SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2026] SCGLW76

GLW-B1599-25

NOTE

of

SHERIFF S REID

in the cause

CHARLIE FOXTROT

Pursuer

against

DELTA ECHO

Defender

Pursuer: Ms C Gilbert, Freelands, Wishaw
Defender: Ms E Loran, Brophy Carey & Co, Hamilton

Glasgow, 22 June 2026

Summary

[1] In these anonymised contempt proceedings, the pursuer alleges that the defender has wilfully failed, without reasonable excuse, to obtemper a final contact order relating to his daughter.

[2] The pursuer is entitled to non-residential contact with his daughter three times per week in terms of a final decree dated 14 June 2023. The decree gave effect to a joint minute for the parties.

[3] For almost two years, contact operated satisfactorily. Then, without explanation, it ceased in April 2025. Save for a few brief encounters, the pursuer has neither seen nor heard from his daughter for over a year. The contact order has never been varied.

[4] The child is now 12 years old. The defender says that the girl simply no longer wishes to see her father.

[5] Having heard evidence at proof, I found the contempt established. Specifically, I concluded that the defender had wilfully failed to encourage, promote, or facilitate the child's contact with her father *et separatim* that she had wilfully impeded and frustrated contact.

[6] By way of explanation, in law, it is the duty and responsibility of the resident parent to encourage, promote and facilitate the child's contact with the absent parent *(Blance* v *Blance* 1978 SLT 74), if necessary, by use of both "the carrot and the stick" and, in the case of an older child, by reason and argument (*Re: W (Direct Contact)* [2012] EWCA Civ 999). Obviously, a parent should not resort to brute force. But what one can reasonably demand is that the parent, by argument, persuasion, cajolement, blandishments, inducements, sanctions (for example, grounding or the confiscation of mobile phones, computers, or the like) or threats falling short of brute force, or by a combination of them, does his or her level best to ensure compliance (*Re: H-B (Contact)* [2015] EWCA Civ 389, [76]).

[7] A resident parent cannot shirk his or her legal duty to encourage, promote and facilitate contact by sheltering behind the child's refusal to go, even if the child is adamantly opposed to contact. This is so, whatever the age of the child. More is required of the resident parent than a passive acceptance of a child's expressed preference. Nor, if such a scenario arises, is it acceptable for a resident parent to dismiss reasonable alternative

strategies to improve the situation (*Re: H-B (Contact), supra,* [74] - [76], citing *Re: W (Direct Contact)*, [78]).

[8] It is the duty of the resident parent, using all their parental skills, techniques and stratagems, to encourage, to seek to persuade, and to instruct the child, firmly if need be, to go with the person to whom contact has been granted. The person having custody should do his or her best to ensure that the contact order is implemented and enjoyed.

[9] Of course, in exceptional circumstances (such as where there is a real risk of harm to the child or to the resident parent by the child having contact with the absent parent), a reasonable excuse may be capable of being established to an otherwise wilful non-compliance with a contact order. But no such exceptional circumstances were averred, or sought to be proved, in the present case.

[10] Here, the defender's focus was simply on what the child had said (that is, on the child's supposed expressed preference), rather than on what the defender herself, as the resident parent, had said or done to encourage, promote and facilitate contact. In any event, on the evidence, I was satisfied that the defender had, in fact, actively impeded the child from communicating, or having contact, with her father.

[11] The contempt having been proved, I adjourned proceedings to a separate hearing for submissions on the issue of penalty, as well as to afford the defender the opportunity to obtain legal representation and to take steps to purge (or mitigate) the contempt.

[12] At the adjourned hearing, having considered parties' written and oral submissions, I imposed on the defender a period of imprisonment of 7 days.

Procedural summary

[13] In 2021, the parties having separated after a lengthy period of cohabitation, the pursuer commenced proceedings against the defender (case reference number [X]) *inter alia* for a contact order in respect of the parties' daughter, Juliet (born [in 2013]), in terms of section 11 of the Children (Scotland) Act 1995. The action was defended.

[14] On 14 June 2023, the sheriff interponed authority to a joint minute between the parties, granting a final contact order ("the decree") in favour of the pursuer.

