

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2026] SC GLA 93

GLW-F1272-16

JUDGMENT OF SUMMARY SHERIFF ANNA REID

in the cause

GARY MACKENZIE (a pseudonym)

Pursuer

against

DONNA SUTHERLAND (a pseudonym)

Defender

**Pursuer: Self representing, with supporter
Defender: J Doyle; Buchanan Burton Solicitors**

GLASGOW, 26 January 2026

The sheriff, having resumed consideration of the cause, makes the following findings in fact:

Findings in fact

- (1) The parties are the parents of Sarah MacKenzie, born [] October 2014 (“Sarah”) and Mollie MacKenzie born [] September 2017 (“Mollie”).
- (2) The pursuer is named as the father on the birth certificates of both Sarah and Mollie.
- (3) Both parties have parental rights and responsibilities in respect of Sarah and Mollie.
- (4) Sarah and Mollie are currently aged 11 and 8 years old, respectively: Sarah is in primary 7 and Mollie is in primary 4.
- (5) The defender is currently training to be a paramedic and she will qualify later this year.

- (6) The parties' relationship began sometime around June 2011.
- (7) At this time, the defender's son, Kevin (born [] May 2006), resided with the defender.
- (8) The defender misused alcohol during the early years of the parties' relationship and her mental health was poor.
- (9) In March 2013, a report was made to the Social Work Department about the defender, after Kevin had walked to school alone while the defender was under the influence of alcohol.
- (10) As a result of this incident, at about this time, Kevin began to reside with his father.
- (11) The defender then sought to address her addiction and mental health difficulties.
- (12) As her recovery progressed, the defender resumed residential care of Kevin on a shared care basis with Kevin's father.
- (13) During the early years of the parties' relationship, the pursuer drank alcohol to excess and consumed Valium; the pursuer ceased drinking to excess when Sarah was born.
- (14) During the course of the parties' relationship, the pursuer subjected the defender to domestic abuse. He would speak to the defender in derogatory terms; he would send her abusive messages; he poked his finger into the side of her head and pinned her to a wall and to a bed; around March 2015, the pursuer assaulted the defender physically over a number of hours by grabbing the defender by the throat, spitting on her and grabbing her by the arms.
- (15) The defender reported the physical assaults to Police Scotland, but the pursuer was not charged.
- (16) The parties separated in 2016.
- (17) Sarah resided with the defender thereafter.

- (18) The pursuer raised the present proceedings in October 2016.
- (19) On 24 November 2016, the sheriff granted the pursuer residential contact with Sarah, with handovers being effected at her nursery.
- (20) Parties reconciled in late 2016.
- (21) During the period of reconciliation, Mollie was conceived.
- (22) Sometime in 2016, the defender sought support from Women's Aid.
- (23) The pursuer dropped off and collected the defender at her weekly appointments with Women's Aid.
- (24) The parties' relationship ended around late 2017/early 2018.
- (25) After the parties' second separation, both Sarah and Mollie resided with the defender.
- (26) From the time of separation up to June 2019 and from January 2020 to the start of March 2021, the pursuer had weekly residential contact with both Sarah and Mollie (notwithstanding that he sought a contact order in the present proceedings in respect of Sarah only).
- (27) While Sarah and Mollie stayed with the pursuer, they had contact with and were supported by the wider paternal family, in particular, the pursuer's mother and the pursuer's sister and her children.
- (28) In 2018, the defender started a new relationship.
- (29) In 2018, the pursuer sent abusive and derogatory messages to the defender about her new relationship amongst other matters; some of the messages were sexual in nature; some were threatening.
- (30) The defender asked the pursuer to stop sending messages to her but he continued to do so.

(31) In July 2018, the pursuer withheld Sarah and Mollie beyond their scheduled return time; the defender reported his conduct to Police Scotland and the children were returned to her by the pursuer, albeit late.

(32) In August 2018, the pursuer stated falsely to the Social Work Department that the defender had been drunk when he collected Sarah and Mollie from her for contact.

(33) On 11 September 2018, the sheriff varied the contact arrangements so that handovers were effected in a public place.

(34) At the same hearing on 11 September 2018, the sheriff court ordered that Glasgow City Council's Social Work Department prepare a report in respect of Sarah.

(35) During handovers, the pursuer called the defender derogatory names, including "a cow" and made "moo-ing" noises in her presence.

(36) In September 2018, during a handover, the pursuer said "tick tock" repeatedly in a sinister tone, frightening the defender.

(37) In a report dated 30 January 2019 (number 10 of process), the Social Work Department recommended that the contact arrangements stay the same (the pursuer having 5 nights' residential contact over a fortnightly cycle).

(38) On 7 February 2019, the sheriff continued the previous interim contact order made in respect of Sarah and the action was sisted.

(39) During one contact visit at the pursuer's property, Valium tablets were found lying on the floor close to where Sarah had been playing.

(40) In June 2019, Sarah alleged that the pursuer had grabbed her by wrist and slapped her on head; and acting upon advice from the Social Work Department and Police Scotland, the defender suspended contact between the pursuer and the children.

(41) An investigation was commenced by the Social Work Department and Police Scotland. They interviewed Sarah on a joint basis. They decided to take no further action.

(42) On 22 July 2019, the sist having been recalled, the sheriff varied the contact arrangement so that contact with Sarah would be exercised by the pursuer on a supervised basis at a contact centre; the sheriff also sought a supplementary report from the Social Work Department.

(43) Both Sarah and Mollie attended for supervised contact at the Promoting Positive Contact centre, Rose Street, Glasgow.

(44) On 3 October 2019, the Social Work Department produced a second report (number 12 of process) which recommended that the pursuer's contact continue on a supervised basis at a contact centre.

(45) In November 2019, a report was produced by the contact supervisor at Promoting Positive Contact centre, Rose Street (number 13 of process); the report was in glowing terms; it recommended that the pursuer's contact with the children should move to supported contact with the possibility of some contact out with the centre.

(46) On 18 November 2019, the sheriff varied contact arrangements so that the pursuer exercised non-residential contact twice weekly with Sarah.

(47) On 9 January 2020, the sheriff varied contact arrangements again so that Sarah had 5 nights' residential contact with the pursuer over a fortnightly cycle and the case was sisted for contact to operate.

(48) Later in 2020, Sarah and Mollie stayed with the pursuer and his mother full-time for approximately 6 weeks, while the defender recovered from surgery.

(49) During his contact time, the pursuer took Sarah and Mollie on caravan and camping trips and on holiday to Blackpool; the pursuer took them regularly to the safari park, the zoo and on hill walking and other outdoor adventures.

(50) Sarah has an eye condition, namely nystagmus, and she wears glasses.

(51) Between February and March 2021, parties exchanged messages about the collection of Sarah's new glasses which had been available to collect from 18 February 2021; Sarah's glasses were not collected by the defender until 9 March 2021; and the pursuer was angry with the defender about the delay.

(52) The pursuer last exercised contact with Sarah and Mollie at the start of March 2021.

(53) On 8 March 2021, the pursuer attended the primary school of Sarah and Mollie in an agitated state.

(54) The pursuer stated to school staff that the defender was neglecting Sarah and Mollie, referring to Sarah's glasses not having been collected timeously by the defender; and he expressed suicidal ideation to school staff.

