.
15. Through her counsel the respondent argues that the Child was treated as a child of the family both in terms of bringing her up as his own child but also by agreeing and committing to pay child maintenance in the full indisputable knowledge that she wasn't his biological child, and that there is nothing to suggest that this court should interfere with the previous order.
16. The respondent seeks an increase in the amount payable. She is unclear as to her financial position at the time the consent order was made, she confirms that she was in receipt of income support but cannot recall if she was also employed or wholly dependant upon benefits. She confirms that she obtained employment at Place A sometime between 2018 and 2020 and was able to come off income support 3 years ago.
17. The applicant says she has been "off ill" from work for a year, no medical evidence is provided but she has evidenced that she is now in receipt of incapacity benefit ("LTIA"). The applicant receives £78.86 per week income support and LTIA of £792.44 every 4 weeks, although the sum of £828.12 was paid in November 2025. The respondent's rent is paid in addition to her benefits. The respondent lives with the Child and her adult son, he is in full time employment, but she says she doesn't know what he earns, he pays her £470 per month as well as helping out eg with the Child's phone bill. The respondent says that the payment from her son is to cover the cost of her medicinal cannabis prescription which is between £470 to £500 per month. The respondent pays for heating and parish rates, her expenses for

the Child are £96 per month not including food. The consent order

18. The existing order was made ancillary to the divorce proceedings and therefore pursuant to Article 25 of the Matrimonial Causes (Jersey) Law 1949 (“MC(J)L”) which states: “In any proceedings for divorce or nullity of marriage or judicial separation, the court may from time to time, either before or after the final decree, make such provision as appears just with respect to the maintenance of any children of the family in relation to the parties to the marriage which is the subject of the proceedings”
19. MC(J)L gives the same definition of “child of the family” as that contained in the Children (Jersey) Law 2002 (“C(J)L”) namely: “child of the family” in relation to parties to a marriage or a civil partnership, means –
 - (a) a child of both of those parties; and
 - (b) any other child, other than a child placed with them as foster parents by the Minister or a voluntary organization, who has been treated by both of those parties as a child of their family;”. The parties were married and therefore the Child is a child of the family if she was treated by the parties as a child of their family.
20. The applicant says that he was led to believe that the Child was his biological child, however, in his application for a paternity test filed in March 2019, the applicant says that the respondent said he was not the Child’s father “some time ago”, nevertheless, he stated that he continued to be “totally committed to her, financially and otherwise”. He also said that biological parentage “makes no difference” to him. The petitioner proved this claim by entering into a consent order to pay maintenance for the Child 10 months after he knew, at the very latest, that he was not the Child’s father.
21. The court has heard evidence of what was discussed and understood between the parties upon their reconciliation in early
2009. These are events that took place nearly 17 years ago, and whilst the applicant’s version is somewhat more consistent and compelling than that of the respondent, I do not feel able to make a finding upon events that happened so long ago based solely upon the parties’ recollections. Advocate Hall on behalf of the respondent argues that, in any event, the statements made by the applicant in 2019 that biological parenthood did not matter to him, and his subsequent agreement to pay maintenance in 2020 are the most compelling events demonstrating that the Child was treated as a child of the family by the applicant.
22. It is my view that, by agreeing to a legally binding court order to pay maintenance for the Child, the petitioner had continued to regard and treat her as a child of the family knowing that she was not his. The court’s power to make an order for child maintenance on divorce flows from her having been treated as a child of the family, the petitioner was represented and so it can be assumed to have been aware of this.