[15] On 20 June 2025, the pursuer lodged a minute in the original process (case reference number [X]), seeking a finding that the defender had failed to obtemper the decree.

[16] Plainly, the minute was incompetent because the original proceedings were no longer subsisting.

[17] Nevertheless, by interlocutor dated 15 July 2025, a hearing on the minute was assigned for 1 August 2025. The minute was served on the defender.

[18] On 31 July 2025, the defender sent an email to the sheriff clerk's office requesting that the hearing be deferred. She was shortly due to give birth.

[19] On 1 August 2025, on the pursuer's motion, the defender having failed to appear or be represented, the contempt hearing was continued to 26 August 2025. This hearing was also subsequently discharged and a fresh hearing was assigned for 30 September 2025.

[20] Sundry procedure followed.

[21] On 1 October 2025, the pursuer's minute was dismissed as incompetent in respect that the original process was no longer live. By this stage, the defender had the benefit of legal representation.

[22] The following day, on 2 October 2025, the present summary application was lodged for the pursuer seeking a finding that the defender was in contempt by failing to obtemper the decree.

[23] On 2 October 2025, a warrant to cite was granted. A hearing was assigned for 30 October 2025. (The outcome of that hearing is unclear from the electronic process.)

[24] On 13 November 2025, on her unopposed motion, the defender, who was legally represented, was granted a prorogation of 7 days in which to lodge Answers.

[25] On 11 December 2025, on the defender's further unopposed motion, the defender was granted a further prorogation of 24 hours in which to lodge Answers. An evidential hearing was assigned for 7 April 2026 and a pre-proof hearing was assigned for 12 March 2026.

[26] On 12 December 2025, Answers for the defender were lodged by her solicitors.

[27] On 29 January 2026, on the pursuer's opposed motion, the defender was found liable to the pursuer in the taxed expenses of the cause from 2 October 2025 until 11 December 2025 but restricted to 60%.

[28] On 12 March 2026, at the pre-proof hearing, on the defender's unopposed motion the cause was continued to a further pre-proof hearing (on 26 March 2026) to allow the defender's agents to take further instructions. In addition, parties were ordained to lodge, prior to the pre-proof hearing, affidavits of all witnesses whom they intended to cite to give evidence at the evidential hearing, the content of which was to form the evidence-in-chief of those witnesses, subject to supplementary questioning.

[29] On 25 March 2026, the defender's agents withdrew from acting for the defender "due to lack of instructions".

[30] A peremptory diet was assigned for 30 March 2026. It was intimated by sheriff officers the following day.

[31] On 30 March 2026, at the peremptory diet, the defender appeared personally but without legal representation. The cause was continued to the evidential hearing on 7 April 2026.

[32] On 7 April 2026, at the evidential hearing, the defender appeared personally, again without legal representation. On the defender's opposed motion, the proof was discharged to allow the defender to instruct new legal representation. A fresh evidential hearing was assigned for 18 May 2026 with a pre-proof hearing on 30 April 2026. The defender was found liable to the pursuer in the taxed expenses of the discharged diet of proof and preparation therefor.

[33] On 30 April 2026, at the pre-proof hearing, both parties were represented by solicitors. The defender's opposed motion to discharge the proof diet "due to legal aid not [being] in place" was refused. A further pre-proof hearing was assigned for 7 May 2026.

[34] On 7 May 2026, at the further pre-proof hearing, again both parties were represented by solicitors. A further motion for the defender to discharge the evidential hearing was refused.

[35] On 18 May 2026, on the morning of the evidential hearing, the defender's agents withdrew from acting.

[36] The proof proceeded. The defender represented herself. Evidence having been led and concluded, and having heard parties' closing submissions, I found the contempt to be established.

[37] Proceedings were adjourned to 9 June 2026, to a separate hearing on the issue of penalty, to allow the defender the opportunity to instruct legal representation, prepare

submissions in mitigation of penalty, and seek to mitigate the penalty by taking steps to reinstate contact. Expenses were reserved meantime.

[38] Between 5 and 8 June 2026, written submissions were lodged for both parties in relation to the issue of penalty. (The defender was, by this stage, now represented by new solicitors.)