(55) Following the pursuer's attendance at school, the headteacher contacted the Social Work Department to report concerns about the pursuer's presentation.

(56) On receiving that report, the Social Work Department recommended to the parties that no contact take place between the pursuer and the children pending a mental health assessment of the pursuer.

(57) On 10 March 2021, the defender received a text message from the pursuer's mother stating that the children's father was "no longer with us" and that the pursuer's mother hoped that the defender would "rot in hell"; shortly after, the pursuer's mother sent a further message to the defender to say that there had been a misunderstanding and that the pursuer was fine.

(58) On 13 April 2021, the sheriff suspended the pursuer's contact and ordered a third report from the Social Work Department.

(59) Some days later in April 2021, the pursuer attended the children's primary school to collect Sarah's attendance records; he saw Sarah in the playground; they embraced with the pursuer telling Sarah that he "loved her best in the whole world".

(60) Around May 2021, Mollie reported to the defender that the pursuer had punched her on the nose during a previous contact visit, having been angry that she had drawn on a wall in his property.

(61) In their third report dated 7 June 2021 (number 15 of process), the Social Work Department recommended that the pursuer have a minimal level of contact with Sarah and Mollie, supervised by a member of the pursuer's family.

(62) On 11 June 2021, the sheriff ordered that contact be returned to a contact centre, on a supervised basis.

(63) Due to administrative errors on the part of the defender's solicitors, the contact centre did not receive the paperwork required for contact to resume.

(64) During 2021, the defender became aware of the pursuer driving frequently past her house, often during the night; the defender was frightened by the pursuer's conduct; she was scared to leave her house; she moved address; the pursuer found out her new address; he began to drive up and down the street in which she lived; he parked nearby; again, the defender was frightened by the pursuer's conduct.

(65) The defender reported the pursuer's conduct to Police Scotland; he was charged; a summary complaint was thereafter served on the pursuer.

(66) In September 2021, before contact had resumed, the defender applied for the pursuer's contact to be suspended on the basis of the pending criminal proceedings.

(67) As part of those summary criminal proceedings, the pursuer was subject to special bail conditions prohibiting him from contacting or approaching the defender and her son, Kevin.

(68) Notwithstanding the special bail conditions, the pursuer continued to send abusive messages to the defender and drive nearby her house, causing the defender to feel stressed and intimidated.

(69) The pursuer was charged initially with breach of bail, behaving in a threatening or abusive manner, resisting arrest, and sexually assaulting a police officer.

(70) On 11 November 2021, at a child welfare hearing, the sheriff suspended the pursuer's contact.

(71) On 11 February 2022, at a further child welfare hearing and on joint motion, the present proceedings were sisted.

(72) In March 2022, the pursuer's criminal case called for trial; the defender and her son, Kevin, required to give evidence against the pursuer; mid-way through the trial, the pursuer pled guilty to a domestically aggravated offence of stalking (section 39 of the Criminal Justice and Licensing (Scotland) Act 2010) ("the 2010 Act") in respect of the defender and to a domestically aggravated breach of bail conditions.

(73) On 4 May 2022, the pursuer was sentenced to 8 months' imprisonment on a cumulo basis. A non-harassment order was made against him in respect of the defender and her son, Kevin, for a period of 3 years.

(74) On 4 May 2022, in respect of another summary complaint, the pursuer pled guilty to an offence under section 38 of the 2010 Act and was sentenced to 163 days' imprisonment to run consecutively to the 8 month sentence.

(75) In June 2022, the pursuer pled guilty in respect of a third summary complaint to an offence under section 5(1)(b) of the Firearms Act 1968 (in respect of his possession of a gas cannister) and on 28 July 2022, was sentenced to 20 months' imprisonment.

(76) On 3 March 2023, the pursuer was released from prison.

(77) In September 2023, the pursuer applied to the sheriff to recall the sist.

(78) On 21 November 2023, at a child welfare hearing, the sheriff instructed a child welfare report; the reporter noted that the pursuer was critical of the defender, her solicitor and the justice system in general and said he was innocent of the domestic abuse charges to which he had pled guilty; the reporter sought the views of the children; Sarah stated to the reporter that she did not wish to have any form of contact with the pursuer, including indirect contact; Mollie stated that she would like to see the pursuer, "for a little bit"; in January 2024, the reporter spoke again to Sarah and Mollie; Sarah's views on contact remained unchanged; Mollie said that she had changed her mind after talking about it and that she no longer wished to have contact; the reporter in her report dated 25 January 2024 (number 16 of process) did not recommend interim contact between the pursuer and the children; the child welfare reporter observed that contact could benefit the children long-term but that the pursuer would require first to undergo therapy and/or counselling in respect of his fixed mindset.

(79) On 30 January 2024, on the pursuer's motion, the case was sisted for the pursuer to undertake counselling.

(80) On 25 June 2024, the sist having been recalled, a supplementary child welfare report was instructed; again, the reporter sought the views of the children; Sarah reiterated to the reporter that she did not wish to have contact with the pursuer, including by way of occasional letters; Mollie stated that she had spoken to the defender and now did not wish

to see the pursuer nor receive letters or cards from him; the reporter noted that the pursuer's critical attitude towards the defender remained unchanged, notwithstanding his attendance at counselling; the reporter in her second report dated 20 August 2024 (number 17 of process) again did not recommend interim contact between the pursuer and the children.

(81) In June 2025, after the proof had started, the pursuer saw Sarah in the street on her way to school and called out to her; Sarah ran away from the pursuer and arrived at school, distressed.

(82) On 15 October 2025, the sheriff instructed another child welfare report to seek the up to date views of Sarah and Mollie; the reporter produced a third report dated 4 December 2025 (number 37 of process); Sarah's views remained unchanged about not wishing to have contact with the pursuer, including indirect contact by way of letters' Sarah told the reporter that she had seen the pursuer on the street and that she had run away; Sarah stated that "she may be okay" with receiving a birthday card and Christmas card from her paternal cousins; Mollie's views as regards not wishing to have contact with the pursuer, including indirect by way of letters, remained unchanged; she told the reporter that there was nothing that the pursuer could do which would make her wish to see him and that she does not wish to receive cards or letters from him.

(83) Sarah and Mollie are content in the defender's care and are thriving; Sarah is, generally, regulated and calm in her behaviour having previously been dysregulated and volatile.

(84) There is no prospect of parties being able to interact or co-operate, in person, or otherwise, in order to facilitate contact between the pursuer and the children: the risk of the defender being subject to further abuse is too great.

(85) Should contact take place between the pursuer and Sarah and Mollie, it is probable that the children would be exposed to conflict and acrimony and thereby put in a state of fear, alarm and/or distress given the pursuer's ongoing and previous use of derogatory language about the defender, his constant criticisms of her; and his entrenched views about her.

(86) It is unlikely that the pursuer would adhere to any conditions/parameters set by the sheriff for his exercise of indirect contact with Sarah and Mollie.

(87) In all of the circumstances, there is no realistic prospect of contact operating between the pursuer and the children in a manner which promotes the welfare of Sarah and Mollie.

Finds in fact and law:

(1) That it is not in the best interests of Sarah and Mollie and that it would be detrimental to their welfare for the pursuer to maintain personal relations and have direct or indirect contact with them.

(2) That it is not better for Sarah and Mollie that an order for contact is made rather than no order being made at all.

