



Neutral Citation: [2023] EWHC 2792 (Fam)

Case No: MA22P02300

IN THE HIGH COURT OF JUSTICE

Royal Courts of Justice
Strand
London
WC2A 2LL

Date: 03/11/2023 and 07/11/2023

Before:

THE HONOURABLE MR JUSTICE MACDONALD
(Sitting in Public)

Between:

MANCHESTER CITY COUNCIL

Applicant

- and -

(1) MARYAN YUSEF

Respondents

(2) FARAD ABDI

(3) THE CHILDREN

(via their Children's Guardian)

MS S MANN appeared for the **Applicant**

MR MILLER appeared for the **First Respondent**

THE SECOND RESPONDENT represented himself

MR WALKER appeared for the **Children's Guardian**

Hearing dates: 2 and 7 November 2023

Judgment

MR JUSTICE MACDONALD:

INTRODUCTION

1. Once again, this matter comes before the court on the application of the local authority to commit Mr Farad Abdi to prison for breach of orders made by this court, with which it is alleged that Mr Abdi has failed to comply. That application to commit is dated 21 September 2023 and was issued on 10 October 2023. The father was served with the application on 19 October 2023 at 1605hrs by a prison officer, as confirmed by correspondence from the Offender Management Unit at HMP Pentonville. The application alleges that the father is in breach of the orders made by this court on 11 May 2023 in the following terms:
 - i) The second respondent father, Fahad Abdulaziz Sheikh Osman Abdi shall ensure that the are returned to the jurisdiction of England and Wales forthwith and by no later than 30 May 2023 23:59. A penal notice is attached to this order.
 - ii) The second respondent father, Farad Abdi, shall inform the local authority by no later than 30 May 2023 23:59 the PIN number and passwords for the mobile phones belonging to him in the current possession of the local authority to enable examination of the said phones. A penal notice is attached to this order.
2. The father is again unrepresented before the court. The present application to commit was accompanied by a letter from the local authority to the father dated 17 October 2023 explaining the application and urging the father to seek legal advice. The father has not sought legal representation for today's hearing. As I will come to, he appealed the most recent decision of this court in May 2023 to commit him to prison. That appeal was dismissed by the Court of Appeal on 20 October 2023. During the course of its judgment, the Court of Appeal noted that the father was entitled to free legal representation but had chosen to act in person. At this hearing, Manchester City Council is represented by Ms Mann of counsel. The mother is represented by Mr Miller of Counsel. The children are represented by Mr Walker of counsel.
3. The substantive proceedings in this matter concern Mr Abdi's four children. The substantive application before the court is an application by Manchester City Council for wardship orders in respect of the children and an order for summary return to this jurisdiction from the jurisdiction of Somalia, issued on 13 October 2022. The children currently remain outside the jurisdiction. Their precise whereabouts remain unknown, although the court has now received a statement from the mother in which she describes further information that has come to light concerning the children's location. That information was supplemented further during the course of the mother's oral evidence to this court, in circumstances where the local authority relied on her statement in support of its committal application.
4. In dealing with the application to commit, I have had the benefit of an affidavit of the social worker, Anna Owen, dated 18 September 2023. Ms Owen has been the children's social worker since 12 October 2022. Ms Owen gave oral evidence and was cross examined by the father. As I have noted, the court also heard oral evidence from the mother, who was cross examined by father directing his questions through

me. At all times, the father conducted himself calmly and his questions were, in large part, entirely germane to the issues before the court and forensically astute. The father elected not to give evidence in his own defence, relying on his right to silence, but addressed the court on the case advanced against him by the local authority during closing submissions.

BACKGROUND

5. The detailed background of the matter is set out in my judgment of 5 December 2022, reported as *Manchester City Council v Yusef & Abdi (Committal)* [2022] EWFC 160. That judgment, and my last judgment dated 11 May 2023 with the neutral citation [2023] EWHC 1248 (Fam), should be read with this judgment.
6. Each of the four children were born in the United Kingdom and were habitually resident in the United Kingdom at the time they were removed from this jurisdiction in March 2022 in circumstances I will come to. The father shares parental responsibility for the children. The parents are Somalian, although the mother is believed to have Dutch Nationality. The court understands that the children have Dutch passports. The parents themselves are related on the maternal side, meaning that many of the mother's relatives are also blood relatives of the father. This is not the case with respect to the paternal side, with the father's paternal relatives having no blood link to the mother. The local authority has been involved with the family since 2012.
7. As related in my first judgment, on 14 March 2022, police attended the family home. During cross examination by the father at this hearing, the mother conceded she told the police on that date that the father had said he would run away with the children but that the children did attend school that day and that the father returned them that evening. On 15 March 2022, the children spoke at school about their lives at home. They alleged exposure to the parents' volatile relationship and made a number of allegations of physically and emotionally abusive conduct towards them on the part of the parents and significant allegations of ongoing domestic abuse between the parents. The children stated that they had been told that they must not say anything to anyone and that they would be in trouble if they did. They described their parents as fighting a lot, and that they were "like a drama series". The children were fearful of their parents finding out what they had said and the parents were not informed of the allegations when they collected the children from school. A referral was made to children's services by the school. The children made further allegations to the school on 16 March 2022.
8. In the days following these events, it became apparent that the children had left the jurisdiction. When asked, both parents were less than forthcoming at the time about the children's whereabouts. On the 23 March 2022, the Police visited the family home and spoke to the father. He refused to give the specific whereabouts of the children other than saying that they were in New York. The police spoke to the mother and the children on phone but the mother was not forthcoming with information. On the 25 March 2022, a follow up strategy discussion was held whereby the Police shared that Border Force checks had showed that Mrs Yusef and all the children had flown to Istanbul on 18 March, not New York.