[39] On 5 June 2026, a letter was received by the sheriff clerk from solicitors acting for the child. The letter bears to set out the child's views on contact. In short, it confirmed that she did not wish to have contact with her father. The letter was forwarded to me late on 8 June 2026.

[40] On 9 June 2026, at the hearing on the issue of penalty, supplementary submissions were heard from both parties' agents. I adjourned the hearing to 16 June 2026 to consider matters.

[41] On 16 June 2026, having resumed consideration of all written and supplementary oral submissions, as well as the letter from the child's solicitors, I ordered that the defender serve a period of imprisonment of 7 days.

[42] On 18 June 2026, on the pursuer's opposed motion, I found the defender liable in the expenses of process, so far as not already dealt with.

The evidence at proof

[43] At the evidential hearing on 18 May 2026, the pursuer, his mother, and his sister gave evidence. They adopted their respective affidavits, as timeously lodged in process. The defender chose not to cross-examine any of the witnesses.

[44] The defender gave evidence on her own account. No affidavit for the defender (or any witness for the defender) was lodged in process, despite the terms of the interlocutor

dated 12 March 2026. No other witness testimony was adduced for the defender. Specifically, the defender did not lead any evidence from the child, or produce any affidavit, written statement, or communication of any form, bearing to record the child's views, if any.

Assessment of the evidence

[45] I accepted the testimony of the pursuer and his witnesses. It was detailed, consistent, and persuasively vouched by the documentary productions lodged in process.

[46] I rejected the testimony of the defender, so far as inconsistent with the evidence led for the pursuer. The defender's testimony was vague and threadbare, frequently evasive, and unvouched by any contemporaneous documentation or independent source.

Findings

[47] Having considered the evidence and closing submissions at the evidential hearing, I made the following findings-in-fact:

(1) The pursuer is the father, and the defender is the mother, of the child Juliet (born [in 2013]) ("Juliet" or "the child").

(2) The parties were formerly in a relationship for 15 years and cohabited for 13 years.

(3) The parties ceased to cohabit in or around September 2020.

(4) The parties were never married.

(5) The pursuer is named as Juliet's father on her birth certificate.

(6) Both parties have parental rights and responsibilities in respect of the child.

(7) The child resides with the defender who has always been the child's primary carer.

(8) In January 2021, following the parties' separation, the pursuer commenced proceedings in Glasgow Sheriff Court (under case reference [X]) seeking *inter alia* a contact order in respect of the child, in terms of section 11 of the Children (Scotland) Act 1995.

(9) Between March 2021 and April 2023, with the benefit of legal advice throughout that period, the defender defended the contact proceedings and opposed an award of contact in favour of the pursuer.

(10) On 13 April 2023 the parties entered into a joint minute whereby *inter alia* the parties agreed that a contact order, in terms set out in the joint minute, should be granted in favour of the pursuer.

(11) By interlocutor dated 14 June 2023, on joint motion, the sheriff interponed authority to the joint minute and, in terms thereof, granted a final contact order (hereinafter referred to as "the decree") in favour of the pursuer in respect of the child, in terms of section 11 of the Children (Scotland) Act 1995, whereby the pursuer was awarded contact with the child as follows:

> "a) Each Monday or Wednesday, as agreed in advance between parties, as well as each Thursday, on a non-residential basis. During school term the said child will be collected from school by the pursuer and returned to the defender at 8pm.
> b) Each Saturday from 8.45am until 8pm or such other times as agreed between parties.
> c) Contact to progress to include residential contact once the pursuer secures his own property.
> d) Any other such times as agreed between parties…"

(12) The decree remains in force, it has never been suspended or varied, and no minute has ever been lodged by the defender seeking its suspension or variation.

(13) Between 14 June 2023 and 10 April 2025, contact between the pursuer and Juliet operated satisfactorily and was enjoyed by the child.

(14) In December 2024, the pursuer purchased a substantial house with five bedrooms including one bedroom (with an ensuite bathroom) for Juliet's use.

(15) At Juliet's request, she began to have overnight residential contact with the pursuer, including one occasion when the child stayed overnight at the pursuer's new house with her four friends.