Accordingly, sustains the defender's plea-in-law; dismisses the cause; and finds no expenses due to or by either party.

NOTE

Background

[1] The pursuer seeks an order for residential contact in terms of section 11(2)(d) of the Children (Scotland) Act 1995 ("the 1995 Act") with the parties' daughters, Sarah and Mollie who are, respectively, aged 11 and 8 years old. The pursuer holds full parental rights and

responsibilities. The defender opposes all forms of contact between the pursuer and Sarah and Mollie. The children reside with her. The pursuer last exercised contact with Sarah and Mollie in early March 2021. They do not wish to have any contact with him.

[2] The pursuer seeks contact in the following terms, with both Sarah and Mollie:

- “(a) In week 1, from a Wednesday at 12 noon to a Thursday at 12 noon and on a Friday from 12 noon to a Tuesday at 12 noon;
- (b) In week 2, from a Wednesday at 12 noon to Thursday at 12 noon and Monday at 12 noon to Tuesday at 12 noon;
- (c) Or such other period as to the court may seem appropriate, and to grant said order ad interim”.

Procedural history

[3] The proceedings have been long and protracted. The initial writ was warranted in October 2016. A proof took place in 2025, over 8 days in May, August and October 2025. Closing submissions were heard on 22 December 2025. During the course of the proceedings, the pursuer instructed multiple firms of solicitors. There were multiple child welfare hearings. There were multiple peremptory diets. The pursuer represented himself in the proceedings from September 2024 onwards. In the course of the proceedings, the court sought three Social Work Department reports and three reports from a child welfare reporter. The case first called before me in March 2025: a case management hearing was assigned for 2 April 2025, and at which parties’ pleadings were amended and a proof was assigned to begin in May 2025. From 2 April 2025 onwards, as a result of his amendment, the pursuer began to seek the same contact order in respect of Mollie as for Sarah.

The witnesses at proof

[4] Witness statements and affidavits were lodged on behalf of the parties and their witnesses. The pursuer represented himself at the proof. His mother, Maud MacKenzie,

acted as his supporter on 7 of the 8 days of proof and at the hearing on submissions. The pursuer's sister, Karen Shanks, acted as his supporter on one day of the proof. The defender gave evidence using a television link. The defender sat behind a screen in court while other witnesses' testimony was heard.

[5] The pursuer gave evidence. The following persons gave evidence in support of the pursuer's position that a contact order should be made: (i) his mother, Maud MacKenzie; (ii) his sister, Karen Shanks; (iii) his cousin, May Lindsay; (iv) family friend, Marie McConnell; and (v) family friend, Simon Rodger.

[6] The defender gave evidence. The following persons gave evidence in support of the defender's position that a contact order should not be made: (i) counsellor, Janet Booth; (ii) deputy school headteacher, Janet Menzies; (iii) the defender's mother, Elspeth Sutherland and (iv) the defender's sister, Nancy Sutherland.

[7] With the exception of Nancy Sutherland, all witnesses attended court, provided supplementary oral testimony and were subject to cross-examination. Nancy Sutherland provided her evidence by way of affidavit only; the pursuer having stated that he did not wish to cross examine her.

Conduct of the proof by the pursuer

[8] The pursuer was disruptive during the proof. He required to be warned repeatedly about his behaviour. He spoke over the sheriff, the defender's solicitor and court staff. Proceedings had to be adjourned on several occasions to let the pursuer calm down. At the sheriff's request, a police officer was present in court on each day of the proof. The pursuer asked to see a copy of the sheriff's judicial oath. He questioned the sheriff's impartiality. The pursuer asked whether it was just a coincidence that everyone in the court (with the

exception of the police officer) was female. The pursuer was abusive verbally to the defender and to her solicitor. Despite repeated warnings to desist, the pursuer shouted at them both. He called the defender a “junkie” and her solicitor “a crook”. He shouted that they were both “child abusers”. The pursuer struggled to listen to the defender’s evidence. He interrupted frequently. Despite repeated warnings from the sheriff to desist, he provided a persistent, muttered verbal commentary during the course of the defender’s evidence in chief. At the sheriff’s request, the pursuer provided a list of the questions he wished to put to the defender, via the sheriff, in cross-examination. The pursuer sought to interject repeatedly as the sheriff asked the questions, despite repeated warnings to desist. At points during the proof, the pursuer was upset and tearful. His mother was a good support. The court benefitted from her presence. She was also visibly upset at points. It became apparent that the pursuer found the proof to be stressful and, at times, simply overwhelming. The court sought to make accommodations for that. On several occasions, however, the pursuer’s behaviour caused alarm and distress to those in court. At the hearing on submissions on 22 December 2025, the defender’s mother left the courtroom abruptly, upset and shouting. The pursuer was arrested as he left the courtroom (on a matter unrelated to his behaviour in court) and held in custody overnight.

The evidence at the proof

The pursuer

[9] The pursuer spoke to giving up alcohol when he heard he was to be a dad; to the children being his life’s purpose; to him being “the primary care giver” in the initial years. He produced and referred to multiple photos and videos showing him and the children on outdoor adventures, on Conic Hill and elsewhere. He spoke to having taught Sarah how to

swim; to him reading constantly to the children; to him engaging them in stories. He spoke to the positive supervised contact report produced by the Rose Street contact centre in November 2019, describing it as the only accurate report that had ever been prepared in respect of him. He spoke of his need to be reunited with Sarah and Mollie; to it being in their best interests to have contact with him and the wider paternal family; to him intending never to give up on them.

[10] The pursuer spoke to having concerns about the defender's parenting abilities, both in the past and presently, referring to the following incidents for which the defender "refused to be accountable": Mollie having been dropped down stairs in her pram; Sarah jamming her finger in a door; Mollie falling from a trampoline. The pursuer spoke to Sarah telling him in 2021 that the defender had been up all night drinking on several occasions. The pursuer, spoke at length, about the delay in the defender collecting Sarah's glasses in 2021; to the defender having responded with "LOL" after he had texted her to complain about the delay; to that text response displaying her shocking and deplorable attitude. The pursuer highlighted that the recent school attendance records of Sarah and Mollie showed a number of absences, which he considered to be unexplained. He stated that their school attendance would improve ten-fold when he is back in their lives.

[11] The pursuer spoke to the defender being antagonistic, manipulative, passive aggressive and provoking of him; to her "counter parenting"; to her weaponising the children; to her alienating the children from their loving father and influencing adversely their view of him, thereby abusing the children. He spoke to the defender breaching a contact order in 2018 and to no one holding her to account for that. He said that the proceedings were "the Ms Sutherland show".

[12] The pursuer spoke to the defender seeking support from Women's Aid based on "false allegations". He referred to three incidents around April 2021 in respect of which the defender had made reports about him to Police Scotland and which were classified as "no crime incidents". The pursuer stated that such a classification proved that the defender had made malicious and false claims in respect of him. The pursuer spoke to being in prison as a result of the defender's "lies" to the police and her perjury at the criminal trial. The pursuer denied any domestic abuse of the defender. He spoke to having been pressurised and coerced to plead guilty mid-way through the trial in March 2022. The pursuer conceded that he had been guilty of the Firearms Act offence for which he was convicted, describing his conduct as a mistake and a poor decision for which he accepted responsibility and had learned from.