9. Ahead of the first committal hearing, the mother provided a statement in which she conceded that she removed the children from the jurisdiction on 18 March 2022 in order to secure medical treatment for one of the children in Turkey. The court was provided with documentary evidence corroborating that account. The mother further alleged that thereafter, in April 2022 and under duress from the father and the paternal family, she travelled to Somalia. The mother alleged that on arrival in Somalia she and the children were collected at the airport by the paternal uncle, Said Abdulqadir, and other males who the mother had never met before. The mother contends she felt extremely uncomfortable and intimidated, that her phone was immediately taken off her as was her passport and the children's passports. The mother states that she and the children were taken to a gated community in Mogadishu. The mother repeated elements of this account during the course of this hearing and identified the gated community as a compound called Dar Es Salaam.
10. The mother returned from Somalia to the jurisdiction of England and Wales in April 2022 without the children. The mother alleges that approximately two weeks after arriving in Somalia, she was woken in the middle of the night and forcefully removed from the property by the father's cousin, Abdul Kadir, and forced into a car. The mother further alleges that she was thereafter taken to the airport and put on a flight to England, landing in Manchester where the father met her. The mother says the father stated that he would return to Somalia to recover the children and that she remained with him in the hope that he would do this as soon as possible. A boarding pass for a flight home to Addis Ababa dated 6 May 2022 was located at the father's property following his arrest. At this hearing the mother contended that she spoke to the paternal grandmother in the last week of May 2022 and told the maternal grandmother that the father was not letting her speak to the children. The mother contended that by this time she had no idea where the children were and was not allowed to speak to them.
11. The mother returned to Somalia in August 2022. At the hearing in December 2022, the court was shown an email from the mother to the children's school dated 16 August 2022 stating that she did not know where the children were. She alleged that they had been kidnapped by the father and may be in the UK. In her statement for the hearing in December 2022, the mother stated that whilst in Somalia she issued proceedings in the Somalian court in Mogadishu. In that statement, she further contended that the Somalian Court issued a warrant for the arrest of the father's cousin, Xiss Mohammed and that pursuant to the warrant the police were able to gain entry to latter's property, which was empty. She exhibited to her statement a translation of the warrant. Finally, the mother informed the court that her own father also flew out to Somalia to help in the search for the children.
12. As I noted in my first judgment in December 2022, the mother alleges that during the period in which she was in Somalia the father sent her what she described at the time as a "voice note" threatening her and stating that she had no right to go to Somalia to search for the children without the father's permission. During the course of her evidence at this hearing, when the father pointed out that the exchange involves a conversation, the mother confirmed that the exchange in question is in fact a recording of a conversation between her and the father. As at the hearing in December 2022, at this hearing the father did not state in terms that it is not his voice heard on

the recording, although he did seek to highlight the circumstances in which it was made, which I will come to below. The full transcript of the exchange is as follows:

Male: ‘This man who is called Abdullahi Ahmed who are interested in you will not any anything for you. You will see.’

Female: ‘What will I see? What will I see?’

Male: ‘Tell him that he tells other people’s secrets. Information about him has been passed on.’

Female: ‘What will I see?’

Male: ‘If you don’t misbehaving you never see those children.’

Female: ‘How am I misbehaving? You are’

Male: ‘Listen carefully, stop misbehaving. You have been misbehaving from day one. And you are still misbehaving. You are still misbehaving Maryan.’

Female: ‘It is you who is misbehaving. It is you who is not letting me see my children.’

Male: ‘So now you want to remain in this situation? Misbehaving?’

Female: ‘In what situation am I in?’

Male: ‘This is your choice.’

Female: ‘What is my choice? To not let me see my children?’

Male: ‘Will you stop misbehaving?’

Female: ‘So you don’t let me see my children?’

Male: ‘Maryan’

Female: ‘Is that my choice?’

Male: ‘Maryan’

Female: ‘Yes.’

Male: ‘Will you misbehave or not? That is all I am asking.’

Female: ‘Will you let me see my children or not?’

Male: ‘I want one final answer’

Female: ‘Will you let me see my children or not.’

Male: ‘I will not let you see you children unless you behave well. You will not see and you will not talk to or see the children.’

Female: ‘How would you like be to behave?’

Male: ‘Going back and forth and being cunning is not going to help. The stupidity of going to the house without telling me.’

Female: ‘Okay what do you want’

Male: ‘The stupidity of going to the house without telling me and to try to take children so they can go with you to England, and you are doing all that.’

Female: ‘I just wanted to see the children.’”

13. During the course of her cross examination by the father at this hearing, the mother gave further details of the involvement of a man called Abdullahi Ahmed. The mother confirmed in oral evidence that when the foregoing recording was made she was with her cousins, who included Abdullahi Ahmed. She further confirmed that he is also a cousin of the father. The mother further confirmed that these cousins were employed by the Somalian government and were helping the mother search for the children. This help included what the mother described as “sit downs, meetings and phone calls”. Within this context, I pause to note that this hearing, the mother stated that the last time she saw the children they were at the same gated compound called Dar Es Salaam in Mogadishu on *14 August 2022* (although in a different house). The mother made reference to this fact on a number of occasions during her oral evidence, including citing his date as a reference point for when the children had been moved out of Mogadishu. This appeared on the face of it to contradict the position presented by the mother to the court in December 2022 with regard to when she last saw the children.
14. On 13 October 2022, Manchester City Council issued proceedings in wardship in respect of the children. On 14 November 2022, HHJ Singleton KC sitting as a judge of the High Court warded the children, made an order under the inherent jurisdiction requiring the parents to return the children to the jurisdiction of England and Wales and made location orders in respect of each of the children.
15. On 5 December 2022, I heard an application by Manchester City Council to commit both parents to prison for having breached a location order and an order made by HHJ Singleton under the inherent jurisdiction on 14 November 2022 requiring the parents to return the children to this jurisdiction. On that date, I found that the mother was in breach of the location order, in that I was satisfied beyond reasonable doubt that the mother had failed in breach of that order to immediately hand over to the Tipstaff every passport relating to her and every identity card, ticket, travel warrant or other document which would enable her to leave England and Wales. However, for the reasons explained in my judgment, considered that that breach was properly classified as a minor one, and imposed no penalty on the mother.
16. With respect to the father, whilst not satisfied at the time he was in breach of the return order, I was satisfied at the time the location order was executed the father

knew the then current location of the children, and continued to know the location of the children at the date of the hearing. At paragraph [45] of the judgment I made the following findings:

"Turning to the father, having regard to the evidence before the court I am satisfied that at the time the location order was executed, the father knew the then current location of the children. Notwithstanding his continued denials, the voice note sent by the father to the mother, which the father did not deny or seek to dispute, proves beyond reasonable doubt that the father knows where the children are, as does the fact that he travelled to Somalia in May 2022, as I am satisfied beyond reasonable doubt that he did. I accept the submission that the voice-message is incriminating and clearly suggests that the father knows the children's whereabouts and had detailed knowledge of the mother's actions in Somalia attempting to locate them. In addition, I note that notwithstanding his purported worry concerning the children's whereabouts, unlike the mother he has never reported them missing to the authorities nor sought the assistance of the court to locate the children in one of the alternative locations he has mentioned, namely Turkey or the United States. I am satisfied that this is because he knows full well where the children are currently. When arrested and spoken to by police, I am satisfied beyond reasonable doubt that the father made no mention at all of the children being in Somalia, denying all knowledge of their whereabouts. The recording of the father's statement on 18 November 2022 makes no mention of the children being in Somalia, the only reference to another country being to Turkey."