(16) Throughout this extensive period of contact, Juliet developed close relationships with her paternal grandparents, aunt, and cousins; the pursuer and the child would plan and enjoy activities together; and the child regularly displayed affection towards the pursuer.

(17) Throughout this extensive period of contact, Juliet never asked to leave contact early and she gave no indication to the pursuer or any paternal family member that she did not enjoy contact with the pursuer or wished for contact to be restricted or terminated.

(18) Juliet has always been emotionally close to the pursuer.

(19) Prior to April 2025, Juliet and the pursuer were in the habit of speaking by telephone every day and would often phone each other each night.

(20) In early 2025, without prior consultation with or consent of the pursuer, the defender unilaterally enrolled the child in a dance class that conflicted with the Saturday contact session prescribed in the decree; but the pursuer decided not to voice any objection to the defender's conduct at that time.

(21) The last formal contact session between the pursuer and the child took place on Thursday 10 April 2025.

(22) On that day, during a regular contact visit, the pursuer had taken Juliet (and, at her request, three of her friends) on a day trip to Luss, near Loch Lomond; Juliet

and her friends had enjoyed themselves; no indication was given by Juliet of any upset, annoyance, distress, or desire to discontinue contact with her father.

(23) Unusually, the defender had insisted that the pursuer return the child home early on that day (10 April 2025), prior to the scheduled end of the contact visit.

(24) When the pursuer returned the child to her home with the defender, the child kissed and cuddled the pursuer goodbye; the pursuer and the child agreed to meet each other the following Saturday, having made plans to travel together to Blackpool the following week during the school holidays; and, later that evening, the child sent WhatsApp messages to the pursuer, in affectionate terms, requesting copies of photographs taken of her and her friends during the trip to Luss that day.

(25) Item 5/5/16 of process comprises true copies of WhatsApp messages between the pursuer and the child in the period from around 16 March 2025 to 10 April 2025; these messages disclose no concern, upset or distress on the part of the child, or any desire to discontinue contact with the pursuer; on the contrary, the messages disclose frequent communications between the pursuer and his daughter in affectionate and happy terms, including after the final contact session with the pursuer at Luss on Thursday 10 April 2025.

(26) The following Saturday, 12 April 2025, without prior notification, the defender sent a WhatsApp message to the pursuer (of which item 5/6/18 of process is a true copy) stating that the child would not be attending for the scheduled contact session with the pursuer that day because the defender was taking Juliet away to Dundee for the weekend to participate in a dance competition.

(27) On Tuesday 15 April 2025, the next scheduled contact session, the pursuer duly attended at school to collect Juliet, as mandated in terms of the decree;

unusually, the child did not appear; unusually, the child failed to reply to phone communications from the pursuer seeking to ascertain her whereabouts; upon entering the school, the pursuer discovered that, without prior notice or explanation, the defender had collected the child from school early that day, for an undisclosed reason.

(28) On Thursday 17 April 2025, the next scheduled contact session, the pursuer attended at school to collect Juliet, as mandated in terms of the decree; the pursuer discovered from the school staff that the child had not been in attendance that day; no reason for her absence had been provided by the defender to the school staff by the defender; no notice or explanation was provided by the defender to the pursuer.

(29) On Saturday 19 April 2025, the next scheduled contact session, the pursuer attended at the child's dance class to collect her for contact, in accordance with the parties' arrangement; the pursuer discovered that the child was not present, having been collected earlier by her maternal grandparents, without prior notice or explanation to the pursuer.

(30) On Tuesday 22 April 2025, the next scheduled contact session, the pursuer attended at school to collect Juliet, as mandated in terms of the decree; the pursuer arrived a little earlier than the usual school finishing time to ascertain whether the defender might attempt to collect Juliet early; as he waited for school to finish, the pursuer was approached by the defender and her current partner; the defender became abusive, insisted that the child would not be attending for contact with the pursuer, and then walked away from the pursuer; Juliet then exited the school building, walked over to the pursuer's car, entered the car, and sat in the front seat, all of her own accord; the defender then again approached the pursuer's car, pulled

open the passenger door, and, to Juliet's surprise, physically removed the child by the arm from the front seat; the defender was irate; the defender raised her voice to the child saying "Get out the car"; the defender began to swear at the pursuer in front of the child, who looked visibly uncomfortable; the defender slammed shut the pursuer's passenger door and stormed off while directing the child to go to the defender's car; and all without prior notice or explanation being given to the pursuer.