[13] The pursuer described a number of courses that he had attended and support services that he had accessed both in prison and outwith: Quarriers, LifeLink, Circle, Men's Shed, Men Matter. He spoke to having attended counselling. He said that his engagement with such organisations and services was reflective of his general attitude to life: to try to be a better person tomorrow than today. The pursuer spoke to his mental health having been affected by the persistent and unwarranted scrutiny of him; the lack of support around him; and by the defender's conduct and abuse of him.

[14] With reference to the reports of the child welfare reporter setting out the views of Sarah and Mollie, the pursuer stated that they had been coached by the defender. He pointed to Mollie having said initially that she wished to see him but then having said to the reporter that she did not, as her mum would not like that. He spoke to there being no reason for the children to "reject" him.

[15] The pursuer spoke to having had no direct communication with the defender since around 2020. He considers that contact could operate between him and Sarah and Mollie without him having to deal directly with the defender but if required, he would communicate openly and honestly with her, prioritising the wellbeing of the children.

[16] In cross-examination, the pursuer maintained that the defender's alcohol addiction and her affair with the downstairs neighbour were the cause of their break-up. He spoke to providing a calm and tidy home, while the defender went out "on benders". He was asked about the allegations made by Sarah and Mollie that he had hurt them: he denied that the children had ever been injured intentionally by him and said that the scrutiny on him alone was unfair. The pursuer was asked about text messages sent by him to the defender in 2018. He said that he did not wish to comment. He said that the court's focus should be on Sarah and Mollie and not him. He said the defender's stalking claims were all made up, "desperate stuff", not vouched by any CCTV, describing the defender as "trigger happy with the police". He described his criminal trial as unfair, as it had not been before a jury.

[17] The pursuer stated that the defender and her solicitor were breaching the children's human rights by denying contact. He described the defender and her solicitor as bullying him and the children. He described the defender's solicitor as being intent on lining her pockets and breaking up a family. He denied that Sarah had become a more contented and calmer child after contact with him ceased. He described the children as "wonderful" and "contented" during the time that he had contact. He described the defender as running to "Social Services" to complain falsely about him "like a moth to a flame". It was put to him that Sarah's report cards from 2021 disclosed that she required additional support at a time when he had contact with her. The pursuer denied that and said that Sarah was progressing as she should until she was "kidnapped" by the defender and her solicitor.

[18] The pursuer denied vehemently that he had been physically abusive to the defender, whom he described as a pathological liar. He mocked the defender for saying that she was brilliant, a superhero, had worked so hard. He said it was all “me, me me” as far as the defender was concerned, while all the time she defamed him, blackened his name, threw out bait for reaction, with an attitude “as if she wanted him to hit her”. He referred to her prolonging the court proceedings and having a “season ticket” for Glasgow Sheriff Court. He did not accept that the proceedings had been protracted by him having instructed seven firms of solicitors.

[19] The pursuer was asked about the circumstances in which contact had stopped in March 2021. He described himself as being at the end of his tether when he attended the children’s school. He accepted that he had said to school staff that he did not know how long he could go on but denied feeling suicidal. He said that the school and social work staff had ganged up on him. He said contact stopped as “certain mothers were getting away with far too much”. He said that his mental health was fine and that he had been assessed medically to that affect.

[20] The pursuer was asked about whether his conduct during the proof suggested that co-operation between him and the defender would be impossible. The pursuer said that he could not overlook the defender’s obvious child neglect in failing to collect Sarah’s glasses earlier in 2021. He described himself as being “like a dog with a bone” about the glasses. He said that the defender’s attitude about that and her “LOL” response had upset him more than anything, even more than her false allegations which had resulted in him being imprisoned. The pursuer said that he would, however, need to work in the best interests of the children, without animosity and mudslinging, going forward. He said that would require the defender to “step up”. He denied that Sarah had run away from him distressed

in June 2025 when he had called out to her in the street, saying that she had “skipped away, not upset at all”.

[21] In a short re-examination, the pursuer said that he wished to move on and reunite Sarah and Mollie with him and his family and that the defender was not helping by claiming to be a victim and hiding behind a screen in court.

The pursuer’s witnesses

Maud MacKenzie

[22] The pursuer’s mother, Maud MacKenzie, gave her evidence at the very outset of the proof so that she could, thereafter, act as supporter. Mrs MacKenzie spoke to seeing Sarah and Mollie extensively up to 2021 and that they were “happy, contented wee children”, without any emotional difficulties and with whom she, the pursuer and the wider paternal family had a great bond. She spoke to her attempts to give birthday and Christmas presents to Sarah and Mollie after 2021 and to the defender refusing to let her do so. She spoke to it being “down to the mother” that Sarah and Mollie no longer have contact with the pursuer. In cross-examination, Mrs MacKenzie expressed regret at having texted the defender in March 2021 to convey, mistakenly, that the pursuer had taken his life, describing herself as panicked and overwrought. She observed that the defender was “always good at using the weans to manipulate situations”. Mrs MacKenzie was asked why contact had ceased between the pursuer and the children. She spoke to not being sure exactly but that it may have been triggered by her having confronted the defender after Sarah told her and the pursuer that the defender had been up all night, partying with a friend. There was no re-examination.

Karen Shanks

[23] The pursuer's sister, Karen Shanks, spoke to the pursuer being a loving, caring and attentive dad, adoring of his daughters. Ms Shanks spoke to her own children being around the same age as Sarah and Mollie. She spoke to the four cousins enjoying each other's company, going swimming, on days' out and on caravan holidays together. Ms Shanks spoke to the paternal family missing Sarah and Mollie greatly. Nothing of note arose in cross-examination. There was no re-examination.

June Lindsay

[24] June Lindsay is the pursuer's cousin. She works for the Samaritans charity. Ms Lindsay gave her evidence via a Webex link, from her home in Blackpool. Ms Lindsay spoke to getting on "straight away" with the defender. Ms Lindsay spoke to there being a change in the pursuer's behaviour after the defender became pregnant with Sarah: she described the pursuer as happy, more attentive, eating healthier, not drinking alcohol. Ms Lindsay described the pursuer as a "hands on parent", stating that fatherhood was the best thing that had ever happened to him. Ms Lindsay spoke to the pursuer's various activities and trips with Sarah and Mollie; to them being "perfectly happy wee children", only made unhappy when the defender said that they could not see or speak to the pursuer more. Ms Lindsay spoke to the pursuer not ever having spoken badly of the defender to her. Ms Lindsay described the pursuer as having been "attacked" by the defender's solicitor, the Social Work Department and by the headteacher and treated in a shocking way throughout the litigation. In cross-examination, Ms Lindsay accepted that information about his treatment in the litigation had come mainly from the pursuer but said that she had

witnessed first-hand at two meetings his poor treatment by the Social Work Department and the childrens' headteacher. There was no re-examination.

Simon Rodger

[25] Simon Rodger is a close friend of the pursuer and has known him for over 25 years. His child is of a similar age to Sarah and Mollie. Mr Rodger spoke to his child still asking after Sarah and Mollie. He spoke to enjoying family day outs with the pursuer, Sarah and Mollie: swimming, safari park, soft play. Mr Rodger described the parties' relationship as stable and happy and that the defender enjoyed fishing, having been introduced to that by the pursuer. He said that he had never seen the pursuer be controlling or mean to the defender. He had seen no domestic abuse. Mr Rodger spoke to the pursuer having suffered "greatly" without his children. There was no cross-examination.

