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Case No: LS15C00114 & LS14C00432

Neutral Citation Number: [2015] EWFC 68 (Fam)

IN THE FAMILY COURT

Sitting at LEEDS

IN THE MATTER OF THE CHILDREN ACT 1989

IN THE MATTER OF K (born 3rd November 2011) & L (born 1st October 2013)

(Children) and A (born 4th March 2008), B (born 30th September 2010) & C (born 2nd May 2014) (Children)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 4/08/2015

Before:

MS JUSTICE RUSSELL

Re A (Fact-finding)

Between:

Kirklees Council

and

X

and

MS

and

SU

and

GM & GF

and

K & L (Children)

Applicant

1st Respondent

2nd Respondent

3rd Respondent

4th & 5th

Respondents

6th & 7th

Respondents

Heard with

Kirklees Council

and

SB

and

FA

and

Applicant

1st Respondent

2nd Respondent

A, B & C (Children)

3rd, 4th and 5th
Respondents

John Hayes QC and Louise McCallum (instructed by Steven Buckley of Kirklees Council and Lynn Crabtree of Wilkinson Woodward)) for the **Applicant Local Authority**
Vikki Horspool (solicitor) for the **First Respondent X**
Samantha Sanders (solicitor) for the **Second Respondent MS**
Franklyn Zakers (instructed by **Makin Dixon solicitors**) for the **3rd Respondent SU**
Louise Hill and Andrew Sugden (solicitor) for the **4th and 5th Respondents GM and GF**
Melissa Murphy (solicitor) for the **First Respondent SB**
Will Tyler QC and Claire Murden (instructed by Jordans solicitors) for the **2nd Respondent FA**
Joanne Astbury and Jane Leadbetter (solicitor) for the **Respondent children K & L and A**

Hearing dates: 22nd – 26th June & 1st July 2015

Judgment

The Honourable Ms Justice Russell DBE:

Introduction

1. These are care proceedings concerning 5 children. The proceedings are brought by Kirklees Council in respect of two families; K (a boy, born on the 3rd November 2011) and L (a girl, born on the 1st October 2013) who are the children of X (their mother) and SU and MS (their respective fathers); A (a boy, born on the 4th March 2008), B (a boy, born on the 30th September 2010) and C (a girl, born on the 2nd of May 2014) are all the children of SB (their mother) and FA (their father).
2. At the centre of both proceedings are GM and GF the maternal great-grandparents of K and L and paternal grandparents of A, B and C. The facts that the local authority seek to prove do not concern any of the five children directly as they are historical and concern what happened to the three grand-daughters of GM (the grandmother) and GF (the grandfather) when they were children placed, by the local authority in their care in March 1995 following proceedings concerning their mother (MA) herself the daughter of GM and GF. These three young women X, Y and Z have experienced great difficulties in their lives since being in the care of their grandparents. X's two children are the subject of these proceedings and one of Z's children has been removed from her care and her second, a son born in June 2015, is now the subject of public law proceedings. At the time of the fact finding hearing K and L were placed with their great-grandparents GM and GF.
3. The findings sought by the local authority concern complaints of sexual and physical abuse made by Y (born in 1993 and now 22) and Z (born in 1994 and now 20). These complaints first arose in 2009 when both Y (then 16) and Z (then 14) were interviewed by the police; The complaints were centred on the grandparents' home; both alleged that they had been sexually abused by their uncle FA (born 1985) who as an adolescent and young adult was still living with his parents during the time X, Y and Z were placed with them. In addition Z complained that she was regularly hit by both her grandparents. Both complained of emotional abuse and of being treated with less favour than their elder sister X; specifically they complain that GM put them under emotional pressure not to pursue their complaints about FA's sexually abusing them.