17. In the circumstances, I was satisfied beyond reasonable doubt that on 18 November 2022 the father had failed to inform the Tipstaff immediately of the whereabouts of the children, and in any event to inform the Tipstaff of all matters within his knowledge or understanding, which might reasonably assist the Tipstaff in locating the children. I was further satisfied beyond reasonable doubt that at the time the father was arrested, he failed to provide his passport and any other document which would enable him to leave England and Wales, and satisfied beyond reasonable doubt that on 18 November 2022 the father failed immediately to hand over to the Tipstaff every passport relating to him, or other document which would enable him to leave England and Wales. In light of those findings, I sentenced the father to three months immediate imprisonment to reflect the fact that the father had spent nearly three weeks on remand ahead of that hearing. In addition, on 5 December 2022, I made a further order under the inherent jurisdiction, requiring the father to facilitate the return of the children to the jurisdiction of England and Wales forthwith.
18. The father failed to comply with my order of 5 December 2022, and the Local Authority issued a further application to commit the father, albeit that the application was issued so late by the local authority that the father had been released from custody by the time that application came before the court, having been properly served on the father. Whilst the basis for the arrangement was not clear, the social worker confirmed in evidence that the father complied with an arrangement whereby

he contacted the social worker each day during the course of this brief hiatus in his incarceration.

19. To his credit, the father attended the hearing of the further committal application of his own volition. On 9 February 2023, HHJ Singleton found the father to be in breach of my order of 5 December 2022 and sentenced the father to a further six months in custody at a hearing on 16 February 2023. At that latter hearing, HHJ Singleton made a further order requiring the father to ensure the children are returned to this jurisdiction. I do not have the benefit of a transcript of the learned judges judgment, but I do have an agreed note of the judgment given on 16 February 2023. It is clear that the father's case at that time was that he was not able to contact family or friends whilst in prison. HHJ Singleton found however, that the father had during the period that he was at liberty failed to co-operate with the local authority by providing details of family members or any meaningful information about the location of the children. He had failed to provide the PIN number or passwords to his mobile telephones.
20. On 3 March 2023 HHJ Singleton made a further series of orders in the wardship proceedings, including disclosure orders against the Home Office, HMP Preston, HMP Hewell and Lufthansa in an attempt to locate the children. HHJ Singleton also issued witness summonses against a number of individuals to attend court on 17 March 2023 to provide information to the court as to the whereabouts of the children. Some of those relatives attended on 17 March 2023. The remainder are subject to outstanding warrants to be executed by the Tipstaff. In addition, HHJ Singleton ordered the father to provide the PIN numbers and passwords for the mobile phones belonging to him, which are in the possession of the local authority, to enable the examination of those phones to further see whether there is information that might assist in locating the whereabouts of the children, and securing their return to this jurisdiction.
21. In May 2023 I heard a further application to commit the father for the breach of the orders made by HHJ Singleton. On 3 May 2023 I made an order reiterating the grant of legal aid for the father to enable him to obtain legal representation for the hearing. He did not do so. At a hearing on 11 May 2023, the local authority alleged that the father breached the orders made by HHJ Singleton on 16 February 2023 by failing to ensure the children were returned to this jurisdiction by 31 March 2023. The Local Authority further alleged that the father was in breach of the order of HHJ Singleton dated 3 March 2023 requiring him to provide the PIN numbers and passwords for the mobile phones belonging to him, in the possession of the Local Authority, to enable examination of the phones. The father refused to attend the hearing.
22. As set out in my judgment dated 11 May 2023, I was satisfied that the fact that the father was in custody did not prevent him from complying with an order to ensure the children to be returned from the jurisdiction of Somalia to the jurisdiction of England and Wales. In particular, I noted, that the father has had multiple visits from social workers from Children's Services, to whom he could have given information confirming the whereabouts of the children, this court having found as a fact in December 2022 that he knew the whereabouts of the children in the jurisdiction of Somalia, in order that the local authority can arrange for their return. I further held that the father likewise had repeated opportunities to instruct lawyers, whom he could also have given information concerning the children's whereabouts, to cause their

return to this jurisdiction. I was satisfied that it was likewise possible for the father to contact members of his family in this jurisdiction whilst he is incarcerated. Finally, I was satisfied that the father could have attended court to assist the court further with information he had in relation to the whereabouts of the children. In the circumstances, I was not satisfied that it was a legitimate explanation for a failure to comply with the orders made by HHJ Singleton that the father has been subject to a custodial sentence for the duration of the orders. With respect to the order concerning the PIN, I was satisfied that the father knew his own PIN code, that that information was in his possession and, had he wished to do so, he could have provided it.

23. In the circumstances I was satisfied beyond reasonable doubt that the father was in breach of the order of 16 February 2023, in that he failed to ensure that the children were returned to the jurisdiction of England and Wales forthwith and by no later than 31 March 2023 at 23.59 hours. I was further satisfied beyond reasonable doubt, and found as a fact, that the father was in breach of the order made by HHJ Singleton of 3 March 2023 in that the father failed to inform the Local Authority by no later than 31 March 2023 at 23.59 hours of the PIN number and passwords for the mobile phones belonging to him in order to enable examination of those devices. I sentenced him to 12 months in prison.
24. As I have alluded to, the father appealed that decision to the Court of Appeal. The Court of Appeal handed down judgment on 20 October 2023 dismissing the appeal. At the conclusion of his judgment, Moylan LJ stated as follows:

“I would urge Mr Abdi to consider engaging with the court. He still has the opportunity, as it is described, to purge his contempt. The best way of doing this would be by explaining how the children can be brought back to their home in England. It is not too late and it would stop the father’s situation getting even worse than it already is, as he so powerfully described.”
25. The local authorities current application to commit centres on the further orders I made at the conclusion of the hearing on 11 May 2023, namely and as set out above that:
 - i) The second respondent father, Fahad Abdulaziz Sheikh Osman Abdi shall ensure that the children are returned to the jurisdiction of England and Wales forthwith and by no later than 30 May 2023 23:59. A penal notice is attached to this order.
 - ii) The second respondent father, Farad Abdi, shall inform the local authority by no later than 30 May 2023 23:59 the PIN number and passwords for the mobile phones belonging to him in the current possession of the local authority to enable examination of the said phones. A penal notice is attached to this order.
26. In seeking to make good its case, the local authority relies on the affidavit of the social worker, Ms Owen, and the statement of the mother dated 31 October 2023, which the father confirmed he had had sight of and read ahead of this hearing. In her statement Ms Owen’s confirms that the children have yet to be returned to this jurisdiction. She further confirms that the father has not provided the PIN number or

password for his mobile phones. Ms Owen's records that whilst a number of remote meetings with the father were organised on 11 May 2023, 18 May 2023, 25 May 2023, 28 September 2023, 3 October 2023, 10 October 2023 and 17 October 2023, none of those visits took place due to the father being moved between prisons. In oral evidence, Ms Owen's states a remote meeting was organised on 16 October, for which she was online as facilitated by HMP Pentonville, but the father did not attend. The local authority did not produce evidence that the father had been notified of the meeting. He contends he was not.