(31) On 22 April 2025, the pursuer also discovered that, without prior notice to him, the defender had instructed Juliet's school to remove the pursuer from its mailing lists and as an emergency contact for the child.

(32) From 22 April 2025 onwards, none of the pursuer's multiple telephone calls and WhatsApp social media communications to Juliet, to check on her welfare, were answered or acknowledged by the child.

(33) It was unusual for Juliet to fail to respond to telephone and social media communications from the pursuer.

(34) Thereafter, the defender blocked the pursuer on Juliet's telephone and social media accounts.

(35) Concerned for her welfare, in late April 2025, the pursuer approached Juliet's school and requested that he be allowed to speak directly to the child within the school building; the school acceded to that request; the pursuer and the child spoke for around 10 to 15 minutes; the child expressed no concern about having further contact with her father; the child expressed a desire to attend the pursuer's forthcoming 40th birthday celebration; and the meeting ended with the child hugging her father.

(36) The pursuer has not seen or heard from Juliet since this meeting in her school, despite multiple attempts to communicate with her thereafter by telephone and social media.

(37) In or around April/May 2025, Juliet told her school head teacher that she could not speak to her father because the defender had told her not to do so, and that she was worried about disobeying her mother's instruction.

(38) Accordingly, the school staff suggested to the pursuer that he write a letter to the child, which the staff could then hand deliver to her on his behalf; the pursuer duly wrote such a letter (a copy of which forms item 5/6/17 of process); the letter was hand-delivered to Juliet by the school staff at lunchtime during a school day; but Juliet never replied to the pursuer.

(39) On Thursday 24 April 2025, the pursuer's sister, India November, exchanged WhatsApp messages with Juliet; the child had always been close with Ms November (who is her aunt) and her paternal grandmother; in the messages, at Ms November's suggestion, the child expressed a desire to attend her father's birthday dinner celebration and confirmed that she was available on the proposed date;
Ms November asked the child to obtain the defender's consent before arrangements were confirmed; thereafter, unusually, the defender replied directly to Ms November on the child's WhatsApp account in the following terms:

> "[India] this is [Juliet's] mother. [Juliet] was coming on Thursday, as she was happy to go, however. This situation has now changed as [the pursuer] started court proceedings today. [Juliet] will not be attending Thursday and we can leave [the pursuer's] contact in the hands of the lawyers for now";

and item 5/1/4 of process is a true copy of the said WhatsApp communications between Ms November, the child and, latterly, the defender on or around 24 April 2025.

(40) In late April 2025, the pursuer discovered that the defender had relocated, with the child, to a new residential address; no prior notification had been given to the pursuer of the child's change of address; the child's new address was not disclosed by the defender to the pursuer; as a result, a letter to the defender from the pursuer's solicitor dated 29 April 2025, demanding the resumption of contact, required to be sent to the defender via email, being the only means of communication then available to the pursuer; and item 5/5/13 of process is a true copy of the said letter dated 29 April 2025 from the pursuer's agents to the defender.

(41) The defender did not reply to the letter dated 29 April 2025 from the pursuer's agents or subsequent correspondence.

(42) Instead, on 1 May 2025, the defender attended at the home of the pursuer's mother uninvited, called the pursuer's mother "a fat gremlin", and verbally abused her.

(43) On 19 June 2025, the pursuer attended at the child's last Mass at her primary school, accompanied by the child's paternal grandmother; on this day, the pursuer was entitled to collect the child from school for a contact session, in terms of the decree; instead, the defender's brother and others approached the pursuer and his mother, insisted that the pursuer and his mother leave the school, and subjected the pursuer and his mother to intimidation and shouted verbal abuse, all within earshot of the child; the pursuer and his mother left the school building in order to calm down the situation; and the following day, the school staff advised the pursuer that

they had excluded the defender's brother and third parties from the school's premises by reason of their conduct toward the pursuer.

(44) The defender has had the benefit of legal advice in these proceedings since around August 2025.