Findings sought

4. The local authority has the burden of proof. The findings that it seeks are as follows:

Findings against FA

[In respect of Y] 1. Between approximately 1998 and a date in, or prior to, 2007 FA repeatedly sexually abused his niece Y. When the abuse started FA would have been approximately 13/14 years of age and Y 5/6 years of age. The abuse stopped when FA was 20/21 years of age and Y 12/13 years of age. The sexual abuse consisted of the following:

- a) Indecent touching;*
- b) Taking indecent images of Y;*
- c) Digital penetration;*
- d) Forcing Y to engage in oral sex upon him;*

- e) *Forcing Y to masturbate him;*
- f) *Masturbating himself whilst in Y's presence;*
- g) *On one occasion vaginal rape.*

[In respect of Z] 2. Between approximately 1998 and a date in, or prior to, 2007 FA repeatedly sexually abused his niece Z. When the abuse first took place FA would have been approximately 14 years of age and Z would have been approximately 5 years of age. The sexual abuse consisted of the following:

- a) *Indecent touching;*
- b) *Forcing Z to engage in oral sex upon him;*
- c) *Masturbating himself whilst in Z's presence.*

Findings against GM and GF

1. *The sexual abuse perpetrated upon Y and Z by FA took place in the home of GM and GF and whilst on family holidays. GM and GF failed to protect their granddaughters Y and Z from the sexual abuse perpetrated by their son.*
 2. *Following Y making the complaint of sexual abuse to the police, GM exerted emotional pressure upon her to encourage her to retract the complaint.*
 3. *In 2009 GM made it clear that she did not believe Y's complaint of sexual abuse and would not support her if she maintained it.*
 4. *In 2013 following Y giving birth, GM told her to drop it/leave it in the past. GM was referring to Y's allegations of childhood sexual abuse against FA. GM intended to intimidate Y and place her under emotional pressure not to pursue the complaint of sexual abuse.*
 5. *Prior to making a complaint to the police in June 2009, Z told GM that FA had been sexually abusing her. GM made it clear that she did not believe Z. GM did not take any steps to inform any person in authority of this information.*
 6. *In 2014 GM placed Z under emotional pressure not to restore her allegations against FA.*
 7. *On one occasion when Z told GM that FA had been sexually abusing her, GM slapped her.*
 8. *GM used excessive physical chastisement upon Z. This included hitting Z with a belt on more than one occasion.*
 9. *GF used excessive physical chastisement upon Z. This included slapping her to [sic] the face and on occasion hitting her with a belt.*
5. These are the findings sought as set out by the local authority in their document filed with the court. In addition the local authority said that X was favoured by GM and GF who treated Y and Z in a markedly different manner which was to their detriment.

The Law

6. There is little if any dispute as to the law. The burden of proof lies with the Local Authority. It is the Local Authority that brings the case and they have identified the findings they invite the court to make. The burden of proving the allegations rests with them. Almost all of what they seek to prove is denied.
7. The standard of proof is the balance of probabilities, as set out by the House of Lords in *Re B (Care Proceeding: Standard of Proof)* [2008] 2 FLR 141. If I accept that the evidence relied on by the Local Authority proves on the balance of probabilities that Y was sexually abused by her uncle, and that Z was also abused by FA those facts will be established for the purpose of these proceedings and all future decisions concerning the children of FA and SB will be based on those findings. Equally if the

evidence put before the court by the local authority proves on the balance of probabilities that GM and GF physically abused Y and Z; and that GM pressurised them into retracting the allegations that they had made then those findings will inform the future placement of K and L with their great-grandparents. I remind myself of the words of Lord Hoffman in *Re B* which apply to sexual and physical abuse as they would to any finding of fact:

"If a legal rule requires facts to be proved, a judge must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are nought and one."