27. The local authority further relies on the evidence of the mother. On 3rd August 2023, HHJ Singleton gave the mother permission to travel to Somalia in an effort to secure the return of the children. By an order dated 19 October 2023, the Court gave leave for the mother to file a statement detailing those efforts and for videos taken by her in Somalia to be transcribed. In her statement the mother relates that she travelled to Somalia on 29 September 2023. In that jurisdiction the mother alleges that an army officer sought £3,000 to locate and recover the children but that her solicitors declined to release funds to that end. Thereafter, the mother sought the assistance of the Somali police, who arrested a nephew of the father who the mother alleges was involved in the abduction of the children as an airport worker.
28. Under what is described as "close questioning" by police, the nephew is said to have named the father's uncle, who was then also arrested by the Somalian police. The mother's statement relates that the uncle told the police that the children were living in the border region between Somalia and Ethiopia. During her oral evidence at this hearing, the mother stated that she understands that the children are now in an area called Herale, a region located near the border with Ethiopia and were removed to that location soon after she saw them for the last time in August 2022. The mother's statement further relates that the uncle told police that the children's whereabouts were controlled by the paternal grandmother, who gives directions concerning who the children live with and where. During her oral evidence the mother contended that the paternal grandmother threatens her own family, does not care that the father is in prison and will not provide any information because she is angry that the father remains in prison. The mother said she has tried to speak to the paternal grandmother but has only spoken to the father's sister, who criticised the mother. In this context, the mother alleges that the paternal grandmother has a strong and malign influence as to whether the children should be returned to this jurisdiction. The mother told the court that it has been made clear to her if she wants the children to be returned the permission of the father is required.
29. Whilst in Somalia, the mother made a second application to the Mogadishu Family Court, which is dealt with in her statement. The mother claimed to have been shouted at by some of those at court for making an application on the ground that, in Somalia, the father has exclusive rights to determine what happens to the children.
30. The Judge in Mogadishu issued a summons that a cousin of the father should attend court. The Judge directed him to arrange a family meeting of elders. The cousin told the court that he had spoken to the father's mother in the United States and tried to persuade her to authorise the return of the children to the mother's care but that the paternal grandmother had threatened him to stay out of the family business and said it was nothing to do with him. The cousin also claimed that the paternal grandmother

was controlling the whereabouts of the children and there was nothing that family members in Mogadishu could do about it. The Somali judge is said to have indicated to the mother that such a family meeting was the only way that progress could be made and that there was no order he could make that would facilitate the children's return to her care. The mother relates that the judge tried to telephone a senior member of the father's family in Somalia but he refused to answer the phone. In this context the mother again asserted before the court that only the father or his mother can ensure the children are returned to this jurisdiction. The mother emphasised the fact that, contrary to that which the father sought to demonstrate in cross examination by highlighting their mutual familial links, those who hold the children in Somalia are not her blood relatives, but are relatives of the father and therefore will act only on his permission.

31. On behalf of the local authority, Ms Mann submitted that the father continues to know the whereabouts of the children (as evidenced by the court's finding in December 2022 and the father's absence of concern for children's welfare notwithstanding, on his case, they have been missing at an unknown location since March 2022). Ms Mann further submitted that the father has failed to ensure the return of the children in that he has taken no positive action in that regard, either by way of meeting with the local authority to provide such assistance as he is able to recover the children nor communicated with members of his family to request the return of the children to the jurisdiction. In this latter regard, on behalf of the mother, Mr Miller submitted that even though the father might struggle to make international phone calls from prison, he could write a letter or, more realistically, engage the help of relatives in this jurisdiction, who could communicate that children should be returned to this jurisdiction.
32. Ms Mann submits, as do Mr Miller and Mr Walker, that on the father's own case he has failed to provide the local authority with the PIN numbers and passwords the court ordered him to produce.
33. During his submissions to the court, the father alleged that the local authority has persisted in misleading the court in order to achieve what he alleges is its sole purpose, namely to "torture" him. He ascribes the actions of the local authority to what he alleges is endemic racism by the local authority against the Somali and Jamaican communities in Manchester. The father contends that he does not know where the children are and contends that they were last known to be with the mother in March 2022. He made reference, as he did in December 2022, to his assertion that on 19 August 2022 he informed the police that he had rung family members in the United Kingdom to try and ascertain whether there were members of his family in Somalia that could help look for the children, claiming that he had no immediate family in Somalia and did not know of anyone that he could speak to in that jurisdiction, albeit that there may be distant relatives that could help. As I noted in my judgment in December 2022, the day before on 18 August 2023, the father had made no mention of Somalia and stated he had no knowledge of the children's whereabouts, claiming to be under the impression the mother and the children were in Turkey.
34. In addition to asserting that he does not know where the children are, the father asserts that he has not been in a position to search for the children, or to communicate with

members of his family or others whilst in prison. In support of this, the father states since the order was made in May 2023 he has been moved constantly from prison to prison. That assertion is supported to a degree by the evidence of the local authority, Ms Owen detailing no less than seven remote meetings with the father that had to be cancelled due to his prison moves. As I have noted, whilst Ms Owen did, however, attend one such visit on 16 October 2023. The father denies being told of this visit by the prison, and the local authority has not provided documentary evidence that he was so notified. In prison, the father contends he is denied access to support from the Offender Management Units in circumstances where he is what he termed a “civil prisoner”. In particular, the father pointed to the fact that he has been deprived of his mobile telephones and that he does not hold telephone numbers and addresses in his head. Whilst Ms Mann sought to allude, during her closing submissions, to evidence in the possession of the local authority regarding the father’s telephone calls in prison that evidence is not, perhaps surprisingly, before this court.

35. The father acknowledged during the course of his submissions that he had not provided the local authority with the PIN numbers or the passwords for his mobile telephones.

THE LAW

36. With respect to the law, it is important, in the circumstances where the liberty of a citizen is at stake, to recall the strict procedural requirements of a properly constituted committal hearing have to be complied with and to be satisfied that they have been complied with. In this context, I have borne in mind the following requirements. In this case I am satisfied that each of these procedural requirements has been met ahead of, and during, this hearing:
- i) The committal application must be dealt with at a discrete hearing, and not alongside any other applications.
 - ii) The alleged contempt must be set out clearly in a notice of application or document, the summons or notice identifying separately and numerically each alleged act of contempt.
 - iii) The application notice or document setting out separately each alleged contempt must be proved to have been served on the respondent in accordance with the rules.
 - iv) The respondent must be given the opportunity to secure legal representation as he or she is entitled to.
 - v) The committal hearing must be listed publicly in accordance with the Lord Chief Justice's Practice Direction Committal Contempt of Court Open Court of 26 March 2015, and as amended on 20 August 2020, and should ordinarily be held in open court.
 - vi) Consideration must be given to whether the allocated judge should hear the committal or whether the committal application should be allocated to another

judge.

