

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2026] SC GLA 95

GLW-F799-23

JUDGMENT OF SUMMARY SHERIFF ANNA REID

in the cause

CRAIG SMITH (a pseudonym)

Pursuer

against

LYNN MICHAEL (a pseudonym)

Defender

Pursuer: Bennett; Thompsons Family Law Solicitors

Defender: Shearer; Lee Doyle Solicitors

GLASGOW, 3 June 2026

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

- (1) The parties are the parents of Jane Michael, born [] February 2020 (“Jane”) and James Michael born [] January 2022 (“James”) (together “the children”).
- (2) The pursuer is not named as the father on the birth certificates of the children.
- (3) The children have resided with the defender since birth.
- (4) Currently, Jane is aged 6 years old; James is aged 4 years old.
- (5) James has a diagnosis of Global Developmental Delay and is being assessed for autism.

The parties' relationship and its breakdown

(6) The parties' relationship began when the pursuer was 17 years old and the defender was 16 years old.

(7) During the course of the parties' relationship, the pursuer subjected the defender to domestic abuse.

(8) The pursuer monitored the defender's movements and questioned her about whether she was seeing other men.

(9) The pursuer threatened to disclose nude photos of the defender.

(10) In February 2021, the pursuer damaged the defender's flat and assaulted the defender; the pursuer pulled a curtain pole from the wall; emptied the defender's fridge of its food; poured Jane's milk down the sink; and held the defender against the wall by her throat while she was holding Jane, then a baby, in her arms.

(11) The defender telephoned her mother after the pursuer had damaged her flat; the defender's mother attended the property; let herself in with a spare key; and saw the pursuer holding the defender by the throat; the defender's mother shouted and the pursuer released the defender.

(12) Sometime around February 2022, the pursuer prepared a bath for Jane, then aged around 2 years old, which was made too hot for her accidentally by the pursuer and caused her skin to redden: Jane did not require any medical treatment.

(13) The defender sought to end the relationship on a number of occasions.

(14) The pursuer threatened to commit suicide if the defender ended the relationship.

(15) After the defender sought to end the relationship, at some time prior to November 2022, the pursuer sent to the defender a photo of himself with a belt around his neck.

(16) The parties' relationship ended in or around November 2022.

(17) Around the time that the relationship ended, the pursuer told the defender that if he had contact with the children outwith a contact centre, the pursuer would kill the children so that the defender would not have them.

Contact between the pursuer and the children post separation and in advance of proceedings

(18) After the relationship ended, for approximately 2 months, the pursuer exercised non-residential weekend contact with Jane and James at The Forge Shopping Centre, supervised by the defender.

(19) During one contact session on 14 January 2023, the pursuer said in the presence of Jane (then aged just under 3 years old) that he was going to kill himself.

(20) Later in January 2023, the parties argued during a contact session, after the defender changed the arrangements for contact for that weekend; the pursuer shouted at the defender.

(21) After the argument, the defender told the pursuer that he could no longer exercise contact with the children and that he should consult a solicitor.

(22) The pursuer sought legal advice around a week later.

(23) The pursuer raised the present proceedings in July 2023.

The pursuer's domestic abuse conviction

(24) On 15 May 2024, the pursuer pled guilty to an offence under section 1 of the Domestic Abuse (Scotland) Act 2018 ("DASA"), aggravated by reason of involving a child (Jane).

(25) The terms of the charge to which the pursuer pled guilty were as follows:

“Between 1st February 2021 and 31 August 2023, both dates inclusive, at [], Glasgow and elsewhere, you CRAIG SMITH did engage in a course of behaviour which was abusive of your partner or ex partner Lynn Michael, care of the Police Service of Scotland, in that you did (i) on 17th February 2021 act in an aggressive manner towards the said Lynn Michael, shout, swear, utter offensive remarks, accuse her of being unfaithful, pull a curtain from a window and you did... pin her against the wall whilst she was holding her daughter, Jane Michael, born 23 February 2020; (ii) repeatedly message her via social media and text messenger wherein you did swear, utter offensive remarks and demand to speak with her; (iii) threaten to disclose intimate images of her; and (iv) threaten to harm yourself if she did not speak to you; CONTRARY to the Domestic Abuse (Scotland) Act 2018, Section 1; And it will be proved in terms of section 5 of the Domestic Abuse (Scotland) Act 2018 that the aforesaid offence was aggravated by reason of involving a child”.

(26) On 13 September 2024, the pursuer was sentenced to a Community Payback Order (“CPO”) with three requirements: an offender supervision requirement; a programme requirement (Caledonian Men’s Programme); and an unpaid work requirement (130 hours).

(27) The pursuer was also made subject to a Non-Harassment Order (“NHO”) for 2 years, preventing him from approaching, contacting or communicating with the defender, or attempting to do so and preventing him from entering specified loci.

(28) The pursuer has completed the unpaid work requirement of the CPO. He continues to undertake the Caledonian Men’s Programme.

(29) On 11 April 2025, the pursuer was convicted of a breach of the NHO; the pursuer was made subject to a further NHO for 2 years, preventing him from approaching, contacting or communicating with the defender, or attempting to do so; and sentence was deferred for good behaviour until 8 May 2026.

(30) The defender receives support from Women’s Aid.

(31) The defender lives at a new address, not disclosed to the pursuer.

Contact orders through these proceedings

(32) On 3 May 2024, the sheriff ordered that the pursuer have contact with Jane and James on a supervised basis within a contact centre for every fortnight, the first two sessions being for 1 hour and thereafter each session being for 2 hours.

(33) On 21 June 2024, the defender sought that the pursuer's contact be reduced to nil: the motion was refused.

(34) On 19 October 2024, supervised contact began.

(35) On 19 December 2024, 19 March 2025 and 14 April 2025, the defender sought again to reduce the pursuer's contact to nil. On each occasion, the defender's motion was refused.

(36) On 22 July 2025, the sheriff ordered that the pursuer's supervised contact with Jane and James be increased to weekly sessions of 2 hours.

(37) On 29 October 2025, the defender sought that the pursuer's contact with Jane be reduced to nil; the defender's motion was granted.

(38) Since 29 October 2025, the pursuer has exercised supervised contact only with James.

Presentation of the children while contact ongoing with the pursuer

(39) While contact was ongoing, Jane displayed dysregulated behaviour, including wetting and soiling, and requiring to be moved from her primary 1 class into the school's nurture class.

(40) The defender sought support from her GP and Child and Adolescent Mental Health Services (CAHMS) in respect of Jane.

(41) Since October 2025 (after Jane's contact with the pursuer ceased), she has become more settled and regulated and has returned to her mainstream class.

(42) James has consistently enjoyed the supervised contact with the pursuer.

The children's current living arrangements

- (43) Jane and James are content in the defender's care.
- (44) After the parties' separation, the defender began a relationship with a man named Stuart, whom Jane calls "dad".
- (45) The defender is no longer in a relationship with Stuart; she has a new partner. Notwithstanding, Jane continues to call the defender's former partner Stuart "dad".