Marie McConnell

[26] Marie McConnell is retired, having worked in social care for 35 years. She has known the pursuer since he was 15 years old, he having been her husband's apprentice. Mrs McConnell spoke to the pursuer being very kind, considerate and a great support to her and her husband, who is experiencing ill health with Parkinson's disease. She spoke to the pursuer visiting her house with Sarah and Mollie; to the children being happy and content in his company; to the pursuer having their health and happiness at the centre of everything he does. She said that the pursuer's life would be better if he was able to see the children. There was no cross-examination.

The defender

[27] The defender conceded that she previously had a difficulty with alcohol but that she had managed to address it having self-referred to support services. She described her son, Kevin, as a young boy, having walked to school alone while she was intoxicated as being a “wake up call” for her. She described using alcohol as a coping mechanism for the pursuer’s abusive behaviour. The defender spoke to being sober for many years; to having worked hard to turn her life around and to now working as a trainee paramedic, which she described as her “dream career”.

[28] The defender spoke to the pursuer having been addicted to Valium when they were together and that it would make him aggressive. She described him as having a bad temper, anger management issues and being controlling and obsessive. She spoke to her mental health suffering as a direct result of the pursuer’s conduct, to the extent that she tried to take her life in 2011. She spoke to the pursuer abusing her physically; to him speaking to her in derogatory terms; to him criticising her appearance; to him refusing to let her work, in case she had an affair. The defender spoke to the abusive messages she had received from the pursuer during the relationship and, in particular, in 2018, after they had separated and she had begun a new relationship. Copy texts were lodged as productions. Objectively, the messages are offensive, derogatory and abusive. Several are in sexualised terms. The defender spoke to asking the pursuer to stop texting her but that he continued to send abusive messages to her up until 2021. The defender contrasted the behaviour of the pursuer with that of her former partner, Kevin’s father, whom she described as a gentle giant and non-violent, “unlike the pursuer”.

[29] The defender spoke to the pursuer being difficult when he had contact with Sarah and Mollie and, on one occasion, retaining them without right. She spoke to him being

abusive at handovers and having frightened her. The defender spoke to the pursuer constantly criticising her parenting of Sarah and Mollie and trying to blame her on occasions where there had been accidents involving the children, and in respect of which she had taken immediate and appropriate action. The defender referred to the pursuer complaining incessantly and unfairly about her delay in collecting Sarah's glasses in February – March 2021, explaining she had to wait for a benefits' payment before she could pay for the glasses, the pursuer having been asked, but having refused, to cover the cost.

[30] The defender described the break-down in contact in March 2021 after the Social Work Department had recommended to her that contact be suspended as a result of the pursuer's presentation. The defender spoke to her upset, shock and worry at receiving a text message from the pursuer's mother to say, mistakenly, that he had taken his life. The defender stated that she had never yet told the children of that message.

[31] The defender described the pursuer's stalking of her in 2021 and described herself as a "nervous wreck" during this time, constantly looking out of the window to watch out for the pursuer; installing CCTV for her protection; having her phone constantly by her side so that she could call for help if required; and being scared to leave the house. She spoke to crying in bed at night, fearful of the pursuer's conduct and to trying to hide her upset and anxiety from the children, but to them observing her distress, unavoidably. The defender spoke to the pursuer consistently breaching special bail conditions in the lead up to his trial in respect of the stalking by sending to her further abusive messages and continuing to drive around near her home; to feeling intimidated by his conduct; to her relief when the pursuer, mid-trial, pled guilty and was convicted and imprisoned.

[32] The defender stated that reinstating contact would not be in the best interests of Sarah and Mollie. The defender spoke to Sarah and Mollie being much more settled since

contact ceased with the pursuer in March 2021; to the family “flourishing” without the pursuer’s involvement; to Sarah no longer being dysregulated, being much more confident, “on an even keel”; to both children now doing well at school. She spoke to Sarah’s distress and anger at the suggestion of contact being reintroduced against her wishes. The defender conceded that the children’s view as regards contact may well have been affected by her own views but considered that it was only natural that they would worry about the impact upon her of the pursuer being re-introduced to her life, Sarah, in particular, having witnessed the impact of his previous behaviour upon her and having been traumatised. The defender spoke to Mollie being a different character all together than Sarah - naturally, more confident and bubbly - and having a different perspective on the pursuer, given her young age at the time of separation. The defender accepted that Mollie had said initially after the first meeting with the child welfare reporter that she wanted to see the pursuer but having asked the defender if she could come along too and being told no, had changed her mind. The defender stated that she would not stand in the way if Mollie decided at a future point that she wished to see the pursuer or exchange letters and cards, but that she could not be involved in facilitating contact.

[33] The defender spoke to the distress caused to her as a result of the pursuer’s conduct during the course of the proceedings and in particular, at the proof, describing the conduct as being the worst it had ever been. The defender also spoke to the pursuer’s mother appearing outside her home address and calling her a liar and to Sarah witnessing that. The defender described being called to Sarah’s school in June 2025 and to seeing Sarah in the headteacher’s office, distressed and in tears. Sarah told the defender that the pursuer had come out of a car as she was walking to school, shouted out to her, and that she had run away and told her teacher. The defender spoke to Sarah returning home that day,

dishevelled and not her “normal wee self” and saying that she no longer wanted to walk to school by herself. The defender recounted being approached by the pursuer’s sister, Karen Shanks, in September 2025, while the defender was with Sarah and Mollie; to Ms Shanks shouting and chasing them, seeking to give the children a birthday card and to Sarah saying that she did not want to take it. The defender spoke to the children expressing worry thereafter that they would be approached enroute to school by members of the paternal family and to her agreeing an arrangement with school with altered pick up and drop off times.

[34] In advance of cross-examination and at the sheriff’s request, the pursuer collated 22 questions that he wished the sheriff to put to the defender. After question 8, the pursuer said the exercise was pointless and he wished no more questions to be asked. Nothing of note arose from cross-examination. There was no re-examination.

The defender’s witnesses

Janet Booth

[35] Janet Booth is a counsellor with HeadStrong, an organisation which works with Glasgow City Council’s education department. Ms Booth has worked in the education field for 25 years. Ms Booth provided support to Sarah at her primary school, from November 2024, when Sarah was in primary 6. Ms Booth explained that Sarah was having periods of dysregulation, after reporting to the school that she had been followed by a man in the car. Ms Booth explained that the school asked her to provide tips and techniques to Sarah to address her dysregulation. Ms Booth explained that by January 2025, Sarah was much calmer and regulated. She no longer required Ms Booth’s support. Ms Booth explained that Sarah was reluctant to speak to her about the pursuer. Ms Booth took her

lead from Sarah and did not discuss the pursuer with her. In cross-examination, Ms Booth confirmed that Sarah was regulated when she felt safe and secure. Ms Booth said that she did not know why Sarah did not wish to discuss the pursuer. In re-examination, Ms Booth stated that Sarah simply did not mention the pursuer.

Janet Menzies

[36] Janet Menzies worked at the primary school of Sarah and Mollie from 2000 until June 2025. Latterly, she held at the position of deputy headteacher. Ms Menzies spoke to Sarah attending the school's nurture classroom during the Covid-19 pandemic. Sarah had been presenting as unsettled and distressed. Sarah had exhibited dysregulated behaviour since primary 1. On occasion, Sarah would lash out at other children and be violent.