8. Any finding of fact in care proceedings, and indeed in all civil cases, must be based on evidence. As Lord Justice Munby (as he then was) has said in *Re A (A child) (Fact Finding Hearing: Speculation)* [2011] EWCA Civ. 12: "*It is an elementary proposition that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation*". I reminded myself of these words as I consider the evidence of Y and Z, in particular suspicion and speculation about their evidence cannot and must not form part of my analysis and decision making. In respect of all the witnesses I have seen I have kept in mind that people lie for many reasons and the provisions of a *Lucas* direction (*R v Lucas* [1981] QB 720); I refer to the direction that I must keep in mind from the *Lucas* case, namely that people lie for a myriad of reasons, not all of which are easily discernible, and that the fact that they have lied does not mean that it follows that they are responsible for the act or acts alleged.
9. In this case, as in other cases of possible child abuse, I take into account all the evidence before me and consider each piece of evidence in context of all the other evidence as a whole. As Dame Elizabeth Butler-Sloss, President observed in *Re U, Re B (Serious Injuries: Standard of Proof)* [2004] EWCA Civ. 567 the court "*invariably surveys a wide canvas*". A point further amplified by her in *Re T* [2004] 2 FLR 838 at paragraph [33]:

"Evidence cannot be evaluated and assessed in separate compartments. A judge in these difficult cases must have regard to the relevance of each piece of evidence to the other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion of whether the case put forward by the Local Authority has been made out to the appropriate standard of proof."
10. The evidence in this case is largely based on the oral testimony of the two young women Y and Z; on their ABE interviews in 2009 and 2014 and their oral evidence in this court, along with what they told other people at the time of the first interviews. Their complaints are about matters that occurred years ago and there is little by way of documentary evidence, and no physical forensic evidence. Their credibility and the credibility of other witnesses is central to the case. I keep in mind that the demeanour of Y and Z, and, indeed, of the other witnesses, is only one part of the evidence and forms only part of the whole. I am mindful of the fact that Y has made and retracted allegations; as has Z and indeed X. I will keep that in mind when considering her evidence and that of her sisters.

Evidence & conduct of the trial

11. The witnesses. The court was concerned that all the witnesses were able to give their best evidence and not to be intimidated or unnecessarily fearful during that evidence. At the outset of the oral evidence of Y (following the viewing of the DVD of her two interviews with the police in 2009 and 2014) she gave evidence in court with all the parties in court. As can be readily seen by the headings to this judgment the court room was very full; to capacity in fact with counsel sitting in three rows and the parties occupying chairs along the full length of the back wall of the courtroom. Y became distressed during her evidence at which point her grandfather (GF) shouting out “*drama queen*” can only have added to her distress. I then took the step of providing for the lay parties to sit in another courtroom and to watch and listen to counsel by video link. No party objected to this method of conducting proceedings and as counsel were all able to see the witnesses this measure complies with the provision for measures for witnesses eligible for assistance on the grounds of fear and distress in criminal proceedings (s17 of the Youth Justice and Criminal Evidence Act 1999). The presence of counsel in the courtroom where the witness was giving evidence ensured that the testing of Y’s evidence was not inhibited by any party to the proceedings.
12. In respect of Z the need for assistance was more acute as she has mental health problems, has self-harmed and behaved violently towards herself and others. Much is made of her history of self-harm, overdose and uncontrolled behaviour particularly by counsel for FA in his submissions, these are matters to which I will return, but in respect of her evidence she was able to give evidence without the lay parties in court. Counsel were asked to ask focussed questions and did so; it is accepted that no complaints were raised about the procedure adopted by the court. Three friends of Y, now themselves young women, felt similarly intimidated by the court room full of strangers and gave evidence while the lay parties watched the court (but not the witnesses) from another court room.
13. Written evidence and documents. There have been many documents put before the court as the family of GM and GF have been involved with social services and other agencies since November 1976 because of GM’s mental health problems. I do not intend to review all the documents, records and reports in my judgment as they are not all pertinent to the decisions that I have to make regarding the complaints of sexual abuse, physical abuse and emotional harm caused to X, Y and Z. Where I have been referred to documents by counsel I have read and considered them, however as there are 6 files of evidence/papers before this court I will not rehearse all the matters raised but intend to concentrate on those that are pertinent to the findings I have been asked to make. Where matters have not been challenged I will treat them as unchallenged evidence. When documents are relied on in part and with partiality I will treat the evidence they contain with caution.
14. As an example, leading counsel for FA seeks to rely on an assessment that has been prepared regarding the mental health of the witness (and grand-daughter of GM and GF) Z in the proceedings concerning her baby, which are not before me, and urges me to use that report to conclude that Z is lying; but the report was not prepared for this purpose or in respect of the issues before this court including her reliability as a witness, moreover its author did not give evidence before me so that the weight that I can give to the conclusions of the report are limited. It is certainly further evidence of