Rangers Football Club

- (46) The parties are both dedicated fans of Rangers Football Club ("Rangers FC").
- (47) The pursuer was previously part of the Rangers FC "ultras" group, known as "the Union Bears".
- (48) Around August 2022, the pursuer was assaulted by third parties in respect of his membership of the Union Bears group.
- (49) The pursuer still attends football matches but is no longer part of the Union Bears group.

Co-operation between the parties

- (50) Given the pursuer's abuse of the defender, it is unlikely that the parties will be able to interact in person for the foreseeable future, even after the expiry of the existing NHOs.

Makes the following findings in fact and law:

- (1) It is the best interests of the children that they continue to reside with the defender.
- (2) Parties having agreed that the pursuer is the biological father of the children, and as

vouched by DNA testing, the pursuer is entitled to declarator that he is father of Jane and James.

(3) It is in the best interests of Jane and James for the pursuer to have parental responsibilities and rights in respect of them, to the limited extent of conferring upon the pursuer the responsibility and corresponding right to (i) have contact with Jane and James as herein provided for and (ii) to act as legal representative for Jane and James for the purpose of accessing information and records in respect of their health and education from health professionals and educational establishments.

(4) It is not in the best interests of Jane to have direct contact with the pursuer at this time.

(5) It is in the best interests of Jane that the pursuer has regular indirect contact with her.

(6) It is the best interests of James to have weekly direct contact with the pursuer on a supported basis within a contact centre.

(7) It is better for Jane and James that these orders are made, than not at all.

ACCORDINGLY, sustains pleas-in-law 1, 3 and 4 for the pursuer; sustains the defender's sixth plea-in-law; *Quoad ultra*, repels the parties' pleas-in-law.

THEREFORE

(1) *Quoad* the pursuer's third crave, finds and declares that the pursuer is the father of Jane and James.

(2) *Quoad* the pursuer's fifth crave, ordains the sheriff clerk to notify the Registrar General that the pursuer is the father of the children by sending the prescribed form in terms of section 18A of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.

(3) *Quoad* the pursuer's first crave, in terms of section 11(2)(d) of the 1995 Act, makes an order for indirect contact between the pursuer and Jane, allowing the pursuer to send to her every year a birthday card and present and a Christmas card and present and, separately, a letter or card on a maximum of four other occasions per year, the sending of said cards, presents and letters to be facilitated through the pursuer's direct contact with James.

(4) *Quoad* the pursuer's first crave, in terms of section 11(2)(d) of the 1995 Act, makes an order for direct contact between the pursuer and James as follows: 2 hours of supported contact within a contact centre every Saturday, from 11.00am – 1.00pm, or such other time 2 hour period on a Saturday or Sunday that the contact centre can facilitate, said contact to take place at Promoting Positive Contact Centre, 53 Rose Street, Glasgow or such other contact centre as the parties may agree, with contact to be instructed by and paid for by the pursuer.

(5) *Quoad* the pursuer's sixth crave, in terms of section 11(2)(b) of the 1995 Act makes an order for parental responsibilities and rights in favour of the pursuer to the extent of:

- (i) per section 1(1)(c) and section 2(1)(c) of the 1995 Act, conferring upon the pursuer the responsibility and corresponding right to maintain personal relations and contact with Jane and James, as provided for in this decision (indirect contact with Jane and direct, supported contact with James);
- (ii) per section 1(1)(d) and section 2(1)(d) of the 1995 Act, conferring upon the pursuer the responsibility and corresponding right to act as legal representative for Jane and James for the limited purpose of accessing information and records in respect of their health and education from health professionals and educational establishments.

(6) *Quoad* the defender's first crave, in terms of section 11(2)(c) of the 1995 Act, makes a

residence order in favour of the defender in respect of Jane and James.

(7) *Ex proprio motu*, in terms of section 11(2)(e) of the 1995 Act, makes a specific issue order allowing the defender to take Jane and James outwith the United Kingdom on holiday for up to 2 weeks at a time, within the school holidays, without the consent of the pursuer, provided the pursuer is notified at least 3 weeks in advance of any holiday.

(8) *Quoad ultra*, dismisses the cause.

(9) Finds no expenses due to or by either party.

NOTE:

Background

[1] The pursuer seeks (i) declarator that he is the father of Jane and James; (ii) that his name to be recorded as their father on their birth certificates; (iii) parental responsibilities and rights in favour of the children; (iv) and weekly direct contact with the Jane and James. Though craved, the pursuer no longer seeks an order for the children to be made available for DNA testing (his paternity now being a matter of agreement between the parties), nor a residence order in respect of the children. During the proof, the pursuer confirmed that he seeks supervised contact with Jane; his crave for contact as regards James remains for a minimum of 6 hours every Saturday or at such other times and under conditions or duration as the court deems appropriate.

[2] The defender agrees that the pursuer is the biological father of the children but opposes (i) his name being added to their birth certificates; (ii) the granting to the pursuer of parental responsibilities and rights; and (iii) any order for contact with the children. The defender seeks a residence order in her favour in respect of Jane and James.

[3] The pursuer has not seen Jane and James outwith a contact centre since January 2023.

The pursuer has ongoing weekly supervised contact with James at a contact centre. The pursuer previously exercised weekly supervised contact with Jane, but has not done so since October 2025.

[4] On 15 May 2024, the pursuer was convicted of a domestic abuse offence in respect of the defender with a child aggravation (in respect of Jane). On 11 April 2025, the pursuer was convicted of breaching an NHO granted against him in respect of the defender.

Procedural history

[5] Proceedings were raised by the pursuer in July 2023. The action was progressed through approximately 15 child welfare hearings. Supervised contact with both Jane and James was first ordered by the court on 3 May 2024. On 29 October 2025, supervised contact was stopped in respect of Jane. Five supervised contact centre reports were ordered and lodged with the court. A child welfare reporter was appointed. The reporter, Ms McLean, produced a report of 23 November 2023 and a supplementary report of 13 June 2025. Three diets of proof were assigned and discharged (in April 2025, July 2025 and November 2025). The action called for the fourth diet of proof on 16 March 2026 and was adjourned to the next day. On 17 March 2026, the presiding sheriff allowed parties to undertake an urgent amendment procedure. On 18 March 2026, the action called before me for the first time. I allowed the pleadings to be amended. Evidence was heard on 18 and 19 March 2026. On the pursuer's unopposed motion at the close of evidence, I continued the interim contact order for supervised contact between the pursuer and James. A hearing on submissions took place on 17 April 2026, after which I made avizandum. On the pursuer's unopposed motion at the submissions hearing, once again, I continued the interim contact order for supervised contact between the pursuer and James, pending the issuing of my decision.

The evidence

[6] The pursuer gave evidence. His step-aunt, Abigail Reynolds, gave evidence in support of the pursuer's position.

[7] The defender gave evidence, with the use of a screen. Her mother, Claire Michael, and her aunt, Evelyn Michael, gave evidence in support of the defender's position.

[8] Affidavits were lodged for all of the foregoing witnesses and adopted by each as their evidence-in-chief.

The pursuer

[9] The pursuer spoke to the relationship between the parties being "toxic". The pursuer accepted his domestic abuse conviction, though denied being physically violent to the defender. The pursuer stated that he was embarrassed and ashamed of his conviction. He described his conduct as unacceptable, taking place at a time when "he was in a really bad place". He acknowledged that he had not been a "nice person" during his relationship with the defender. The pursuer spoke to completing the unpaid work component of his CPO early and to learning much from the Caledonian Men's Programme.