(45) In around August 2025, the defender enrolled the child at a secondary school, without prior notification to or consultation with the pursuer; the school at which the defender enrolled the child is different from the school which the pursuer, in previous communications with the defender, had reasonably understood would be the secondary school at which she would be enrolled.

(46) The defender has never contacted the pursuer to explain or discuss any concerns that she or the child may have had regarding contact between the pursuer and the child.

(47) The defender has never contacted the pursuer to explore or propose any alternative contact arrangements that may be put in place between the pursuer and the child.

(48) The first occasion on which the defender disclosed that the child was allegedly unwilling to attend contact with the pursuer was when the defender's Answers to the summary application were lodged on 10 December 2025.

(49) Since 12 April 2025, the child has failed to attend over 150 contact visits by reason of the defender's conduct in refusing to allow the child to attend *et separatim* failing to encourage, promote or facilitate such contact.

(50) The pursuer has not seen or been able to communicate with his daughter since around late April 2025 by reason of the conduct of the defender in preventing

such contact *et separatim* the failure of the defender to encourage, promote or facilitate such contact.

[48] I made the following findings-in-fact and in-law:

(1) The defender has, without reasonable excuse, wilfully disobeyed the decree by preventing and impeding contact between the pursuer and the child three times per week in the period from 12 April 2025 to 16 May 2026 (inclusive); and the defender is thereby in contempt of court.

(2) *Separatim* the defender has, without reasonable excuse, wilfully disobeyed the decree by wilfully failing to encourage, promote or facilitate contact between the pursuer and the child three times per week in the period from 12 April 2025 to 16 May 2026 (inclusive); and the defender is thereby in contempt of court.

The legal principles

[49] Contempt proceedings are quasi-criminal in nature, even if not classified as such in our domestic law (*Benham* v *United Kingdom* [1996] 22 EHRR 293, [56]; *Ravnsborg* v *Sweden* [1994], Series A, No 283-B).

[50] Contempt proceedings should be held in open court. The alleged contemnor has the right to remain silent. There is no obligation upon him or her to give evidence, although adverse inferences might be drawn from their silence (*Khawaja* v *Popat* & *Popat* [2016] EWCA Civ 362).

[51] The burden of proof lies at all times on the pursuer, as the party alleging contempt.

[52] The presumption of innocence applies (ECHR, Article 6(2)).

[53] There is no burden on the defender.

[54] Contempt of court must be proved to the criminal standard (that is to say, beyond reasonable doubt).

[55] Contempt of court involves a deliberate disobedience of a court order. The defender must (i) have known of the terms of the order, (ii) have acted (or failed to act), without reasonable excuse, in a manner which involved a breach of the order, and (iii) have known of the facts which made his conduct a breach.

[56] If a finding of contempt is established, the contemnor should usually be afforded the opportunity to purge the contempt.

[57] In cases involving child contact orders, it is well established that it is in the best interests of all children that, save in exceptional circumstances, they should have direct contact with the parent with whom they are not living (*Re: H-B (Contact)* [2015] EWCA Civ 389, [65], per Voss LJ). In *White* v *White* 2001 SC 689, the Lord President (Rodger) stated (paragraph 14):

> "The point of reference to which [the courts] have regard – and which they take because it represents the consensus of society – is that it may normally be assumed that the child will benefit from continued contact with the natural parent. Lord Hope formulated the general principle in respect of a natural parent in these words in *Sanderson* v *McManus* 1997 SC (HL) 55 (page 64) and subsequently Lord McCluskey giving the opinion of the Second Division said much the same in *Davidson* v *Smith* 1998 Fam LR 21 (page 24), paragraphs 5-10:
>
> > 'In the first place, [the sheriff] was entitled and indeed bound to take account of the fact that it is normally in the best interests of a child to maintain contact and relations with the natural parent with whom the child is no longer living. That may be judged as a benefit without the need for evidence from experts or otherwise'.
>
> The same goes, at least as powerfully for contact between a child and its father where the father was married to the child's mother. Not surprisingly, the same general principle informs the decisions of the English courts and can be seen for instance in the statement of Latey J which Balcombe LJ endorsed in *Re: H (Minors) (Access)* 1992 1 FLR 148, 151A."