- vii) The burden of proving the alleged contempt lies on the person or authority alleging the contempt.
 - viii) The respondent is entitled, subject to the case management power of the court, to cross-examine any witnesses, to call evidence, and to make submissions of no case to answer.
 - ix) The alleged contempt must be proved to the criminal standard of proof i.e. beyond reasonable doubt.
 - x) The respondent must be advised of his or her right to remain silent, and informed that he or she is not obliged to give evidence in his or her own defence.
 - xi) Where a contempt is found proved on the criminal standard, the committal order must set out the findings made by the court that establish the contempt.
 - xii) Sentencing should proceed as a separate and discrete exercise with a break between a committal decision and the sentencing of the contemnor.
 - xiii) The contemnor must be allowed to address the court by way of mitigation, or to purge his or her contempt.
 - xiv) The court can order imprisonment, immediate or suspended, and/or a fine, or adjourn consideration of penalty for a fixed period, or enlarge the injunction.
 - xv) In sentencing the contemnor, the disposal must be proportionate to the seriousness of the contempt, reflect the court's disapproval, and be designed to secure a compliance in the future.
 - xvi) Committal to prison is appropriate only where no reasonable alternative exists.
 - xvii) Where the sentence is suspended or adjourned, the period of suspension or adjournment and the precise terms for activation must be specified.
 - xviii) The court should briefly explain its reasons for the disposal it decides to impose if it finds the contempt proved.
37. The burden of proof remains at all times on the local authority. The father asserts that the local authority has failed to discharge that burden in circumstances where he has not been in a position, since 11 May 2023, to comply with the orders of that date. The legal principles engaged in this context were examined by Moylan LJ when this matter came before the Court of Appeal in September. In particular, the Court of Appeal referred to the judgment of Hughes LJ (as he then was) in *Re A (A Child) (Removal from Jurisdiction: Contempt of Court)* [2009] 1 WLR 1482 in which Hughes LJ observed as follows:
- “[6] ... (3) Contempt of court involves a contumelious, that is to say a deliberate, disobedience to the order. If it be the case that the father cannot cause the return of the child he is not in contempt of court, however

disgraceful and/or criminal the original abduction may have been. Nor is it enough to suspect recalcitrance, it has to be proved: see *London Borough of Southwark v B* [1993] 2 FLR 559. That the onus remains on the applicant throughout is clearly demonstrated by *Mubarak v Mubarak* [2001] 1 FLR 698.

[7] Thus far I, for my part, go with Mr Cowen. I do not, however, accept the additional submission made by Mr Cowen that the only way contempt can be proved in a case such as this is by the applicant mother adducing positive evidence to demonstrate a particular step which is available to the father. It would, as it seems to me, be sufficient for her to make the judge sure that the father could achieve the return of the child, for example through the siblings if not through the grandfather, and she might be able to do that without calling specific evidence to refute each obstacle successively raised by the father. Nor do I think that the only way contempt can be proved is by the mother adducing evidence that the family in Syria is ready, willing and able to assist in bringing about the return. All those facts are facts which it might be open to the judge in an appropriate case to find proved from the surrounding evidence so that he is sure.”

38. In this context, the Court of Appeal in this case highlighted the conclusion of Hughes LJ at [12] in *Re A (A Child) (Removal from Jurisdiction: Contempt of Court)* that in “the last analysis, unless there is something the father can do to bring about the return of the child he is not in contempt of court”.

DISCUSSION

39. Having regard to the matters set out above, I am satisfied beyond reasonable doubt that the father is breach of orders made on 11 May 2023, namely:
- i) The second respondent father, Fahad Abdulaziz Sheikh Osman Abdi shall ensure that the children are returned to the jurisdiction of England and Wales forthwith and by no later than 30 May 2023 23:59. A penal notice is attached to this order.
 - ii) The second respondent father, Farad Abdi, shall inform the local authority by no later than 30 May 2023 23:59 the PIN number and passwords for the mobile phones belonging to him in the current possession of the local authority to enable examination of the said phones. A penal notice is attached to this order.
40. On his own case, the father has not provided the PIN number and passwords for the mobile phones, belonging to him and now in the possession of the local authority, to enable examination of the said phones. I am satisfied that the father knows his PIN and passwords, is able to provide the local authority with that information but has chosen not to do so. In seeking to explain to the court why he has not taken his step, the father at no point suggested that the information he has been ordered to disclose is not available to him. Rather, he made clear that he objected to the disclosure of that information on the grounds that the local authority may misuse the information. In the circumstances, I am satisfied beyond reasonable doubt that the father is in breach of the order of 11 May 2023 that he shall inform the local authority by no later than

30 May 2023 23:59 of the PIN number and passwords for the mobile phones belonging to him in the current possession of the local authority to enable examination of the said phones.

41. The question of whether the father is in breach of the order of 11 May 2023 that he shall ensure that the children are returned to the jurisdiction of England and Wales forthwith and by no later than 30 May 2023 is more complex. However, having regard to the evidence before the court I am satisfied beyond reasonable doubt that the father has also breached that order.
42. I accept that the father has been incarcerated since the order of 11 May 2023 was made by this court. Within this context, I further accept that there are some limitations placed on the father regarding the extent to which he can access information and communicate with others. Against this however, I am satisfied that the local authority has continued to provide the father with a mechanism by which he can take steps to bring about the return of the children to this jurisdiction, that there have remained further steps the father himself can take to achieve (or, in the words of the order, ensure) their return and that the father which he has not taken these steps to achieve that end.
43. There is no evidence before the court to demonstrate that the father is aware of the *precise* location of the children. However, as I found as a fact in December 2022, the father knew at that time the whereabouts of the children in the jurisdiction of Somalia. Whilst it is possible that the children have moved *within* the jurisdiction of Somalia during the ensuring period, I am satisfied beyond reasonable doubt that the father knows that the children are in the jurisdiction of Somalia. Having regard to the evidence of the mother at this hearing I am further satisfied beyond reasonable doubt that the children are in the control of the paternal family in that jurisdiction. Whilst the father cross-examined the mother on the evidence set out in her statement, he did not seek to challenge, and in any event in my judgment did not successfully undermine, the mother's evidence that it is the paternal family who have control of the children in Somalia and that it is in the gift of the father or his mother whether the children return to this jurisdiction. Although I had some reservations concerning the evidence of the mother in the context of statements she has made to the court previously, I am reinforced in each of these conclusions by the fact that, during his closing submissions, the father himself stated that the solution to securing the return of the children to this jurisdiction, given what he contended is the "tribal" composition of Somalian society, would be for both families to come before the Somalian court in Mogadishu for the matter to be resolved.
44. As the Court of Appeal noted in September, in *Re A Hughes LJ* (as he then was) made clear that evidence does not have to be adduced at a committal hearing to the effect that "a particular step" is available to the father in order to bring about the return of the children to this jurisdiction nor "to refute each obstacle successively raised by the father". As I have noted, I accept that there are some limitations placed on the father regarding the extent to which he can access information and communicate with others whilst serving a sentence of imprisonment. However, I am satisfied on the evidence before the court that it has remained open to the father, at all times, to co-operate with the local authority with the aim of securing the children's return notwithstanding his incarceration.