[10] The pursuer accepted that he had breached the NHO imposed when he was sentenced for the section 1 DASA offence. He was not certain about the nature of the breach but accepted the advice from his solicitor to plead guilty.

[11] The pursuer vehemently denied threatening the defender with knives; threatening to petrol bomb her house or saying that he would kill the defender and the children. The police have never spoken to him about any such allegations. He said that those allegations were malicious and untrue. He gave an example of the defender giving a false version of

events, describing how she had reported to police that the pursuer had abused her verbally at St Enoch's Centre after a court hearing: the police later told the pursuer that CCTV footage showed him walking past the defender without engaging. The pursuer considers that the defender is seeking to "do everything in her power to stop [his] contact".

[12] The pursuer spoke to the defender suggesting that he was not the father of the children: a DNA test confirmed that he was. He spoke to the defender controlling the contact he had with the children both prior to and after separation. He described himself as "being over the moon" when the interim contact order for supervised contact was made.

The pursuer expressed frustration at how many contact visits had been cancelled.

He expressed concern that the defender has adversely influenced Jane's views of him and has made Jane worried and confused. He spoke to Jane being inconsistent during contact with him: sometimes engaging well, enjoying herself and calling him "dad", but other times being "destructive", saying that the pursuer had burned her in a bath and saying that other men were her dad. The pursuer described Jane having been put by him in a bath that was too hot when she was around 2 years old as an "accident", occurring when both he and the defender were present. The pursuer spoke to James always enjoying the contact at the contact centre.

[13] The pursuer spoke to his sadness that the children do not see their aunts or uncles or cousins on his side. He spoke to being involved actively in the lives of his nieces and nephews. He said that there "wasn't a valid reason" for his name not being recorded on the birth certificates of the children and that he wished his name to be included so that he could be involved in decision-making for them and so that he can access medical and educational information relating to them, in particular, as regards James's health conditions.

[14] In cross-examination, the pursuer agreed with a series of propositions put to him,

including that Jane's wellbeing was affected by contact; that she appeared to be more settled now that contact had stopped; and that re-instating contact would not be in Jane's best interests. He accepted that the children had been present when some domestic abuse occurred. He accepted that he had been attacked in the street by a group due to his association with the Union Bears.

[15] In a short re-examination, the pursuer clarified that his view was that contact with him would be in Jane's best interests. He said that it would be hard for both him and Jane but that she should understand who her father is and that he had changed for the better. He conceded that Jane's dysregulation was in part due to his past behaviour but also because she had been told false information about him by the defender. The pursuer stated that he had stopped associating with the Union Bears in 2022.

Abigail Reynolds

[16] Ms Reynolds is the pursuer's step-aunt. She spoke to being a close friend initially of the defender. She was told by the defender that the pursuer was abusive. She exchanged a number of messages with the defender about the pursuer, several of which were lodged as productions for the defender. She stated that certain messages had been cropped and edited by the defender to make it look as though Ms Reynolds was criticising the pursuer, when Ms Reynolds was messaging about her brother.

[17] Ms Reynolds is no longer a friend of the defender. Her perception of the pursuer has entirely changed. She spoke to the defender having lied and making out the pursuer to be "this big, dad and aggressive person when it is not true". She said that the defender's mother was "in her ear and always has been". Ms Reynolds spoke to being present when the defender's mother advised the defender, then pregnant with Jane, not to put pursuer's

name on the birth certificate or else the pursuer would have “50/50 rights” and be “guaranteed to have contact” if the parties’ relationship ended. Ms Reynolds said that the defender’s mother had said in her presence that she had not put her children’s father’s name on their birth certificates.

[18] Ms Reynolds spoke to the pursuer being a “great dad” to Jane and James and to his efforts to have contact with them, despite opposition from the defender. She said that the defender had controlled and curtailed the pursuer’s contact when they were together. She spoke to her belief that contact has gone well within the contact centre, though the pursuer had concerns about certain statements from Jane.

[19] Ms Reynolds spoke to the pursuer being from a big family; to him being great with her young son and the pursuer’s siblings’ young children and to her having no concerns as regards safety or risk. She considers that Jane and James are missing out by not being in touch with their biological father and that it is confusing and unfair for them to be told by the defender that he is not their father. She considers that the pursuer can offer the children stability.

[20] In cross-examination, Ms Reynolds denied that she had seen the defender’s property “smashed up” by the pursuer, though she did accept that the curtains had been moved. She denied that the defender had told her that the pursuer had taken her by the throat or “put hands on her”. She denied witnessing any domestic abuse by the pursuer of the defender. She accepted that she had exchanged a number of messages with the defender in which she criticised the pursuer. She said that was based on information about the pursuer from the defender, which she now considers to be false. It was put to her that the defender had, in fact, been telling Ms Reynolds the truth about the pursuer. Ms Reynolds said she did not think that was the case as she had caught the defender out “telling loads of wee lies”.

Ms Reynolds said initially that she could not recall witnessing contact between the pursuer and James and then clarified that she has never met James.

[21] In re-examination, Ms Reynolds provided examples of the defender's lies, including saying that she had not seen the pursuer on an occasion when she had and saying that the pursuer was out of the country in Hamburg for 6 weeks, which he had not been.

The defender

[22] The defender is the primary carer of Jane and James, both of whom have lived with her since birth.

[23] The defender described her relationship with the pursuer as having "a lot of domestic violence and abuse". She described the pursuer as controlling and aggressive; suspicious that she was being unfaithful to the extent he would check her underwear when she came home; physically violent, threatening her at knifepoint, saying that he would kill her and the children; grabbing her by the throat and pinning her against a wall on multiple occasions. She described the pursuer as threatening to commit suicide after she tried to end the relationship and stalking her by attending at her house, all times of the day and night. She spoke to the pursuer threatening to disclose nude pictures of her. The pursuer's threat to harm himself and to disclose nude photos were vouched by messages from the pursuer, one of which pictures him with a belt around his neck, lodged within the defender's productions. The defender stated that she does not wish the pursuer to know her current address, on the basis of his previous stalking of her and he having made threats to petrol bomb her house with her and the children inside it. The defender said that she was "constantly looking over her shoulder".

[24] The defender spoke to the pursuer not supporting her at all during her pregnancies,

and instead spending time with the Union Bears.

[25] The defender spoke to the pursuer abusing Jane as well as her, by screaming in front of and being aggressive around Jane. She spoke to Jane, as a baby, being in her arms when the pursuer assaulted the defender physically by holding her by the throat against a wall; on the same occasion, the pursuer vandalised her property and threw items around the house and at her and at Jane. She said that the pursuer held her by the throat while she was holding Jane “multiple times”. The defender described the pursuer as having “burnt” Jane “in a roasting hot bath”; her understanding is that formed part of the section 1 DASA offence to which he had pled guilty in September 2024. She described Jane, aged 2 years old, with marks on her face, saying to her that “Craig” had slapped her.