a vulnerable and disturbed young woman and one who has exhibited very disturbing and distressing behaviour since she first made the allegations in 2009. The evidence contained in the report has to be seen in the context of this case as a whole. It is equally possible to argue that her current mental health difficulties probably have at their root the treatment that she suffered while living with her grandparents and young uncle FA. While I must approach Z's evidence with some care I keep in mind suffering from a mental disorder does not render a person incapable of telling the truth. I can say from the outset of the proceedings before me that what has struck me is the total lack of sympathy, concern and compassion for Z from either of her grandparents; even taking into account the difficulties in dealing with a very disturbed young person who exhibits behavioural difficulties.

15. Lies and retractions. All the witnesses called by the local authority are accused of lying by FA, GM and GF. The retractions by Y and Z of the allegations of sexual and physical abuse first made in 2009 are relied on as evidence of their unreliability as witnesses. In addition Y is said to have lied in 2011 during the trial of a man accused of serious sexual assault on her. He was convicted and sentenced to 8 years in October 2011. Taken on their own such retractions and lies would have to be given considerable weight, however it is part of the local authority's case that the reason that both Y and Z have retracted their complaints and that Y lied during the trial was because they had been put under emotional pressure to do so by GM, their grandmother and the mother of FA. If such pressure was put that puts their retractions in quite a different light. The evidence is intertwined and none of it can be viewed in isolation.
16. Y and Z, indeed all the witnesses were not able to remember dates and times, and there were some inconsistencies in their evidence; I was reminded by the local authority in their written submission of the Court of Appeals words in *Re B (Allegation of Sexual Abuse: Child's Evidence)* [2006] 2 FLR 1071 [28] when considering what could be regarded as inconsistent evidence within care proceedings:

“While some people are gifted with the power of consecutive and orderly narration, a great many are not. Many tell their experiences in a confused and anthropological manner. They put things in which they ought to leave out, and they leave things out which ought to go in. That is especially likely to be so when they are suddenly and unexpectedly caught up in an official investigation into something which is very worrying such as the apparent sexual abuse of a child...”
17. This is something that I will keep in mind when considering the evidence of all the witnesses. The way in which people remember things is inconsistent of itself; the way that a child may remember something is bound to be different from that of an adult or older person who will have a different understanding of events, informed by their greater experience and the understanding born of such experience. Recalling events such as sexual and physical abuse is likely to be distressing and is difficult for anyone to cope with, without further emotional impact. One such impact may be a struggle to recall when each events happened; victims of childhood abuse, particularly abuse which happened repeatedly over a period of years as they grew from a young child into a adolescent, can confuse events with each other, coinciding with a attempt at suppressing the memory of some of the details of the abuse to avoid the distress caused by their recollection.