Ms Menzies explained that as a result of Sarah's eye condition – nystagmus - Sarah's eyes would move rapidly from side to side if she was upset or frightened. Ms Menzies spoke to her being difficult to engage in those circumstances and requiring to be calmed in a quiet place. Ms Menzies spoke to relations being acrimonious between the parties. The pursuer spoke to her about the defender in negative terms, saying that "everyone thought that the defender was perfect but that she had problems in the past". Ms Menzies spoke to the pursuer making "a big issue" about the defender delaying in picking up Sarah's glasses. The pursuer would say to Ms Menzies that he did not think that he, as a dad, was being treated fairly or equally and that "mums were always given favouritism". Ms Menzies spoke to the pursuer calling the school daily around the time of the pandemic and asking if the children were at school. His demeanour caused upset to one member of staff. He made other staff felt uncomfortable. Ms Menzies spoke to the defender being frightened when around the pursuer. She spoke to the defender being hypervigilant, always looking around

for the pursuer. Ms Menzies spoke to the defender having a positive, loving and supportive relationship with Sarah. Ms Menzies spoke to Sarah presenting as most distressed at times when she was having contact with the pursuer. She described Sarah as hypervigilant at this time. She spoke to Sarah leaving the classroom; running around the school; being unable to follow directions or focus; being dysregulated. Ms Menzies spoke to the pursuer attending the school gate, very distressed, around the time of lockdown. He was making threats to take his life. School staff contacted the Social Work Department to report concern. Ms Menzies offered the view that it would not be a “good thing” if Sarah required to see the pursuer; that it would be upsetting for her and that it would affect her schoolwork.

Ms Menzies queried whether Sarah would cope with contact. Ms Menzies spoke to having more limited dealings with Mollie. Ms Menzies considered that Mollie would have been far less impacted by the parties’ split, as she was much younger. In cross-examination, Ms Menzies accepted that trauma could be caused to a child by being separated from a parent. She was asked why she considered the pursuer to be the cause of trauma to Sarah and said that her view was based on Sarah’s behaviour having settled significantly since contact ceased. There was no re-examination.

Elspeth Sutherland

[37] The defender’s mother, Elspeth Sutherland spoke to having been told by others that the pursuer was a “wrong yin”. Mrs Sutherland conceded that she did not spend a lot of time directly in the company of the pursuer. She spoke to the defender having told her that the pursuer was moody, difficult and that he had a temper for nothing. Mrs Sutherland said that the defender had never mentioned any physical assaults upon her by the pursuer. She spoke to the defender having advised her after Mollie’s birth that parties had split and that

the pursuer was “back to his old self, being horrible”. Mrs Sutherland described the pursuer as “a drug dealer”. She described the pursuer as being “controlling” of the defender; that the defender had told her that the pursuer did not like her hair to be blonde.

Mrs Sutherland spoke to being the person who facilitated contact between the pursuer and Sarah and Mollie. She spoke to Sarah “flipping” for the slightest reason and having temper tantrums when she had contact with the pursuer. She described Sarah as a “completely different girl” now and that she has a “great wee life”. Mrs Sutherland spoke to the children having very different personalities. She described Mollie as being “bright as a bubble” and that she had no memories of the split, due to her young age at the time. In cross-examination, there were fiery exchanges between the pursuer and Mrs Sutherland. The court had to adjourn to let parties calm down. Mrs Sutherland did not accept that her affidavit had been unduly negative of the pursuer or that she had “conveniently forgotten all the good points” about him. She maintained that Sarah did not wish to see the pursuer because of his behaviour in stalking the defender and the pursuer “shouting and bawling” at Mrs Sutherland while she was with Sarah. In re-examination, Ms Sutherland conceded that the pursuer’s schedule of previous convictions did not show entries for the supply of drugs (possession only).

Nancy Sutherland

[38] Nancy Sutherland gave evidence by way of affidavit only and was not cross-examined. She spoke to the defender being withdrawn during the course of her relationship with the pursuer. Ms Sutherland spoke to the defender having told her of constant arguments between her and the pursuer; that he shouted and screamed; that he was controlling. Ms Sutherland spoke to the defender having told her that the pursuer was

constantly driving about where she was, including after when she had moved house.

Ms Sutherland spoke to behavioural issues with Sarah as a toddler and in the early years of primary school. She spoke to Sarah looking lost, withdrawn, staring, looking “dead behind the eyes”. She spoke to Sarah becoming dysregulated and to hitting out at other children.

Ms Sutherland spoke to Sarah’s behaviour changing after she had seen the pursuer for contact. She would be “kicking off”, struggling to regulate emotions; hitting out at the defender. Ms Sutherland spoke to Sarah presenting differently now; to being more talkative; confident; affectionate. Ms Sutherland spoke to Mollie having an entirely different personality - being talkative, outgoing, involved in everything. Ms Sutherland spoke to Mollie not being affected by the split, on account of her young age. Ms Sutherland spoke to neither of the children ever speaking about the pursuer.

Closing submissions

[39] Written submissions were lodged on behalf of both parties.

[40] The pursuer spoke of his happiness at becoming a father; to his many years of positive co-parenting, without professional support; the outdoor adventures he had enjoyed with the children; his regret at the “huge error of judgment” that resulted in the Firearms Act conviction; the abuse perpetrated upon him by the defender and her solicitor; the psychological, mental and emotional harm inflicted by the defender upon Sarah and Mollie through her attempts to alienate them from him; the defender’s deviousness in the evidence she had tendered to the court by way of historic and selective text messages; her perjury and lies; and the possible border line personality disorder she exhibited by her general lack of empathy. He described the involvement of both parents being the least that Sarah and

Mollie deserved and the onus on being on the parties to work together, in harmony, for them.

[41] The defender accepted that, overall, the contact between the children and the pursuer up to 2021 had been positive but that matters had since moved on, and significantly so. The defender highlighted that the child welfare reporter had not recommended interim contact on the basis of the pursuer's fixated, critical attitude. The defender highlighted the negative impact upon her of the pursuer's abuse and stalking of her and the children's awareness of that; the improvement in Sarah's behaviour and presentation since contact ceased; the children's opposition to contact being reinstated; the impossibility of her cooperating with the pursuer; the inevitability that the pursuer would speak negatively of the defender to the children if contact was reinstated, and the consequent distress that would cause to the children.

[42] At the submissions hearing on 22 December 2025, the defender's agent spoke to the pursuer having shouted at the defender and the children as they left their property on 11 December 2025, the pursuer alleging that the defender had been lying in court. This interaction had caused distress to Sarah and Mollie, who were left crying. Officers of Police Scotland had attended and taken statements from the defender and the children. The defender's agent contended that the pursuer had sworn at her. The pursuer accepted that he had shouted out but denied swearing. He said that he simply wanted to see the children, whom he described as captivated and pleased to see him, before the defender had "got stuck into them".