[26] The defender spoke to the relationship breaking down in November 2022 and the pursuer saying at that point that if he saw the children outwith a contact centre, he would kill them so that the defender would not have them.

[27] The defender spoke to having facilitated contact at The Forge Shopping Centre for a few months after the relationship broke down but that the pursuer had been abusive and questioning of her and not interested in the children. During one contact session in January 2023, the pursuer said in the presence of Jane that he wished to kill himself.

[28] The defender spoke to the pursuer and Jane having no bond; that Jane had never chosen to call him “dad”, only “Craig”; that Jane is absolutely terrified of the pursuer, re-traumatised and distressed at the prospect of seeing him; and that she remembers every detail of the abuse directed against her by the pursuer. The defender spoke to Jane’s mental health deteriorating after the court ordered supervised contact; to her having nightmares; lashing out; to her wetting and soiling; to her being moved out of her mainstream primary 1 class and into the school’s nurture class. The defender spoke to trying to

encourage Jane to attend for contact but to Jane being resistant.

[29] The defender spoke to Jane receiving support from CAHMS but that being paused due to the adverse affect upon Jane of contact with the pursuer. The defender spoke to CAHMS therapeutic work being re-commenced after the court recalled the contact order in respect of Jane on 29 October 2025; to Jane being more settled generally and at school, but to her experiencing ongoing anxiety every Saturday about the pursuer's ongoing contact with James. The defender referred to letters lodged by her as productions from Jane's school, GP, and therapists, describing her unsettled and dysregulated behaviour at a time that contact was ongoing.

[30] The defender spoke to the pursuer initially refusing to acknowledge that he was James's father and to the pursuer being verbally abusive to her when she was hospital. The defender spoke to the pursuer showing no interest in James after he was born. The defender acknowledged that the supervised contact between the pursuer and James was going well but due to James's health conditions and impacted awareness, his enjoyment of contact should not be interpreted as him having a bond with the pursuer.

[31] The defender spoke to a number of contact visits being cancelled by her, always with advance notice to the contact centre, and provided explanations, including the children being unwell and, sadly, due to the defender experiencing an ectopic pregnancy in respect of her twins and requiring emergency surgery.

[32] The defender stated that the pursuer's contact could not be outwith the contact centre, given: that the pursuer's property was not suitable for contact; that the pursuer's family was not stable or supportive, especially given that the pursuer's stepfather had attempted to set the family house on fire 14 years ago; the risk of further violence against the pursuer, arising from his association with the Union Bears; and the threats made by the

pursuer in November 2022 about killing the children if he saw them outwith a contact centre.

[33] The defender spoke to the pursuer breaching his NHO twice: by seeking to contact her on social media in November 2024 and by following her to St Enoch Centre in March 2025 after a court hearing.

[34] The defender does not consider that neither the granting of an order for contact nor an order for parental responsibilities and rights would be in the best interests of Jane and James. The pursuer, not having been involved in the lives of the children when they were in a relationship, should not have a say in decisions in respect of them. In the defender's view, the pursuer could not be trusted to make the right decisions for the children. The defender does not consider that she can co-parent on account of the pursuer's conduct and abuse.

[35] In cross-examination, the defender accepted that she had not been happy after the court order supervised contact. She accepted that she had made social media posts describing the court system as "corrupt". It was put to her that she did not respect the court: the defender agreed, to the extent that decisions of the court put the children in danger. She accepted that a significant number of contact visits had been cancelled by her, explain that each cancellation was justified. The defender accepted that she had been upset in front of the children when they attended for contact but said she was not unhappy that they decided to stay. The defender accepted that the contact centre reports were positive as regards the pursuer's attentiveness and engagement with the children. The defender said that she had witnessed conduct by the pursuer that the centre staff had not seen. The defender was asked about why Jane would say that the pursuer was not her dad and explained that was because she identified the defender's former partner, Stuart, as her dad. The defender denied that Jane was confused: she calls the pursuer, Craig; she calls Stuart "dad" and she

calls the defender's current partner, Colin by his first name. The defender denied that a drawing made by Jane with the pursuer at a contact visit was thrown away when she arrived home and said that Jane had "made that up".

[36] The defender was asked about the section 1 DASA offence to which the pursuer pled guilty and maintained that it included reference to threats to kill her and the children.

The defender was asked why the pursuer would refer to harming the children outwith a contact centre at the point of separation in 2022, when the pursuer would not have been aware of the contact centre system at that stage. The defender maintained that the pursuer had made the threat.

[37] In re-examination, the defender accepted that the children had enjoyed contact but that she remained opposed to any further court orders for contact due to the threats that the pursuer had made to her and the children.

Ms Claire Michael

[38] The defender's mother, Claire Michael, spoke to having a very close relationship with the defender and seeing her and the children daily. She spoke to the relationship between the parties not being good, that the pursuer was constantly on the phone to the defender, questioning her whereabouts. She spoke to the pursuer not being supportive during the defender's pregnancies. She spoke to the defender calling her one morning, very distressed, screaming that the pursuer had "smashed up" her house; to attending the house and seeing the pursuer with his hand on the defender's throat, baby Jane in her arms.

Ms Michael spoke to shouting "get your fucking hands off her" and to the pursuer releasing her. She spoke to the pursuer having held the defender by her throat while holding Jane "multiple times". She spoke to seeing the pursuer shouting at Jane and James to be quiet.

She spoke of the impact of the pursuer's behaviour upon the defender's mental health.

[39] Ms Michael spoke to Jane's mental health deteriorating; to her wetting herself; and to her having night terrors when contact was ongoing with the pursuer. She said that Jane told her that she did not want to see the pursuer. She spoke to Jane "coming on amazing" now that her contact had ceased with the pursuer.

[40] Ms Michael spoke to the pursuer telling the defender and others, including herself, that if he saw the children outwith a contact centre, he would kill them so that the defender did not have them. She considers the pursuer to be dangerous and unstable.

[41] In cross-examination, Ms Michael denied that she had told the defender not to include the pursuer's name on the children's birth certificates. She accepted that the name of the father of the defender and her brother is not on their birth certificates. Ms Michael accepted that she did not see any of the pursuer's contact at The Forge Shopping Centre. Ms Michael accepted that the contact centre reports were positive but observed that was in a very controlled environment. Ms Michael denied having binned a drawing made by Jane with the pursuer during a contact session. She reiterated that the pursuer had said in her presence that he would kill the children if he saw them outwith a contact centre.

[42] There was no re-examination.

Ms Evelyn Michael

[43] The defender's aunt, Evelyn Michael spoke to the defender being an "incredible" mother to Jane and James, raising them herself, while experiencing abuse by the pursuer. Ms Michael sees the children almost every day. She spoke of the pursuer's controlling behaviour towards the defender when parties were together, including dictating her clothing choices; questioning her whereabouts; and questioning whether she was having

contact with any other men. She described witnessing the pursuer behaving in a threatening way, pushing past the defender. She described seeing the house “smashed up” in one occasion, with holes in the doors and the defender telling her that the pursuer had been in a “hissy fit”. She described the parties’ relationship as toxic and abusive. Ms Michael considers that the pursuer is not interested in the children: he simply wants to hurt and punish the defender. Ms Michael considers that the pursuer and Jane have no bond: she calls him “Craig” not “dad”. Ms Michael spoke to Jane telling her that the pursuer had said he would kill himself and her and James too.