45. The first and most obvious way in which the father could have co-operated with the local authority following the orders made on 11 May 2023 in order to secure the children's return would have been to provide, as then ordered, the local authority with the PIN numbers and passwords for his mobile telephones. This would have allowed the local authority to interrogate the contents of those phones for clues as to the children's current whereabouts and to ascertain potentially important contact details of persons who may be able to assist with the children's return. The fact of the father's incarceration has, I am satisfied, in no way acted to prevent him from taking that course of action.
46. I am further satisfied that it has remained open to the father to agree to meet with the social worker in order to provide her with assistance in securing the children's return, in particular by providing his agreement to the return of the children to this jurisdiction for onward communication to paternal relatives in Somalia and, thereafter, such other assistance as may be required from him to achieve that end.
47. Whilst the father states he was not notified of the online meeting with the social worker on 16 October 2023, and the local authority has adduced no documentary evidence that the father received notice from the prison, I accept the evidence of the social worker that the online appointment was facilitated by the prison and that she attended that meeting. I consider it unlikely that the prison would have facilitated the social worker's attendance online but not notified the father of the meeting. I am further satisfied that it has remained open to the father to communicate with relatives in this jurisdiction with the assistance of the local authority. Whilst in the absence of him having access to his mobile phones it will have been challenging for the father to hold in his memory numbers and addresses, it has at all times since 11 May 2023 been open to the father to provide the local authority with the PIN numbers and passwords for his mobile phones and request the local authority provide him with the relevant numbers and/or addresses on those phones. Whilst it may well be the case that the father is precluded from making *international* telephone calls from the prison, it has been open to the father to ask the local authority to communicate on his behalf in an effort to secure the children's return. In any event, I am satisfied the father is able to add domestic numbers to his allowed numbers in custody in order to communicate with paternal relatives in this jurisdiction with a view to seeking assistance to persuade his relatives in Somalia having control of the children that the children should be returned, as repeatedly ordered by the English court. The fact that the mother is able to communicate with maternal relatives in Somalia who are also relatives of the father does not relieve the father of his responsibility in this regard.
48. In emotional closing submissions to this court, the father expressed his wish that the children return to live in Manchester. However, I am satisfied beyond reasonable doubt that the father has availed himself of none of the steps that are open to him to secure that end notwithstanding his incarceration, in particular communicating, via the local authority if necessary, to paternal relatives in Somalia his now stated desire before this court that the children be returned to the jurisdiction of England and Wales.
49. In the foregoing circumstances, having regard to the evidence before the court, I must conclude beyond reasonable doubt that the father is in breach of the order of 11 May 2023 that he shall ensure that the children are returned to the jurisdiction of England

and Wales forthwith and by no later than 30 May 2023. On that evidence, I am satisfied that the father could achieve the return of the child but has failed to take the steps I am satisfied are open to him to do so.

CONCLUSION

50. In the circumstances, I am satisfied beyond reasonable doubt that the father is in breach of the following orders made by this court on 11 May 2023 as follows:
- i) The second respondent father, Fahad Abdulaziz Sheikh Osman Abdi failed to ensure that the children) were returned to the jurisdiction of England and Wales forthwith and by no later than 30 May 2023 23:59.
 - ii) The second respondent father, Farad Abdi, failed to inform the local authority by no later than 30 May 2023 23:59 of the PIN number and passwords for the mobile phones belonging to him in the current possession of the local authority to enable examination of the said phones.
51. Having found the breaches alleged by the local authority it now falls to the court to sentence the father for those breaches. I propose to adjourn sentencing until 10.30am on Tuesday 7 May 2023 to allow the father either to instruct lawyers address the court on mitigation or to consider the submissions he himself wishes to make to the court in that regard. I will make a production order to ensure the father is produced for that hearing.

SENTENCE

52. The matter now comes back before the court for sentencing in the context of the breaches that I have found as set out above (Ms Mann being replaced by Ms Elsworth as counsel on behalf of the local authority and Mr Walker being replaced by Mr Ameen as counsel on behalf of the children). I adjourned sentence for a period of three days in order to permit the father to provide any mitigation he wished to. The father attended court with a prepared note and freely answered any queries and questions raised by the court. He again conducted himself calmly, and with dignity.
53. The legal principles that govern the exercise of sentencing a contemnor are well established and are summarised, in part, in the part of my judgment dealing with the alleged breaches. In particular, I again remind myself that:
- i) Sentencing should proceed as a separate and discrete exercise with a break between a committal decision and the sentencing of the contemnor.
 - ii) The contemnor must be allowed to address the court by way of mitigation, or to purge his or her contempt.
 - iii) The court can order imprisonment, immediate or suspended, and/or a fine, or adjourn consideration of penalty for a fixed period, or enlarge the injunction.
 - iv) In sentencing the contemnor, the disposal must be proportionate to the seriousness of the contempt, reflect the court's disapproval, and be designed to secure a compliance in the future.