History & background

18. It would make of a judgment of inordinate length if I were to set out the full history of this family. More to the point it would serve to detract from the discrete facts I am being asked to decide, but it is pertinent to consider the family history as it forms the background to the case and will assist in giving context when considering the evidence as a whole. The family of GM and GF have had social services involved with them since the mid-1970s. GM and GF have five children, D (who is currently in prison), SS (the eldest sister), MA (the mother of X, Y and Z), SM (from whom I heard oral evidence) and FA.
19. As referred to above this family, that is to say the family of GM and GF, first came to the attention of social services in November 1976 when it is reported that GM told a social worker that she had hit her daughter S the previous night when she was in bed, but that she (GM) had no recollection of the incident. She was admitted to hospital for psychiatric treatment and discharged in early December 1976. Ten days later her daughter MA (the mother of X, Y and Z) was admitted with head injuries including a suspected skull fracture after a fall. While the treating medical staff were not suspicious of inflicted injury there was reported to be general concern about the children, and, specifically GM's mental health and marital difficulties; GM had made suicidal gestures and GF had left on several occasions. MA was made the subject of child protection registration in 1976.
20. In January 1977 GM's treating doctor is recorded as recommending that she would benefit from being admitted for several weeks treatment for her mental health. It is reported that he said that he did not feel GM "*would hurt the children intentionally as she had displayed insight into the fact that she was unreasonably chastising the children, S in particular*". On 21st February 1977 she was admitted to hospital following an overdose; she was admitted again a week later for the same reason.
21. In March 1978 MC and MA (then children - daughters of GM and GF) are hospitalised reportedly after being left alone in the house and drinking a bottle of cough medicine. In May of 1978 GM is admitted to hospital and has her stomach pumped after she informed staff she had taken an overdose. In May 1978 S, MC and MA are made subject of care orders while their mother is in hospital receiving psychiatric treatment. This is followed in June by a "*placement safety order*" being obtained after it is reported that GM discharged herself from hospital and attempted to regain care of the children; however they are then returned to her care after "*alternative provisions*" are made. In April 1978 GF had been imprisoned for six months for riot. In 1980 the children's names are removed from the child protection register.
22. In March 1985 GM is recorded as leaving the family home with another man, leaving GF and the children. It is recorded that she returns in December 1985, pregnant with FA, and that GF is not the biological father of FA born that December on the 16th.
23. In 1987 MA is recorded as having made an allegation that her father (GF) had beaten her up. She retracted this allegation and no action is taken after GF admitted to hitting her, but not beating her up.

24. In 1991 MA moves to Lancashire and later that year, in May, X is born. Y is born in Lincoln in February 1993 and both X and Y are made the subject of child protection registration over concerns that X has been sexually abused by a partner of MA's. There is a further report of allegations concerning the sexual abuse which appear to have come via GM and her GP. In December 1993 MA is reported to be telling mental health services that she is hearing voices telling her to suffocate Y. She moves to a town in Yorkshire and then back to Lincolnshire.
25. In 1994 public law proceedings are initiated in respect of X and Y. In May 1994 MA is charged with child cruelty and given a six month prison sentence for an incident against X. In June 1994 the two children of MA are made the subjects of interim care orders and placed in local authority care. In July 1994 Z is born and removed from the care of her mother and father the day after her birth; she is placed in local authority foster care. The family were placed, together in a residential unit but the parents' ability to care for the children raised concerns, Z's father left and the placement terminated shortly afterwards.
26. GM and GF put themselves forward as carers. The initial recommendation was that the children should not be placed in their care, but that decision was changed after positive observations of contact. In February 1995 the court decide that X Y and Z should not return to their mother's care. Later the same month a residence order in respect of all three girls was made in favour of GM and GF. Three months later the Health Visitor recorded that she was concerned that GM may be having second thoughts regarding Y and Z. FA was 9 years old at the time X, Y and Z were placed with his parents. He remained at home, latterly off and on until about 2007. In 2007 he commenced a relationship with SB and A (a subject of these proceedings) was born in March 2008.
27. In 1999 Z then only 5 years old and who was reported as having behavioural difficulties, was prescribed medication for ADHD. This coincides with the age that she says the sexual abuse by her uncle started. CAMHS were involved from time to time between 1999 and 2003. Z believes that this abuse and that by her grandparents contributed to her serious mental health problems resulting in a diagnosis of a personality disorder characterised (according to the report of April 2015 referred to above) by "*extremely marked antisocial and borderline traits*".
28. In July 2003 there is a referral form CAMHS; Z is seen with bruising on her legs which she is reported as saying was caused by her mother hitting her with a belt. In October 2005 the police records include a report that Z was beaten by her mother, MA.
29. In January 2009 Y was raped at her mother's home by a friend of her mother's partner. This was reported to the police; the circumstances leading to it being reported are the subject of dispute. In March 2009 GM is recorded by the social worker as having told the social worker that she had whipped Z with a belt in February 2009.
30. In April 2009 Z complains of physical abuse at the hands of her grandparents; the next day she tells the social worker that she had lied about the abuse. In June 2009 Z repeats the allegations and is placed in foster care. She is interviewed by the police on 9th June 2009.