[44] Ms Michael spoke to the pursuer denying that the children were his and requiring a DNA test to prove the position. Ms Michael referred to the pursuer carrying out “acts of badness” on Jane when he was not happy with the defender by scalding Jane intentionally with hot water in the bath. Ms Michael spoke to Jane’s behaviour deteriorating when contact was ongoing and that impacting her schooling and general development and wellbeing. Ms Michael described the pursuer stating in her presence that he would kill himself and the children so that the defender has nothing left. She considers the pursuer to be mentally unstable. Ms Michael spoke to the pursuer being convicted of “several assaults with a child aggravation”. Ms Michael spoke of her concern as to the safety of the children if the court were to order contact. She worries that the pursuer could not handle James’s “melt-downs”. Ms Michael said that the pursuer did not have the right to be around the children, because of what he could do, and that he had to let the defender and the children move on.

[45] In cross-examination, Ms Michael agreed that she was not “neutral”, and that she wished to support the defender and the children. She confirmed that Jane, aged 3½ years, had told her directly that the pursuer had said he would kill her when she was aged 2 years.

Ms Michael accepted that she had not seen Jane being “scalded” in the bath. She conceded that was perhaps too strong a word but denied that she was exaggerating. She spoke to the pursuer having told her younger brother that he had burnt Jane and to the pursuer laughing about that. Ms Michael reiterated that the pursuer had told her that he would kill the children. Ms Michael confirmed that she did not report any of the pursuer’s threats to the police, but that she had told the defender. She explained that she did not report the threats to anyone else as she knew that the defender would never allow unsupervised contact in any case.

[46] In a short re-examination, Ms Michael confirmed that she told the defender that Jane had said to her that the pursuer would kill her.

The reports of the child welfare reporter and the views of the children

[47] Karen McLean, solicitor, was appointed as a child welfare reporter. She produced a report on 27 November 2023 and a supplementary report on 13 June 2025.

[48] James’s views were not sought, given his age and even younger developmental age.

[49] Ms McLean sought the views of Jane, then aged 5 years, in the course of preparing her supplementary report. Jane referred to the pursuer as “Craig”. She told Ms McLean that the defender had told her to stay away from Craig and that her gran [witness Claire Michael] had ripped a drawing that she made with the pursuer during contact. Jane said she was “angry” about going to the contact centre as that was on her day off school. She described the pursuer as “a bad man” who had “burned her in a burny bath”.

[50] Ms McLean’s reports recommended that the pursuer have contact with Jane and James on a supervised basis in a contact centre.

Contact centre reports

[51] The contact centre has produced five reports in respect of the pursuer's supervised contact with Jane and James.

[52] The first report of 15 March 2025 noted that three of the eight scheduled sessions took place; that Jane had required encouragement but thereafter both children enjoyed contact and the pursuer engaged well; that the defender was unhappy that contact was going ahead; that the children had not been prepared for contact and told that they were visiting "a man called Craig"; that Jane had stated that her step-father was "her real dad", that mum had told her not to go near the pursuer and that a drawing she made with the pursuer at one contact visit was put in the bin when she returned home and that she could not do another drawing with the pursuer "or she would get into trouble".

[53] The second report of 6 July 2025 noted that two of the four scheduled sessions took place; that engagement with the pursuer and James was "good"; that engagement with the pursuer and Jane was "a bit strained at times" but overall improved; that the defender had encouraged contact; that Jane stated that the pursuer "was not her dad"; that the pursuer was "a bad man"; and that Jane had said "don't tell mum, I'll get into trouble"; "I remember when you [the pursuer] burned me in the bath".

[54] The third report of 2 November 2025 noted that six of the ten scheduled sessions took place; that James had enjoyed the longer contact; that Jane was "in and out" of contact, stating repeatedly that the pursuer was not her dad but that she enjoyed visits overall when she engaged; that on the second visit, Jane refused initially to come in and when she joined mid-way through stated "my mom will be mad if I stay down here, I told her I'd go back" and later said "I'm not taking a cuddle because I hate you". The report noted that the pursuer was attentive to the children's needs and safety and established a bond. The report

recommended that contact should move from supervised to supported with James and a combination of supervised and supported with Jane; and that the defender should encourage Jane to engage in contact so that she would not feel that she was upsetting the defender by doing so.

[55] The fourth report of 12 March 2026 was prepared after the court ordered that contact cease between the pursuer and Jane. The report noted that four of the nine scheduled sessions did not proceed; that James was initially apprehensive but engaged well and enjoyed himself; that the defender's mother objected to the pursuer taking James to the toilet. The report recommended again that contact progress to supported contact.

[56] The fifth report of 12 April 2026 noted that there was "lots of laughter and positive interaction" between the pursuer and James; and that the pursuer provided a high level of care during contact. The report recommended once again that contact progress from supervised to supported.

Closing submissions

[57] Written submissions were lodged on behalf of both parties and adopted at the submissions hearing on 17 April 2026.

[58] The pursuer highlighted how swiftly he had acted to seek to have contact re-established and the positive contact centre reports in respect of supervised contact with Jane and James. He spoke to being committed to being in the lives of his children. He spoke to the defender seeking continually to thwart his contact with Jane and James, by reporting him for historic domestic abuse after he had raised proceedings; by making additional, malicious allegations of abuse over and above the charge to which he pled guilty; by adversely influencing Jane's views of him and making her anxious about contact; by

applying repeatedly to the court to have his contact reduced to nil; by not having the children attend at least half of the scheduled contact visits. The pursuer considers that the defender wishes to eradicate him entirely from the children's lives. The pursuer submitted that the evidence of the defender and her witnesses was not balanced, demonstrated entrenched hostility towards him and was not centred on what was in the best interests of Jane and James. The pursuer spoke to his contact with James having reached a point where it could move outwith the contact centre. He accepted that his relationship with Jane would require time to re-build and submitted that contact should be reinstated within the contact centre. He acknowledged that Jane appeared to be conflicted and confused, but said that was down to the defender. He submitted that none of the professionals who had produced letters lodged by the defender as productions had ever spoken to or observed him.

The pursuer submitted that a decision not to award contact with the children would have an "irreversible" impact on their relationship with him. The pursuer spoke to it being in the best interests of the children that he have parental responsibilities and rights, to allow him to be involved in decision-making in respect of the children and to allow him access to information about their health, welfare and schooling. He spoke to his name having "been kept off" the birth certificates of the children intentionally by the defender to curtail his involvement in their lives. The pursuer said that he was genuinely remorseful about his section 1 DASA conviction and that with assistance through the Caledonian Men's Programme, he had changed for the better as a person. He spoke to the need for the re-building of trust between the parties. The pursuer invited the court to make the orders craved (with the exception of the crave for residence and modifying the contact order with Jane to supervised contact within a contact centre) and to assign a child welfare hearing some months thence to review the operation of contact between the pursuer and the

children.