The applicable law

[43] Section 11(7) of the 1995 Act sets out the matters to which the court must have regard when considering when, amongst other orders, to make an order for contact. These matters can be summarised as follows: the welfare principle, the no order principle, the views of the child or children; the abuse provisions; and the cooperation provisions. The relevant part of section 11(7) is set out below:

“(7) Subject to subsection (8) below, in considering whether or not to make an order under subsection (1) above and what order to make, the court—

- (a) shall regard the welfare of the child concerned as its paramount consideration and shall not make any such order unless it considers that it would be better for the child that the order be made than that none should be made at all; and
- (b) taking account of the child’s age and maturity, shall so far as practicable—
 - (i) give him an opportunity to indicate whether he wishes to express his views;
 - (ii) if he does so wish, give him an opportunity to express them; and
 - (iii) have regard to such views as he may express.

(7A) In carrying out the duties imposed by subsection (7)(a) above, the court shall have regard in particular to the matters mentioned in subsection (7B) below.

(7B) Those matters are—

- (a) the need to protect the child from—
 - (i) any abuse; or
 - (ii) the risk of any abuse, which affects, or might affect, the child;
- (b) the effect such abuse, or the risk of such abuse, might have on the child;
- (c) the ability of a person—
 - (i) who has carried out abuse which affects or might affect the child; or
 - (ii) who might carry out such abuse, to care for, or otherwise meet the needs of, the child; and
- (d) the effect any abuse, or the risk of any abuse, might have on the carrying out of responsibilities in connection with the welfare of the child by a person who has (or, by virtue of an order under subsection (1), would have) those responsibilities.

(7C) In subsection (7B) above

‘abuse’ includes—

- (a) violence, harassment, threatening conduct and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress;
- (b) abuse of a person other than the child; and
- (c) domestic abuse;

‘conduct’ includes—

- (a) speech; and
- (b) presence in a specified place or area.

(7D) Where—

- (a) the court is considering making an order under subsection (1) above; and
 - (b) in pursuance of the order two or more relevant persons would have to co-operate with one another as respects matters affecting the child,
- the court shall consider whether it would be appropriate to make the order.”

[44] In the Inner House in *White v White* 2001 SC 689, Lord President Rodger stated (at paragraph 21):

“the court must consider all the relevant material and decide what would be conducive to the child’s welfare. That is the paramount consideration. In carrying out that exercise the court should have regard to the general principle that it is conducive to a child’s welfare to maintain personal relations and direct contact with his absent parent. But the decision will depend on the facts of the particular case and, if there is nothing in the relevant material on which the court, applying that general principle, could properly take the view that it would be in the interests of the child for the order to be granted, then the application must fail.”

[45] The Inner House in *J v M* 2016 SC 835 stated (at paragraph 11):

“(1) In terms of section 11(7)(a) of the 1995 Act, the judge must treat the welfare of the child as the paramount consideration. The issue is – what is best for the child?...The Court must have regard to a number of specified matters, including the need to protect the child from any abuse (defined as including any conduct likely to cause distress), and the need for co-operation between the parents: section 11(7A-E).

(2) Before refusing an application for parental contact, a careful balancing exercise must be carried out with a view to identifying whether there are weighty factors which make such a serious step necessary and justified in the paramount interests of the child (sometimes referred to as ‘exceptional circumstances’). Reference can be made to *M v K* 2015 SLT 469 in the opinion of the court at paragraph 25. This approach is reflective of the general background of it almost always being conducive to the welfare of a child that parental contact is maintained. In *[NEDB v JEG 2012 SC (UKSC) 293]* at paragraph 14 Lord Reed explained that there must be ‘a reasonable basis’ for a decision to refuse such an application”.

The decision

[46] Having considered all of the evidence, having regard to the welfare of Sarah and Mollie as being the paramount consideration and having taken account of the matters set out in section 11(7) of the 1995 Act, I am satisfied that that it is not in the best interests of Sarah and Mollie that the pursuer should maintain personal relations and have direct or indirect contact with them. Accordingly, no order in terms of section 11(2)(d) of the 1995 Act should be granted in favour of the pursuer.

Assessment of the evidence – general overview

[47] There were a number of disputed issues of fact between the pursuer and the defender. The evidence given by the parties' witnesses largely did not touch upon those issues.

[48] The evidence of the pursuer's witnesses was in short compass and was focused on their observations of the pursuer's engagement with Sarah and Mollie prior to 2021.

Ms Lindsay, Mrs McConnell and Mr Rodger were straightforward and matter of fact in the delivery of their evidence. Their demeanour was calm and composed. Ms Shanks's demeanour in court was hostile, but I considered that she was seeking to give an honest account. Mrs MacKenzie spoke with real sincerity about the pursuer's bond with the children and the extent to which she loves Sarah and Mollie and misses them. It was clear from Mrs MacKenzie's demeanour and tone when asked about the defender that she considers that the pursuer has been gravely wronged by her. All of the pursuer's witnesses were consistent on the matter of the pursuer's contact with Sarah and Mollie up to 2021 being positive. I accepted their evidence on this issue as credible and reliable.

[49] The defender's professional witnesses, Ms Booth and Ms Menzies gave their evidence in a calm, measured and fluent way. They were consistent in their observations as to Sarah's improved and more settled behaviour in recent years. Elspeth Sutherland was combative in cross-examination with the pursuer: the inflammatory manner in which the pursuer asked questions of her did not assist. She was mistaken in her description of the pursuer as a convicted drug dealer. I rejected her evidence as not credible or reliable on that point. Nancy Sutherland gave her evidence by affidavit only, which was not challenged by the pursuer. With the exception of the evidence in respect of drug dealing from Elspeth Sutherland that I rejected, I found the evidence of the defender's witnesses to be credible and reliable.

[50] The pursuer gave much of his evidence in a rapid, impassioned and heated manner. He spoke most calmly when describing his previous activities with Sarah and Mollie. When it came to the defender and in particular, her complaints of his stalking and abuse and as regards matters relating to her parenting, he was agitated and aggressive. The defender gave her evidence in a calm and measured way. She was fairly reflective, acknowledging that the pursuer had been an active and engaged father. I did not detect attempts by her to exaggerate or embellish her evidence. There was one aspect of the defender's evidence that I did not accept, namely that the pursuer had "put on a show" for the contact supervisors at the Promoting Positive Contact centre at Rose Street and that their November 2019 report gave an unrealistic impression of him. I rejected the defender's evidence as not reliable on this particular issue: she was not present during the contact sessions. I considered her evidence in respect of the pursuer having assaulted the children to be unreliable, that information having been relayed to her by the children, second-hand. Otherwise, I accepted the defender's evidence as credible and reliable. As set out in more detail below, where

there were discrepancies between the evidence of the pursuer and the defender, I preferred the defender's evidence.

Reasons for decision

[51] In October of this year, it will be 10 years since the pursuer raised the present proceedings. In March of this year, it will be 5 years since the pursuer exercised contact with Sarah and Mollie. The length of the proceedings has undoubtedly taken a toll on both parties: that was most apparent as regards the pursuer.

[52] The photos and videos tendered by the pursuer show Sarah and Mollie, as young children, happy and smiling, contented to be in the pursuer's care and loving and affectionate in respect of him. The pursuer considers that he has much to offer them, in terms of his love of the outdoors and adventures away from phone screens. The defender acknowledged, rightly, that the pursuer's contact with Sarah and Mollie, was positive. In the period up to June 2021, the defender was supportive of contact. The Social Work Department reports, supervised contact centre report and first child welfare report vouch that. I accepted the pursuer's evidence that any injuries sustained by the children while in his care was accidental. The evidence supports that the pursuer is a loving father, who cares for Sarah and Mollie deeply. In this case, it is the pursuer's abuse of the defender; the ramifications of his ongoing hostility towards the defender; and the children's current views as to contact, which are central to the question of whether reinstating contact with the pursuer is in the best interests of Sarah and Mollie.