- v) Committal to prison is appropriate only where no reasonable alternative exists.
 - vi) Where the sentence is suspended or adjourned, the period of suspension or adjournment and the precise terms for activation must be specified.
 - vii) The court should briefly explain its reasons for the disposal it decides to impose if it finds the contempt proved.
54. As noted in previous judgments in this matter, in *Patel & Others* Marcus Smith J made clear that the penalty of contempt has two primary functions. First, it upholds the authority of a court by marking the disapproval of a court, and deterring others from engaging in the conduct comprising the contempt. Secondly, it acts to ensure future compliance. In some cases therefore, and in particular those cases where the contempt arises from the breach of a court order, a penalty will have the primary objective of ensuring future compliance with that order in addition to marking the court's disapproval. In this case, any sentence is designed both to mark the court's disapproval of conduct by which a parent refuses to comply with orders of the court designed to secure the return of children to the jurisdiction of this court and to secure future compliance with such an order.
55. Where, as in this case, the court is dealing with breaches in the context the father having already received a sentence or sentences of imprisonment for breach of earlier orders in the same or similar terms, it is also important for the court to consider the authorities that deal with sentencing in that context. In *Wilkinson v Anjum* [2011] EWCA Civ 1196, McFarlane LJ (as he then was) made clear that it is lawful to impose successive custodial sentences for breaches of successive orders that require a party to comply with the same obligation:
- “[37]... As in the case of prohibitive injunctions, it must in my view be permissible as a matter of law for the court to make successive mandatory injunctions requiring positive action, such as the disclosure of information, notwithstanding a past failure to comply with an identical request. A failure to comply with any fresh order would properly expose the defaulter to fresh contempt proceedings and the possibility of a further term of imprisonment.”
56. Within this context, in *Wilkinson v Anjum* McFarlane LJ made clear that in deciding whether to adopt the legally permissible course of imposing a further custodial sentence for breach of an order that requires a party to comply with the same obligation as contained in previous orders, the court must adopt a stage-by-stage, hearing-by-hearing approach relying upon the discretion and judgment of the judge at each hearing. This will involve consideration of the facts of the individual case in order to decide whether a further term of imprisonment is both necessary and proportionate in the circumstances. In reaching that decision, the court will take into account the past orders and the cumulative amount of time already spent in prison, having some regard where appropriate, to the likely sentence that might be imposed by the criminal court for similar conduct (see *Wilkinson v Anjum* at [38]-40).
57. In *Wilkinson v Anjum*, McFarlane LJ recognised that the time may come when it is obvious that the coercive element provided by a term of imprisonment will have evaporated, and there is thus little to be gained other than pure punishment from any

continued period of incarceration. In the circumstances, the court must satisfy itself that its sentence continues to contain an element of ensuring future compliance, and has not become simply punitive in nature. In the words of McFarlane LJ in *Wilkinson v Anjum* at [41], whether the ‘carrot and stick’ approach has reached the end of its useful life, or in the words of Hughes LJ in *Wilkinson v Anjum* at [53], whether or not the coercive effect of the current order is yet spent. In the two cases examples cited by the Court of Appeal in *Wilkinson v Anjum* (namely, *Re Barrell Enterprises* [1973] 1 WLR 19 and *Enfield London Borough Council v Mahoney* [1983] 1 WLR 749) the court had concluded that the coercive element of a further sentence of imprisonment would not have any effect.

58. The approach set out in *Wilkinson v Anjum* was endorsed in *El Zubaidy v Borg* [2023] EWCA Civ 148. In that case, Bean LJ rejected the submission that appellant had already served the maximum he could have received for a similar criminal offence:

“Like the judge, I do not think that there is any precise analogy, but in any event it seems to me that the point is a bad one on the facts. Had the Appellant abducted two children from the jurisdiction and been prosecuted the indictment would have charged the abduction of each child as separate counts. If he had been convicted on both counts after a trial the maximum possible sentence would therefore have been 14 years, not 7 years imprisonment. Of course, as Mr Bentwood rightly points out, in the event of pleas of guilty at the earliest opportunity the Appellant would have been given a discount of one third from the notional sentence after a trial and, if consecutive sentences had been imposed, they might well have been reduced to some extent to reflect the principle of totality. But I do not accept the hypothesis that the total sentence could not have been well in excess of five years imprisonment. I agree with the view of the judge that this is as bad a case as could possibly be imagined.”

59. Finally, within the context of the foregoing principles, in *El Zubaidy v Borg* Bean LJ made clear that the effect on the mother and the children of a failure to comply with orders for return of children to the jurisdiction of England and Wales is a relevant factor in deciding whether a further sentence should be imposed:

“[30] I can well understand why the court took the view in the [*Enfield London Borough Council v Mahoney*] that no useful purpose would be served by keeping the respondent in prison, particularly given his eccentricity. But refusing to hand over a precious object is very different from refusing to hand over children. The continuing harmful effect of the father's refusal to comply with orders of the court, both on the mother and very probably on the children, are powerful factors militating against the argument that no further sanction should be imposed.”

60. As made clear in *Wilkinson v Anjum*, it is the legally permissible for this court to impose a further custodial sentence on the father for breach of the order of 11 May 2023, notwithstanding that that order required the father to comply with the same obligation as contained in previous orders. It is important, however, in circumstances where this is the fourth occasion on which the court has been required to consider sentence in respect of breaches by the father of orders made by the court, three out of

those four sentences having related to orders requiring the father to effect the return of the children to the jurisdiction of England and Wales, that the court consider the particular facts of this case in order to decide whether a further term of imprisonment is both necessary and proportionate in the circumstances.

61. As I have found, the father has breached the order of this court to ensure that the children are returned to the jurisdiction of England and Wales forthwith and by no later than 30 May 2023 and to inform the local authority by no later than 30 May 2023 of the PIN number and passwords for the mobile phones belonging to him in the current possession of the local authority. Those breaches have, I am satisfied, occurred in the context of the father knowing that the children are in the jurisdiction of Somalia and in the context of the children being in the care and control of his relatives within that jurisdiction. Notwithstanding this, the father has refused to co-operate with the local authority by providing his PIN and password in order to allow the local authority to interrogate the contents of his phones for clues as to the children's current whereabouts and to ascertain potentially important contact details of persons who may be able to assist with the children's return. He has refused to meet with the social worker in order to provide her with assistance in securing the children's return, in particular by providing his agreement to the return of the children to this jurisdiction for onward communication to paternal relatives in Somalia and, thereafter, such other assistance as may be required from him to achieve that end. As I have also found, I am satisfied that the foregoing steps were available to the father notwithstanding his incarceration.
62. The father's failure to comply with the orders of the court of 11 May 2023 continues to have a harmful effect both on the mother and, I am satisfied, the children. The children remain outside the jurisdiction of their habitual residence in an unknown location, and outside the care of both their parents, with whom they have not now had contact for over 12 months. In the circumstances, four young children continue to be absent from the jurisdiction of their habitual residence, outside the care of both of their parents, and without oversight of the local authority that has an obligation to promote and safeguard their welfare having regard to the matters that arose immediately prior to the children being removed from the jurisdiction. As noted in *El Zubaidy v Borg*, what I am satisfied is the harmful effect on the mother and the children of the father's breaches is a powerful aggravating factor, and one that militates against an argument that no further sanction should be imposed.
63. There is little mitigation that is offered by the father in this case. It is proper to acknowledge that the father has at this hearing engaged fully with the court, which marks a change in his previous approach to these proceedings, at least before me. The father has also now evinced a wish, I believe for the first time before this court, for the children to be returned to the jurisdiction of England and Wales. There was also some evidence before the court that, at present, the paternal grandmother is a driving force behind the retention of the children in Somalia. This however, does not absolve the father from assisting the court by complying with its orders. The court is able to address the role of the paternal grandmother, if any, by the use of a High Court witness summons and by seeking the assistance of the relevant authorities in the United States. Finally, it was also suggested that anger in the paternal family at the imprisonment of the father may be affecting their willingness to co-operate with this process. Again, this does not absolve the father from assisting the court by complying

with the orders that are made against him with the aim of achieving the return of the children to this jurisdiction.