[59] The defender confirmed no opposition to declarator of parentage but submitted that the pursuer's name should not be recorded on the birth certificates of the children as it was not in their best interests that the pursuer have parental responsibilities and rights in respect of them, nor contact. The defender highlighted the minimal involvement of the pursuer with the children; his domestic abuse of her; and the adverse impact of his abuse upon Jane. The defender submitted that the children were happy and settled in her care.

The defender highlighted the dysregulated behaviour of Jane while she was exercising contact with the pursuer and that she was much more settled now that contact has ceased.

The defender acknowledged that contact between the pursuer and James was going well.

She submitted that James's positive engagement with the pursuer should not be construed

as "bonding" and highlighted that James has no sense of danger and is unable to

communicate his feelings. The defender spoke to her extreme concerns about the safety of

the children if the court was to order contact outwith a contact centre. The defender

highlighted the long lasting impact of the pursuer's abuse of her and her current fears in

respect of him. She considers that the pursuer has minimised the abuse. She submitted that

the abuse she has experienced makes it "almost impossible" for she and the pursuer to

co-parent. She submitted that any order for parental responsibilities and rights or contact

could have a detrimental impact on her mental health and wellbeing. The defender

submitted that she wished simply to protect and safeguard the children and the only way

for that to be done was for the pursuer not to be involved in their lives.

The law

[60] 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 parental responsibilities and rights, residence and 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 co-operation 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."

[61] In the Inner House decision 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."

[62] 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”.

[63] In *WT v RM* 2006 Fam LR 100, Sheriff Morrison KC stated (at paragraph 12):

“[12] I think in our law one can say that, on any application for parental responsibilities and rights, there is no onus of proof on a party and that the test is: what is in the best interests of the child? In answering that question one would consider all the factors relevant to the paramount consideration of the welfare of the child which would certainly include the following: (1) the degree of commitment by the applicant to the child; (2) the degree of attachment between the applicant and the child; (3) the importance of that commitment and attachment to the child’s welfare; (4) the reasons or motives of the applicant in applying for the order; (5) whether the applicant would take account of the child’s views, where appropriate; (6) any need to protect the child from conduct of a person; (7) where the applicant and a parent or other person having parental responsibilities and rights have to co-operate in matters affecting the child, whether they can do so; and (8) whether it is better for the child that the order be made than that no order should be made”.

[64] The parental responsibilities and rights are set out in sections 1 and 2 of the 1995 Act, as follows;

“1 Parental responsibilities

- (1) Subject to Section 3(1)(b), and (d) and (3) of this Act, a parent has in relation to his child the responsibility—
 - (a) to safeguard and promote the child's health, development and welfare;
 - (b) to provide, in a manner appropriate to the stage of development of the child—
 - (i) direction;
 - (ii) guidance,
 to the child;
 - (c) if the child is not living with the parent, to maintain personal relations and direct contact with the child on a regular basis; and
 - (d) to act as the child's legal representative,

but only in so far as compliance with this Section is practicable and in the interests of the child.

2 Parental rights

- (1) Subject to Section 3(1)(b), and (d) and (3) of this Act, a parent, in order to enable him to fulfil his parental responsibilities in relation to his child, has the right
 - (a) to have the child living with him or otherwise to regulate the child's residence;

- (b) to control, direct or guide, in a manner appropriate to the stage of development of the child, the child's upbringing;
- (c) if the child is not living with him, to maintain personal relations and direct contact with the child on a regular basis; and
- (d) to act as the child's legal representative."

Decision

[65] Having considered all of the evidence, having regard to the welfare of Jane and James 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 (i) declarator should be granted, providing that the pursuer is the father of the children and the Registrar General should be updated in order that the pursuer's name be included on their birth certificates; (ii) the pursuer should be granted weekly direct contact with James on a supported basis within a contact centre; and indirect contact with Jane; (iii) the pursuer should be granted limited parental responsibilities and rights in respect of the children; (iv) the defender should be granted a residence order in respect of Jane and James; (v) the defender should be able to take the children on holiday outwith the UK without the requirement to seek the pursuer's consent, provided advance notice is given to him.

Assessment of the evidence – general overview

[66] There were a number of key disputed issues of fact between the parties, principally the terms of the section 1 DASA offence to which the pursuer had pled guilty; whether the pursuer had scalded Jane in a bath intentionally; whether the pursuer had physically assaulted the defender; what threats the pursuer had made to the defender and the children at the point of separation and thereafter; what contact there had been between the parties in breach of the first NHO.

[67] The pursuer was nervous when giving his evidence: I attributed that to the unfamiliarity of the court room and the significant consequences of the proof for the pursuer. The pursuer accepted his section 1 DASA conviction and was reflective and remorseful about his conduct, acknowledging that it was entirely unacceptable. He did not criticise in any way the defender's care of the children. He spoke positively of the children and the extent to which he loves and misses them. He appeared to be genuinely dismayed that the defender was suggesting that he had deliberately scalded Jane. He provided a detailed account of a bath having been prepared too hot accidentally.

[68] There were, however, some occasions on which I considered that the pursuer was seeking to minimise his conduct. He denied being physically violent to the defender. But, the section 1 DASA charge, as amended, to which he pled guilty records that he pinned the defender to the wall while she was holding Jane. That, of course, constitutes physical violence. He provided a bare denial to the defender's very specific allegations that he had said at the point of separation that she would not see the children if he were to see them outwith a contact centre and that in January 2023, he said that he wished to kill himself in the presence of Jane. Overall, my impression of the pursuer was that he was thoroughly ashamed of his past conduct but down-playing certain aspects which he thought would be particularly prejudicial to him in these proceedings. I accepted the pursuer's evidence as credible and reliable with some notable exceptions: I rejected his evidence that he had not been physically violent to the defender; that he had not made a threat to kill the children at the point of separation in November 2022; and that he had not threatened to kill himself in January 2023.

[69] The defender also appeared to be nervous when giving her evidence: likewise, I attributed that to the unfamiliarity of the court room and the significant consequences of

the proof for the defender. Additionally, I considered that she would have been nervous about the pursuer being in court, given his previous domestic abuse of her. The defender described the abuse she had experienced by the pursuer, largely, in detailed and specific terms. However, I considered that certain aspects of the defender's evidence were based on mistaken information. She maintained that the pursuer's section 1 DASA conviction included reference to him having burned Jane in the bath and threatening to kill her and the children. The copy complaint lodged in process as one of the pursuer's productions confirms that was not the case. I also considered that certain aspects of the defender's evidence were exaggerated. The defender referred to the pursuer threatening to petrol bomb her house. The child welfare reporter's supplementary report of 13 June 2025 records that the defender also told her that the pursuer had breached his NHO by threatening to petrol bomb her house and that she had a message to vouch that. No such message has been lodged. The defender's evidence to the court was to the effect that the pursuer had breached the NHO not by making any such threat but by seeking to contact her on social media and to approaching her at the St Enoch Centre. The pursuer denies that he made any such approach at the St Enoch's Centre. A copy of the complaint in respect of the breach of NHO was not lodged as a production. The pursuer's position that sentence in respect of the breach was deferred for good behaviour was not challenged. I consider that such a sentencing outcome would not be consistent with a threat of serious harm, such as petrol bombing, to the defender. Additionally, the defender said in her evidence that the pursuer had assaulted her "multiple times" and threatened her with knives during the relationship. This conduct does not form part of the section 1 DASA charge to which the pursuer pled guilty. The defender only spoke of one incident of physical violence in any detail (being the holding of her against a wall as narrated in the section 1 DASA charge).