[53] The pursuer is fixated on what he perceives to be past wrongs by the defender. His evidence in respect of the defender's delayed collection of Sarah's glasses in 2021 was a good

example of that. The pursuer returned to that issue repeatedly during his evidence. His continued anger in respect of it was palpable.

[54] The pursuer is entrenched in his views that the defender has lied repeatedly about his abuse of her. The defender provided a detailed account of that abuse. I accept her evidence as credible and reliable, both as regards the physical abuse and abuse in the form of stalking, breach of bail conditions, use of derogatory language and the sending of abusive messages. The pursuer's explanation of the circumstances in which he pled guilty in 2022 to domestically aggravated stalking and breach of bail conditions was implausible, namely, that he had been "coerced" into doing so having received advice from his "corrupt" lawyer, who in turn had received a message relayed from the presiding sheriff that unless he pled guilty, she would convict him of the sexual offence charge. The pursuer relied on the absence of CCTV evidence as indicating his innocence. His description of his conduct around the defender and her son, Kevin, was vague. He conceded, rightly, that the phone messages he had sent to the defender in 2018 were "in bad taste". They were, objectively, abusive and offensive. The pursuer cannot escape from his decision to plead guilty to stalking and breach of bail. His demeanour in court was self-assured and assertive: I do not believe that he would likely be "coerced" into tendering a guilty plea. The pursuer received a significant custodial sentence. The court requires to have regard to the effect of the pursuer's abuse upon the defender, in terms of section 11(7)(B)(d).

[55] The pursuer's conduct and verbal abuse during the proof demonstrated, strikingly, his ongoing aggression towards the defender and her solicitor. The pursuer mocked the defender and caused distress. The defender was reduced to tears when the pursuer referred to her father's attempts at suicide indicating her general lack of support to individuals around her. That was a cruel gibe by the pursuer. The court required to adjourn to allow

the defender to recover her composure. Given the pursuer's previous abuse of the defender and his conduct in court, there is no question of the pursuer and the defender being able to interact or cooperate, whether in person or by messages in order to facilitate contact. There would be too great a risk that the defender would be subject to further abuse if she required to deal directly with the pursuer. The pursuer said at points in his evidence that parties would have to work together, "in harmony". The rest of his evidence and the manner of its delivery suggested that the parties "working in harmony" is a wholly unrealistic prospect.

[56] Both Sarah and Mollie have said that they wish to have no contact with the pursuer, in any form. The views of the children are, of course, not determinative: but the court must have regard to them. Mollie's views have undoubtedly been influenced by the defender.

However, the views of Sarah and Mollie appear to be genuinely and firmly held. The pursuer is, effectively, a stranger to Mollie, she being only 3 years old when she last exercised contact with him. She may have a natural curiosity about him. Sarah has been unshakeable in her views as expressed on a number of occasions to the child welfare reporter that she wishes to have no contact at all with the pursuer, confirmed by the defender's description of Sarah's distress on seeing the pursuer in the street in June 2025.

Parties' positions as to Sarah's reaction to the pursuer that day were diametrically opposed.

I did not accept the pursuer's version of events, namely that Sarah had "skipped" away from him, as being credible or reliable. It was inconsistent with the defender's description of Sarah's distress that day and with what Sarah said to the child welfare reporter in December 2025.

[57] With Sarah and Mollie being, respectively, 11 and 8 years, it is feasible that face to face contact could operate without the defender being involved directly, for example, by use of a third party or via an agreed handover point. The question is, notwithstanding their

expressed views, what is best for Sarah and Mollie? The pursuer can provide them with love, support, guidance, the investment of his time and considerable energy. Per *White v White* 2001, generally, it will be conducive to a child's welfare to maintain contact with a parent. In terms of Article 8 of the European Convention on Human Rights, the court must consider the pursuer's qualified Convention right to family life and ensure that any interference with that right is necessary and proportionate.

[58] It would appear to be inevitable that the pursuer would be critical of the defender to the children, if contact was reinstated. The reports produced by the Social Work Department and the child welfare reporter record that the pursuer consistently has used derogatory language about the defender. That was echoed by the testimony of Ms Menzies, the children's former deputy headteacher. The Social Work Department reports of 2019 highlight Sarah's distress in the pursuer doing so in front of her. The pursuer appears to be unaware, or uncaring in respect of the impact upon Sarah of his use of derogatory language. The defender has been a steady influence in the children's lives since March 2021. The evidence given by her and her witnesses supports that Sarah and Mollie are content in her care and are thriving. Sarah, in particular, would be at risk of becoming unsettled and dysregulated again if the relationship with her mother was undermined and threatened, thus undoing the good progress that Sarah has made in recent years, the "even keel" that she is now on, to use the defender's words.

[59] The child welfare reporter noted that she considered that the pursuer would feel duty bound to intervene if the children were ever to say anything about the defender that concerned him. That is a point well made. All indications from his evidence are that the pursuer would be unlikely to be able to stop himself from seizing the opportunity to confront the defender without considering the impact on the children.

[60] In terms of section 11(7)(B) and (C), the court must have regard to the need to protect Sarah and Mollie from abuse or the risk of any abuse, with the definition of abuse including conduct giving rise to or likely to give rise to "...fear, alarm or distress". The pursuer's past and current conduct suggests that Sarah and Mollie would be subjected to this form of abuse, through exposure to further conflict and acrimony.

[61] As regards indirect contact between the pursuer and Sarah and Mollie, they have expressed the view, consistently, that they do not wish to receive cards or letters from the pursuer. The pursuer was, in any case, aghast at the suggestion that contact be only indirect, describing that as "the bottom of the barrel" for him. The pursuer's attitude in court and his difficulty in adhering to direct instructions from the sheriff and court staff suggests that he would not be able to abide by any parameters for indirect contact set down by the court, for example, that he should focus only on the children's interests and progress and not make criticisms of the defender or interrogate the basis for the children not wishing to have direct contact with them. This would be unsettling and upsetting for Sarah and Mollie. It is not in their interests to be exposed to this risk.

[62] In all the circumstances, there is no realistic prospect of contact operating in a manner which promotes the welfare of Sarah and Mollie. It is better for them that no order for contact is made.

[63] The pursuer will undoubtedly be disappointed at this decision. He will probably consider it to be unsurprising, given his entrenched view that the justice system is rigged against him. It is not. The decision has been made after a very careful balancing exercise, made all the more difficult as the pursuer's previous contact with the children was positive. Clearly, it is a decision which is not in the pursuer's best interests. However, in my respectful judgment, it is a decision which is in the best interests of Sarah and Mollie.

[64] In years to come, Sarah and Mollie may well ask about the pursuer and why they have not had contact with him. The pursuer will be able to point to his sustained and painful efforts to re-establish contact and to the court's observations and findings as to his loving bond with the children and the good, quality contact that he had with them as young children. The pursuer will have the best chance of re-establishing a relationship with Sarah and Mollie in years to come if he respects their views and allows them time and space.

Expenses

[65] In accordance with parties' agreed position, I find no expenses due to or by either party.

Note:

The names of the parties, children and witnesses within this judgment are pseudonyms.