31. Y has moved out of the grandparents' home at the end of April 2009 and went to live with her mother. In June both Y and Z complain to the social worker, Ms Begum, of past sexual abuse by their uncle FA. Ms Begum reports the allegations to the police and on 21st July 2009 Y is interviewed by the police about the complaints of sexual abuse by FA. In August 2009 MA contacted the Duty Team of social services to tell them that she was concerned GM had told the girls to change their story about their uncle.
32. In September 2009 Z returned to live with her grandparents; she is visited by the social worker (at the grandparents' house) and denies having told the social worker that her uncle had abused her. Z refuses to be video-interviewed. In October 2009 the police discontinue their investigation into sexual abuse by FA as Y is not cooperating. In November Y, too, is back living with her grandparents. She subsequently moves out by December 2010.
33. B was born in September 2010 and K in November 2011.
34. In October 2011 the man who had raped Y was sentenced to 8 years imprisonment. Z's daughter was born in December 2011.
35. In early 2013 the allegations surfaced again. The half brother of X, Y and Z sent threatening Facebook messages to FA which referred to his abuse of his nieces. Y gave birth to her daughter (who remains in her mother's care) in April 2013. She is visited in hospital by GM and says that she was placed under pressure to retract the allegations. This is denied by GM.
36. L was born to X in October 2013.
37. In December 2013 Y sent a message on Facebook to GM which refers to the abuse by FA. Z sends Y a Facebook message which said "*he did it to me as well*". Z expressed a fear of losing her grandma. In January 2014 Y was interviewed by the police in respect of her complaints about being sexually abused over many years by FA.
38. In May 2014 C was born.
39. In August 2014 K and L are placed in the care of GM and GF. On the 10th October 2014 Z is interviewed by the police in respect of her complaints of sexual abuse by FA. The local authority issues s 31 CA 1989 proceedings in respect of K and L on 13th October 2014; a child arrangements order and interim supervision orders are made on the 31st October 2014. On the 15th February 2015 s31 CA 1989 proceedings are issued in respect of A, B and C; the children remain at home with their mother but their father cannot live there and his contact with the children is supervised.
40. On the 4th June 2015 Z gives birth to her second child.
41. This case is heard before me in Leeds between the 22nd of June and 3rd July 2015.

Local authority's case and evidence

42. It is the local authority's case that Y and Z were sexually abused by their uncle over a period of approximately 9 years when they lived with their grandparents. Y and Z gave evidence, along with Ms Begum (the girls' social worker in 2009), MA (their

mother) and three childhood friends of Y. The local authority submit that the court is well placed to determine what happened during the childhoods of Y and Z; they are now adults and the court has had the advantage of watching the DVDs of their police interviews and has heard their oral evidence; enabling me to see them during their interviews and in court when their evidence was subject to challenge. I have, in addition, and as I have already alluded to, been able to observe the other family during the hearing.