[58] In law, it is the duty and responsibility of the resident parent, when contact is ordered by the court, to encourage, promote and facilitate the child's contact with the absent parent *(Blance* v *Blance* 1978 SLT 74), if necessary, by use of both "the carrot and the stick" and, in the case of an older child, by reason and argument (*Re: W (Direct Contact)* [2012] EWCA Civ 999). Obviously, a parent should not resort to brute force. But what one can reasonably demand is that the parent, by argument, persuasion, cajolement, blandishments, inducements, sanctions (for example, grounding or the confiscation of mobile phones, computers, or the like) or threats falling short of brute force, or by a combination of them, does his or her level best to ensure compliance (per Voss LJ in *Re: H-B (Contact), supra*, [76]).

[59] A resident parent cannot shirk his or her legal duty to encourage, promote and facilitate contact by sheltering behind the child's refusal to go, even if the child is adamantly opposed to contact. This is so, whatever the age of the child. More is required of the resident parent than a passive acceptance of a child's expressed preference. Nor, if such a scenario arises, is it acceptable for a resident parent to dismiss reasonable alternative strategies to improve the situation (*Re: H-B (Contact), supra*, [74]-[76], citing *Re: W (Direct Contact)*, [78]).

[60] It is the duty of the resident parent, using all their parental skills, techniques and stratagems, to encourage, to seek to persuade, and to instruct the child, firmly if need be, to go with the person to whom contact has been granted. The person having custody should do his or her best to ensure that the contact order is implemented and enjoyed. As McFarlane LJ observed in *Re: W (Direct Contact), supra*, [75]:

> "…the responsibility of being a parent can be tough, it may be 'a very big ask'. But that is what parenting is all about. There are many things which they ought to do that children may not want to do or even refuse to do: going to the dentist, going to visit some 'boring' elderly relative, going to school, doing homework or sitting an examination, the list is endless. The parent's job, exercising all their parental skills,

> techniques and stratagems – which may include the use of both the carrot and the stick and, in the case of the older child, reason and argument – is to get the child to do what it does not want to do. But the child's refusal cannot as such be a justification for parental failure is clear…".

[61] Lord Stewart's decision in *Blance* v *Blance*, *supra,* offers valuable practical guidance on the duty of a resident parent to encourage and promote contact with the absent parent. He stated:

> "It is unfortunate if parents are not aware of what an order allowing access [contact] involves. When complaints are made about such an order not being obtempered, it is frequently said that the child in question would not go or did not want to go. I would accept that it cannot be in the interests of any child to be physically coerced or compelled to accompany a parent if that child resolutely persists in refusing to do so. On the other hand, the parent or person custody or actual control of the child does not, in my opinion, fulfil his obligations by merely leaving it to the child's decision whether or not to go with the person to whom a right of access has been granted.
>
> In the present case, the pursuer described how he had said to the children, when the defender arrived to collect them: 'All those that want to go, put their coats on'.
>
> I do not consider that as sufficient. It is the duty of the person who has the care of the child to tell the child, if necessary firmly, to go with the person to whom access has been granted.
>
> In other words, the person having custody should do his or her best to ensure that the access granted is in fact enjoyed. It might be thought that this is such an elementary matter that it should not require to be said…The best interests of the child may inevitably involve some temporary upset and the whole purpose of the court awarding access would be frustrated if the effective decision were to be handed over to the child. The child should be persuaded, encouraged, and instructed, but not physically forced to go with the person to whom access has been granted…"

[62] Of course, in exceptional circumstances (such as where there is a real risk of harm to the child or to the resident parent by the child having contact with the absent parent), a reasonable excuse may be capable of being established to an otherwise wilful non-compliance with a contact order. But no such exceptional circumstances were averred, or sought to be proved, in the present case.

The defender's conduct

[63] In that legal context, there was no dispute but that the defender was aware of the decree; there was no dispute that the contact order had not been complied with; all that the defender offered, to explain over a year of missed contact, was that the child no longer wished to see her father. No rational, or substantive, or vouched explanation was given for the child's sudden change of heart.