64. In circumstances where the father suggested that he is able to do more outside prison to secure their return if he is released from custody, and where it seemed to the court that the matters to which I have referred above might provide a basis for further steps by the father, which might in turn allow the court to adjourn the question of sentence or suspend any sentence on condition that such further are taken, I expressly enquired of the father whether he would be prepared now to take steps that the court could take into account by way of mitigation or attach as conditions to a suspended sentence. At no point, regrettably, did the father suggest that within this context that he is now willing to do so.
65. I expressly asked the father whether he would now be willing to provide to the court a written document indicating his consent to the return of the children to this jurisdiction, and authorisation for them to travel, which consent to be provided to the authorities and paternal relatives in Somalia. He indicated that he is not prepared to do so in circumstance where he contends it would be of no effect in Somalia and may act to incriminate him. The father was likewise not prepared to speak to his own mother in order to secure her assistance in securing the children's return in circumstances where he contends she is in no way involved. At no point in his mitigation did the father state he is now willing to meet the social worker in order to assist the local authority and to provide the PIN and password for his mobile telephone. When I enquired whether the father is prepared to take *any* step in this jurisdiction to seek the return of the children in order to mitigate his breaches, he indicated that was not willing to do so, telling the court that there is nothing he can do and that his "hands are tied". The majority of the father's remaining mitigation concentrated on his assertion that it is the mother who is responsible for children's continued absence from the jurisdiction, which the father contends is one part of a larger plan to remove him from the life of the family (the father going so far as to allege that his life is now at risk) as the result of the mother wishing to marry another.
66. Having regard to the aggravating and mitigating factors in this case, with regret I am satisfied that the starting point for the appropriate sentence for breach of the orders of 11 May 2023 must be one of custody.
67. In considering whether a further term of imprisonment is necessary and proportionate, I must take account the past orders and the cumulative amount of time the father has already spent in prison, having some regard where appropriate, to the likely sentence that might be imposed by the criminal court for similar conduct. The father has failed to comply with the orders of 11 May 2023 notwithstanding that he has now been sentenced to successive periods of imprisonment of three months, six months and twelve months in prison, totalling twenty one months in prison, of which he has served half. This court has jurisdiction to sentence the father to a maximum term of imprisonment of up to two years for the breach of an order. With respect to the likely sentence that might be imposed by the criminal court for similar conduct were the father to be convicted of the offence of child abduction in respect of the removal of the four children from the jurisdiction, as in *El Zubaidy v Borg* the analogy is not a precise one not least because this is said to be a case in which the children were removed under coercion by the paternal family as opposed to having been removed

from the country by the father himself. However, I am satisfied that were the father to be convicted of four counts of such an offence he would likely to be sentenced to a term of imprisonment significantly in excess of 2 years.

68. In considering whether a further term of imprisonment is necessary and proportionate in respect of the breaches of the order of 11 May 2023, in the circumstances of this case I must further satisfy myself that such a sentence continues to contain an element of ensuring future compliance, and has not become simply punitive in nature. This is not a case, I am satisfied, in which a stalemate has been reached whereby the father is flatly refusing to return the children to the jurisdiction of England and Wales. Rather, this is a case in which the court is satisfied that the father has not, and continues not to, comply with orders made by the court to achieve that end when he is, to the satisfaction of the court, able to do so. The father himself during the hearing stated that he wishes the children to return to the jurisdiction of England and Wales. This court has found there remain steps that the father is able to take to achieve that end. I am satisfied the harmful effect on the mother and the children of their continued and enforced separation continues to speak the urgent need for the father to take those steps. In these circumstances, I am not satisfied that the coercive element of a custodial sentence can be said in this case to be spent. It is not yet obvious to the court that the coercive element provided by a term of imprisonment has evaporated in this case.
69. In my judgment, with very considerable regret having regard to the father's moving description of the impact his imprisonment has had on him and in circumstances where the solution in this case so obviously lies in the father complying with the orders made by the court to secure the return of the children to the jurisdiction in circumstances where he is able to do so, on the particular facts and circumstances of this case I again consider that the appropriate custodial sentence for the two breaches is one of a total of twelve months' imprisonment.
70. Consistent with the principles that I have articulated above, I have considered whether it would be appropriate to suspend the sentence I am imposing. Having regard to the matters I have set out above, and in particular having heard the father state during the hearing his wish for the children to return to Manchester, it was my hope in this case that it might be open to the court to suspend any sentence, or at least to adjourn sentencing in this matter, to provide the father with a further opportunity to take steps that would amount conditions on a suspended sentence or to mitigation at the point of sentencing. However, for the reasons I have set out, I am satisfied that my hope was a forlorn one. In the absence of any confirmation on the part of the father that he is now willing to agree to meet social worker in order to assist the local authority, to provide the PIN and password for his mobile telephone or to take any other step towards securing the return of the children to this jurisdiction, in my judgment suspension or adjournment of sentence would serve no purpose. In such circumstances, I am satisfied that at this time there remains no reasonable alternative to an immediate sentence of imprisonment.
71. Accordingly, I sentence the father to an immediate term of 12 months in custody for the breaches of the order of 11 May 2023.

72. In addition, I will make a further order requiring the father to ensure the return the children to the jurisdiction of England and Wales in the following terms:
- i) The second respondent father, Fahad Abdulaziz Sheikh Osman Abdi shall ensure that the children are returned to the jurisdiction of England and Wales forthwith and by no later than 30 November 2023 23:59. A penal notice is attached to this order.
 - ii) The second respondent father, Fahad Abdulaziz Sheikh Osman Abdi shall by no later than 30 November 2023 23:59 provide to the local authority written consent to the return of the children to the jurisdiction of England and Wales, and authorisation for them to travel for that purpose, for onward transmission to the relevant Somali authorities, the Somalian court and the paternal relatives in Somalia. A penal notice is attached to this order.
 - iii) The second respondent father, Farad Abdi, shall inform the local authority by no later than 30 November 2023 23:59 the PIN number and passwords for the mobile phones belonging to him in the current possession of the local authority to enable examination of the said phones. A penal notice is attached to this order.
73. Finally, and in addition, in circumstances where the father contends that he is not able to remember the phone numbers and addresses of paternal relatives in this jurisdiction, but has also not provided to the local authority the PIN number and password for his phone to enable that information to be accessed, I intend to make an order that the mother provide to the local authority, for onward transmission by the local authority to the father, all of the contact details that she has for the paternal relatives who reside in this jurisdiction, together with any contact details she has for the paternal grandmother.