[70] The defender's position that the pursuer had made a threat in respect of the children at the point of separation and a threat to commit suicide has been consistently maintained by her, both to the child welfare reporter and in her evidence. I consider that these threats explain her deep-set opposition to and fear of contact. I accept the defender's evidence as credible and reliable but with some notable exceptions. I reject her evidence in respect of the threat of petrol bombing by the pursuer; additional physical assaults outwith the terms of the section 1 DASA charge; threats with knives; and the deliberate scalding of Jane in a bath.

[71] I considered that the evidence of the pursuer's witness, Ms Reynolds, was, delivered in a calm and measured manner. She was critical of the defender and her mother but used moderate language. I accepted her evidence as credible and reliable, though it was fairly limited in its scope. In particular, I accept her very specific account of a conversation between the defender and her mother, in which the defender's mother said that the pursuer's name should be "kept off" the birth certificates.

[72] I considered the evidence of the defender's mother, Ms Claire Michael, not to be measured. She has negative, entrenched views about the pursuer. Clearly, she is protective and supportive of the defender, her daughter, and concerned for her. I thought that certain aspects of her evidence were exaggerated, including that the pursuer had held the defender by the throat "multiple times". That was not consistent with the account that she had given to the child welfare reporter and Ms Michael did not describe in any detail within her evidence any other episodes, beyond what she had witnessed when she let herself into the defender's flat in February 2021. I accepted her evidence as credible and reliable in respect of that incident but not in respect of other alleged assaults. Ms Michael spoke sincerely and with evident deep love in respect of Jane and James. Clearly, she is a devoted grandmother.

I accepted as credible and reliable her evidence about Jane's distress and dysregulation at the time that contact was ongoing. I did not accept her denial in respect of the "binning" of Jane's drawing, being at odds with the specific comments attributed to Jane and detailed in the first contact centre report of 15 March 2025.

[73] I considered the evidence of the defender's aunt, Evelyn Michael, to be less hostile than that of Claire Michael but, overall, not measured. I did not accept as credible and reliable her evidence about the pursuer inflicting intentional "acts of badness" and scalding upon Jane and Ms Michael conceded that she had not witnessed any such incidents.

As with the defender, elements of Ms Michael's evidence were based on mistaken information, such as that the pursuer was found guilty of "several charges of assault with child aggravation": the copy section 1 DASA complaint and the pursuer's schedule of previous convictions confirms that is not the case. Like Claire Michael, Ms Michael spoke with real love and sincerity about the children and, likewise, I accepted as credible and reliable her evidence about Jane's distress and dysregulation at the time that contact was ongoing.

[74] Both of the defender's witnesses spoke to hearing the pursuer say directly at the point of separation that he would kill the children if he saw them outwith a contact centre. Their evidence was specific and consistent in that regard, and I accept it as credible and reliable. As with the defender, I consider that it explains their deep rooted opposition to contact.

Reasons for decision

[75] This is a high conflict case.

[76] But, while there are significant areas of disagreement, there are also a number of key

areas on which the parties are aligned.

[77] Firstly, it is not in dispute that the defender provides an excellent level of care to Jane and James. She is committed to them both. They are content in her care. The defender has continued to care for them whilst navigating significant mental health challenges and her ectopic pregnancy and subsequent relationship breakdown. The children have resided with her since birth. The defender is to be commended in respect of her raising of Jane and James. It is in the best interests of Jane and James that a residence order be made in respect of them in favour of the defender. The pursuer did not seek to challenge that.

[78] Secondly, the parties agree that the relationship was unhappy and “toxic”. From the defender’s perspective, it was also abusive. The pursuer has pled guilty to a serious domestic offence in respect of his conduct towards the defender and to a subsequent breach of the NHO. The pursuer’s conduct has caused distress and fear to the defender. The impact of his conduct upon the defender is ongoing and it was palpable during the course of the proof.

[79] Thirdly, parties agree that the pursuer is the biological father of the children. The defender contends that the pursuer accepted that only after a DNA test. The pursuer contends that the defender told him repeatedly that the children were not his. Whatever the background to the DNA tests being taken, they have confirmed that the pursuer is indeed the father of Jane and James.

[80] Fourthly, parties agree that James has enjoyed the supervised contact with the pursuer, though parties disagree on the extent of James’s true bond with the pursuer. Also, there is no dispute that Jane was unsettled and dysregulated while contact with the pursuer was ongoing. Parties diverge on why: the pursuer considers that the defender has adversely influenced Jane and portrayed him as someone to be feared, avoided and not to be

considered as her father; the defender considers that Jane has been traumatised as a result of the abuse that she saw and experienced at the hands of the pursuer and has formed her own negative views and fears in respect of him.

[81] I consider that Jane's views of the pursuer have influenced negatively by the defender. I am uncertain as to the extent to which Jane herself remembers the pursuer's previous conduct directly, Jane being only 2 years old when the parties' separated. I did not hear any evidence on to what extent a 2 year old child would retain her own memories of abusive conduct. The contact centre reports support that she has been conflicted; anxious not to upset the defender; and not prepared for contact. But whether her presentation during the period of contact stems from direct memories and trauma or what she has been told by the defender and her family, or perhaps a combination of both, Jane has undoubtedly been adversely affected by the previous supervised contact with the pursuer. In carrying out the careful balancing exercise referred to in *J v M* 2016 SC 853, I conclude that an order for further direct contact with the pursuer at this time would not be in Jane's best interests.

[82] James has not been adversely affected by the supervised contact, which is still ongoing and which James appears to thoroughly and consistently enjoy.

[83] The key issues to be considered here are (i) given the evidence I have accepted about the pursuer's threats to kill the children at the point of separation in November 2022, whether the court can consider an order making provision for unsupervised contact to be safe, appropriate and in James's best interests and (ii) the effect of any such order upon the defender and her ability to care for Jane and James as their primary carer. These issues are at the heart of the court's obligations in terms of section 7A and 7B of the 1995 Act.

[84] The threat made by the pursuer in November 2022 of killing the children was cruel

and disturbing.

[85] I consider that it was made by the pursuer to unsettle the defender, in the context of a deeply unhappy and high conflict relationship and at a time when the pursuer was aged 24 years old and immature. That threat has had lasting consequences, in terms of how the defender has approached the issue of contact and her general perspective of and hostility towards the pursuer.

[86] Mitigating against this very serious matter are the following factors: (i) the defender facilitated contact with the pursuer for 2 months thereafter; (ii) the pursuer, by his swift action in consulting a solicitor in 2023 and raising proceedings, has demonstrated a long-standing commitment to the children; (iii) supervised contact has taken place over a considerable period, since November 2024; (iv) the pursuer has attended for contact every time; (v) the contact centre reports have consistently been positive as regards the pursuer and his level of care and engagement in respect of the children and to James's consistent enjoyment of contact; (vi) the last three contact centre reports have recommended that contact be progressed as regards James from supervised to supported; (vii) the pursuer has since engaged with the Caledonian Men's Programme and considers that he has benefitted from it and changed for the better as a person; (viii) the pursuer, from his demeanour in court and from the tone of his evidence, appears to have matured.