[64] More pertinently though, there was no evidence of any specific, meaningful, or substantive steps taken by the defender to promote, encourage or facilitate contact between Juliet and her father. Prior to the lodging of Answers, no explanation was given by the defender to the pursuer for months of non-communication and missed contacts sessions with his daughter. No effort was made by the defender to moot, discuss, arrange, or encourage some alternative contact arrangement, even at a modest level, even remotely, even indirectly. On the defender's own account, all she claimed to have done was to ask Juliet "every couple of weeks" whether she wanted to see her father; and she acquiesced in the child's expressed disinclination to do so. Even if that is correct (which I do not accept), it is woefully inadequate. It does not discharge the defender's duty to encourage, promote and facilitate contact between the child and her father. It is akin to the passive abdication of duty by the resident parent in *Blance, supra,* where the father was in the habit of saying: "All those who wish to go [to contact], put your coats on".

[65] In any event, the evidence goes much further. Not only did the defender do nothing of substance to encourage, promote or facilitate contact between the pursuer and his daughter, I am satisfied that she took active steps to impede, frustrate and prevent that contact. She made arrangements (on 12 April 2025) which conflicted with a contact session mandated by the decree. She collected the child from school early (on 15 and 17 April 2025)

to prevent the pursuer from doing so, contrary to the terms of the decree. She forcibly removed the child from the pursuer's car (on 22 April 2025) when he attended at school to collect her for a mandated contact session, while shouting and causing a scene in the presence of the child. She instructed the child's primary school to remove the pursuer from the school's mailing list and as an emergency contact, without prior notification or discussion with the pursuer. She changed the child's home address, and the child's secondary school, both without notifying or consulting the pursuer. She intervened directly (on the child's own social media account) to stymie plans for the child to attend her father's birthday celebration. She blocked the pursuer's communications with the child on the child's telephone and social media accounts. No timeous explanation was offered by the defender for the child's dramatic change of heart, despite months of non-communication and thwarted contacts sessions. No alternative arrangement (not even letter-box contact) was mooted by the defender to sustain the child's relationship with her father.

[66] Viewed in totality, the conclusion is overwhelming that the defender has pursued a concerted course of conduct to cut the pursuer out of Juliet's life. Not only has the defender failed to encourage, promote or facilitate the child's contact with her father, she has actively impeded and frustrated contact over a prolonged period in excess of 12 months, despite valiant efforts by the pursuer to resume a relationship with his daughter. The defender's disregard of the contact order is deliberate, prolonged and significant.

[67] It is a sad situation. All the reliable, contemporaneous documentation indicates a close, loving, and happy relationship between the pursuer and his daughter. Though it did not form part of the evidence before me at proof, at the subsequent hearing on penalty I was presented with a letter bearing to be from the child's solicitors which purports to record the child's decision to discontinue contact with her father. I attach no material weight to that

document. It does not form part of the evidence; it was not subjected to cross-examination at proof; it offers no substantive, persuasive or rational basis for the child's supposed dramatic change of heart; and, even if it does now represent her settled position, I have little doubt that it is an unreliable testimonial, influenced by a prolonged course of parental alienation inflicted upon the child and an by an understandable desire to appease and protect the parent with whom she lives.

[68] Besides, it fails to address the key issue in these contempt proceedings. The key issue is not whether the child now wishes to have contact with her father, but what steps have been taken by the defender to encourage, promote and facilitate contact between the father and his daughter, as decreed by the court.

[69] Disappointingly, despite having afforded the defender the opportunity to purge the contempt, or at least mitigate the penalty, little appears to have been done by her to promote a healthy resumption of contact between father and daughter. The defender's wilful disobedience to the extant order is entrenched.

[70] A monetary penalty is insufficient, having regard to the protracted, brazen and entrenched nature of the contempt. As a self-employed hairdresser, with a modest income, she is unable to afford a suitable financial penalty. Besides, she is already significantly indebted to the pursuer, owing a substantial sum by way of judicial expenses, for which there seems little prospect of recovery.

[71] In the circumstances, I concluded that the appropriate penalty was a period of imprisonment of 7 days.

[72] In so deciding, I took account *inter alia* of her personal circumstances, notably her child-caring obligations for both Juliet and a half-sibling of just 9 months, for whom alternative family arrangements can be made.