23. Both parties refer the court to the case of A v B [2016] JCA 098. This Court of Appeal decision centred upon whether the Jersey Court had power to order the appellant to pay maintenance for a child that was not his biological child and where he was not married to the mother, could he therefore be classed as a “parent” against whom financial relief might be ordered? This decision does not assist me as the consent order in the present case flows from the court’s powers pursuant to Article 25 of the MC(J)L. It is however helpful to note the comments at paragraph 26 of the judgement which warns against the court putting “a comprehensive gloss on the statutory words”.
24. The consent order is silent as to the duration of child maintenance provision, MC(J)L contains no legal framework as to the duration of orders. C(J)L schedule 1 paragraph 3(1) (a) provides that an order made pursuant to schedule 1: “shall not in the first instance extend beyond the child’s 17th Birthday unless the court thinks it right in the circumstances of the case to specify a later date; ... “ As MC(J)L provides no separate framework, I adopt the statutory framework for duration of orders set out at paragraph 3 of schedule 1 of the C(J)L.
25. I am mindful that it is usual for orders to continue whilst a child remains in education, Article 3(2) (a) of the C(J)L provides specifically that an order may continue beyond the age of 18 if the child continues in education, but this does not appear from the “statutory words” to be an automatic extension, otherwise Article 3 (1) (a) would be meaningless. The simplest interpretation of the wording of Article 3 therefore appears to be that where an order is silent as to its term it shall cease upon the child’s 17th birthday unless it is varied. Variation
26. Having determined that the existing consent order continues until the Child is 17 and was based upon the court’s statutory powers in divorce, and the applicant treating the Child as a child of the family at the very least by virtue of having agreed to pay maintenance for her, both parties request that the court review the consent order.
27. The court’s power to vary an order for maintenance arises from Article 33 of the MC(J)L, Article 33 (2) states: “In exercising the powers conferred by this Article, the court shall have regard to all the circumstances of the case, including any increase or decrease in the means of either of the parties to the marriage.”
28. Following the case of U v V [2018] JRC 160, when considering variation the court’s starting point must be the agreement previously reached between the parties, and to determine what variation, if any, would be fair and reasonable, taking into account the change in circumstances since then.
29. I also take into account A v B [2020] JRC 015 in which Registrar McFadzean determined an application for variation of child maintenance provision arising under MC(J)L “as though it is an application under Schedule 1 of the Children (Jersey) Law 2002”. Accordingly, the criteria I apply to this decision are as set out in schedule 1 of the C(J)L Article 4(1) as follows: “(a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

- (b) the financial needs, obligations and responsibilities which each person mentioned in subparagraph (4) has or is likely to have in the foreseeable future;
 - (c) the financial needs of the child;
 - (d) the income, earning capacity (if any), property and other financial resources of the child;
 - (e) any physical or mental disability of the child; and
 - (f) the manner in which the child was being, or was expected to be, educated or trained.”
30. I have not been provided with any documentation regarding the parties’ finances in 2020 when the consent order was made. The applicant recalls that in 2020 he was a self employed tradesman as he is now, it is a change that he is now discharging a tax bill which arose from the ending of his business which may have worsened his financial position significantly. The respondent recalls that she was in 2020, as she is now, in receipt of income support, whether she was also working in 2020 is unclear. At present she remains at least nominally employed by Place A, whether she will be able to return to work is also unclear in the absence of medical evidence. Her son is now an adult working full time and may be able to contribute fully to the household expenses, instead or as well as paying for her cannabis prescription. It would therefore appear that the respondent’s financial position may have improved or in any event not worsened. I find it surprising given the respondent’s stated circumstances that she does not know what her son earns when he is living in her household rent free. It is also surprising that the respondent spends nearly half of her entire income from benefits on medicinal cannabis, in the absence of any medical evidence I find this expenditure hard to justify.
31. I am told that that the applicant currently pays £453.39 per month, but that with JRPI rises this should be £568.75, although I have not been provided with a calculation to verify this figure. The purpose of child maintenance is to provide for the Child. The respondent states the Child’s expenses to be £96 per month, in addition to which food and a reasonable contribution to her housing costs might be added. The respondent says that she spends £400 per month on food but that her household need for food would be £800 per month, which presumably is for 2 adults and one child. The respondent’s rent is paid, she pays an average of £250 per month electricity for the entire household.
32. It is not the purpose of child maintenance to subsidise the living expenses of other adults living in the respondent’s household nor to cover her personal expenses eg her significant expenditure upon medicinal cannabis. Based on the figures I have been given it is hard to see how over £500 could be justified. The applicant is by no means a wealthy man and his monthly disposable income is modest. If the applicant pays all of the Child’s expenses, £100 towards fuel costs and £200 per month towards food, bearing in mind his own expenditure on food is £250 per month, this would be £396 per month, this can be rounded up to £400 which is a reasonable contribution towards the Child’s expenses in all the circumstances.

33. It falls within the scope of a review that the term of the consent order be considered. The Child is undertaking A level studies and as such has not completed her secondary education, the respondent seeks maintenance to cover her expenses whilst she is at college. It would be contrary to the Child's best interests for maintenance to cease when she is half way through her A level studies. I extend the order until the end of the school term following her 18th birthday. Authorities Matrimonial Causes (Jersey) Law 1949. Children (Jersey) Law 2002. A v B (Family) [2016] JCA 098. U v V (Family) [2018] JRC 160. A v B (Matrimonial) [2020] JRC 015.

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