[87] Considering all of these factors, notwithstanding the pursuer's threat in November 2022, I consider it to be in James's best interests that an order for direct contact be made, but for that to be on a supported basis within a contact centre.

[88] Given the gravity of the threat made by the pursuer, the court would require independent, expert vouching, including medical vouching, that the pursuer does not present a threat to the children or himself to be able to consider an order for contact outwith

the contact centre. No such vouching is available. I consider that an order for contact outwith the centre at this stage would cause the defender intolerable stress and anxiety. That would impact on her ability to care for Jane and James. The children are dependent on the defender for their day-to-day care. It is not in their best interests to have the defender exposed to such stress and anxiety. The pursuer has a long way to go in terms of gaining the defender's trust and to overcoming her genuinely held fear that he is a risk to the children.

[89] I make the order for long term supported contact in full recognition that contact within a contact centre is usually seen as a "stepping stone" or a bridge towards unsupervised contact. On the evidence I have accepted, I consider that supported contact is the appropriate and proportionate means of continuing to re-build the pursuer's relationship with James in a means that is safe. In James's case, given his diagnoses, it may be the case that he derives more enjoyment from supported contact than would be the case for a child without Global Development Delay. The pursuer will require to demonstrate his commitment to James in sustaining the arrangement. Weekend contact may also clash with the pursuer's attendance at football matches: the pursuer will need to prioritise James.

[90] I was invited by the pursuer's agent to assign a child welfare hearing in a number of months so that the court could monitor contact. That suggestion was made in the context of the pursuer seeking further supervised contact with Jane. Given that a proof has taken place, I consider that parties are entitled to a final decision based on the evidence. I do not consider it to be appropriate for the court to have an ongoing role in monitoring contact. The time for that has now passed. Of course, if there is a material change in circumstances, either party may seek to bring a minute to vary and the court may become re-involved.

[91] As regards Jane, I consider it to be in her best interests to know that the pursuer is her father and for her to receive letters and cards from him and a present on her birthday

and at Christmas. I consider it to be unfair and confusing for Jane to have the pursuer described as “Craig” and not described as her father. I make an order for indirect contact in that regard. Whether Jane chooses to write back to the pursuer will be entirely up to her. The pursuer must respect her wishes in that regard and ensure that any correspondence from him does not seek to put any pressure or expectations upon Jane. In years to come she will be able to see that the pursuer sought to maintain direct contact with her and can form her own views on the extent of the pursuer’s commitment to her. Any letters/cards/presents for Jane can be facilitated through the pursuer’s supported contact with James.

Parental responsibilities and rights

[92] The defender’s agent submitted that the pursuer’s name should not be added to the birth certificates as that would result in him obtaining parental responsibilities and rights. That is not the case. In terms of section 3(1)(b)(ii) of the 1995 Act, a father has parental responsibilities and rights if he is registered as a child’s father under various enactments mentioned in subsection 1A. Those enactments are sections 18(1)(a), b(i) and (c) and 2(b) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965. Each of those provisions under the 1965 Act require the child’s mother to be involved in the registration of the father upon the birth certificate. This is not the position here: the defender has not consented to the pursuer’s name being registered. The enactments listed in subsection 1A of the 1995 Act do not include where the court grant declarator providing that a person is the child’s father. Therefore, my decision to grant declarator that the pursuer is the father of Jane and James and ordaining the sheriff clerk to notify the Registrar General of that by sending the prescribed form does not automatically bestow upon the pursuer parental responsibilities and rights in respect of Jane and James. The court has to consider in terms of

section 11 whether the pursuer should be granted parental responsibilities and rights and if so, to what extent. As with all orders under section 11(2), the court must regard the welfare of the child as its paramount consideration and must have regard to the no order principle, the views of the child; the abuse provisions; and the co-operation provisions.

[93] In terms of parental responsibilities and rights, I consider it to be in the best interests of Jane and James that these be granted to the pursuer to a limited extent: namely, conferring upon the pursuer (i) the responsibility and corresponding right to maintain personal relations and contact with the children on a regular basis as provided for in this decision (indirect contact with Jane and direct, supported contact with James) and (ii) to act as legal representative for Jane and James for the limited purpose of accessing information and records in respect of their health and education from health professionals and educational establishments.

[94] As with any orders under section 11(7) of the 1995 Act, the court must consider what is in the best interests of the child, here the children, and not what is in the best interests of any particular party. The factors to be considered in making that assessment as regards parental responsibilities and rights were set out succinctly by Sheriff Morrison KC in *WT v RM*.

[95] The pursuer seeks to be involved in and consulted upon decision-making around Jane and James. The reality is, however, that the defender is the person who has cared for the children from birth and the person who has navigated considerable health challenges with James and recent dysregulated conduct from Jane. From the evidence heard and accepted by me, the children are thriving in the defender's care. The pursuer is only at an early stage of beginning to re-build a relationship with James and has very limited information about his diagnoses. The pursuer himself accepts that the relationship is

strained with Jane. In terms of the orders I have made for contact, the pursuer will have only a limited contact with the children for the foreseeable future, particularly so with Jane where contact shall be indirect. There is no prospect of the parties being able to co-operate, given the pursuer's abuse of the defender. I consider that any order for parental responsibilities and rights which would provide the pursuer with an active role in key decisions for the children would cause the defender stress and risk further abuse of her, particularly if parties were to disagree on a proposed course of action. Therefore, I consider it to be appropriate, proportionate and in the best interests of the children that the pursuer be granted only specific and limited parental responsibilities and rights.

[96] In the course of his evidence, the pursuer indicated that one of the key reasons for him seeking parental responsibilities and rights is in order to access information about James's diagnoses and information from the children's nursery and school. The pursuer said that the defender has never provided him with any such information. As the children's father, I consider that he is entitled to that information. From the evidence, I conclude that the defender will not voluntarily provide him with it. In order for the pursuer to seek to re-build a relationship with the children (through direct, supported contact with James and indirect contact with Jane) he should be able to access that information and be better informed as to how the children are progressing and any challenges they face. I consider it to be in the best interests of the children that their father know more about their lives: it will better equip him to try to strengthen his relationship with them and better inform his communications with them.

[97] Recognising that the defender is the primary carer of the children and with regard, in particular, to the cooperation provisions, I consider it to be appropriate and in the best interests of Jane and James that I make an order, *ex proprio motu*, allowing the defender to

take the children abroad on holiday without the need for the pursuer's consent, so long as advance notice is given, as this will impact upon the pursuer's contact with James.

[98] I recognise that with the orders I have made, neither party has obtained what they wanted: the pursuer will not have direct contact with Jane and the defender will require to have the pursuer involved indirectly in her life and him directly involved in the lives of Jane and James. With the welfare of the children as my paramount consideration, I consider the orders are in the best interests of Jane and James.

[99] I am very grateful to agents for their careful presentation of the evidence and their detailed submissions.

Expenses

[100] 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.