43. The local authority submitted that the evidence supports their case that Y and Z were not only abused physically but grew up deprived of love and affection. The evidence shows that Z, in particular, was treated differently. It would be hard to disagree with their assertion that GM was a powerful figure in their lives for indeed she was: they were largely dependant on her from a very young age. Their mother was never able to provide an alternative source of security, affection and care. GM's reaction to their complaints about FA was to immediately and comprehensively dismiss them and to protect her son; she has not wavered from that course. The local authority submit that she was a domineering grandmother who cared not for them but only for her son, leaving Y and Z very vulnerable, isolated and unable to speak out about what was happening when they were younger living with her and dependant upon her for their home. It is an undisputed fact that even after they left their grandparents' home to live with their mother (in the case of Y) or with foster-carers (in the case of Z) as teenagers they came back to live with GM and GF; they had nowhere else to go.
44. Both Y and Z have given graphic accounts of sexual abuse by FA in interview and in court; I shall return to the evidence of both below. Z has complained of, and given evidence about physical abuse by her grandparents. The submission of the local authority that their experiences of abuse, if true, are likely to have had a profound emotional impact on both cannot be gainsaid. There is evidence already before the court and relied on by counsel for FA that there has been a pervasive and lasting effect of her experiences on Z.
45. The local authority referred to the lengthy cross examination of Y about the rape by Farsad Ali (Ali), the criminal trial and surrounding issues. In particular FA seeks to rely on the fact that Y denied being sexually abused by FA during the trial as evidence that she cannot be regarded as a credible witness in respect of the allegations before this court. Y has said that GM had told her to deny it.
46. The undisputed facts are that Y, then 15 years old, was raped on 17th January 2009. This serious assault took place at the home of Y's mother. I accept that it is not part of the local authority's case to defend the behaviour of MA at the time of the rape or before or after it took place. Ali was later convicted after a trial in 2011 during which the principal issue was whether the act had taken place. It was not in issue that he had engaged in some sexual activity it was denied that he had raped Y. Y's account (that she was) was accepted by the jury which convicted Ali. This court is not asked to, nor can it, go behind that conviction which stands. The evidence of Y regarding her treatment by FA, GM and GF cannot be undermined by the truthful allegations she made against Ali. If I find that GM did put pressure on Y to deny the abuse by her uncle during the criminal trial then the fact that she did so will not undermine her evidence regarding the abuse for the purpose of this trial.

47. In 2009, following the rape the social worker Suna Begum was allocated to the family and remained involved until March 2010. Ms Begum gave oral evidence to the court and was cross examined about the notes she had made on social work record during the time she was allocated as social worker for Y and Z. Ms Begum told me that she had never observed either GM or GF show any emotional warmth towards Y or Z; she was pressed on this point and did not change her evidence in respect of her observations at the time. In particular she said that it was her observation that Z in particular was treated very differently and always spoken about harshly and in negative terms. On 18th June 2009 Ms Begum made a referral to the police after a conversation with MA and then with Y and Z during which she was told both Y and Z complained to her about being sexually abused by FA which led to the two girls being interviewed by the police.
48. The evidence of Y. Y gave oral evidence in addition to that which was contained in the DVD of her police interviews. Three of Y's school friends gave evidence to the court of Y having confided in them that she had been sexually abused by FA. I shall return to their evidence below. Y said that she complained to her grandmother but her grandmother told her to shut up. Y described Z trying to tell GM that FA had tried to do something and that GM had slapped her when she tried to tell her.
49. MA, Y's mother, says that Y told her when Y was about 12 or 13 years of age, and that she complained that FA had been taking her into a bedroom and been touching her and "doing stuff to her." Y told her that he had done the same to X and Z. According to MA she asked the other two girls but they denied it. MA said that she told her own mother GM who denied anything had happened. MA said that Y was told by her grandmother to say that she had made it up so she could live with her mother (MA) again. MA contacted the social worker and Y and Z repeated their complaints to her.
50. Y was first interviewed by the police on 21 July 2009. The court bundle included a handwritten summary of the interview and a typed copy of that summary. West Yorkshire Police have not been able to locate the video of Y's 2009 interview. In the interview on 21st July 2009, based on the summary, Y described sexual abuse by her uncle FA starting when she was 7 or 8 years old, although later in her statement in these proceedings she says that she was 5 or 6. Y described numerous and various forms of sexual abuse by FA. It is recorded that she said he asked her to "play with his penis" and when she said "no" he told her that he loved her and that nothing would happen to her. FA came into her room, pulled down his pants, grabbed her face and pulled it towards him whilst telling her that he was the only person in the house who loved her. Y said that penis had gone erect or hard and he sat on her bed but that she pulled away saying she did not love him. He tried to get her to touch his willy with her hand. She described how on a trip to the toilet, he had rubbed up against her and kissed her; his penis was touching her stomach and she could feel a lump in his pants.
51. During this interview, according to the notes, Y said that FA came into her bedroom and climbed on top of her, kissed her and rubbed his penis against her vagina. She said as she got older he made her "*do stuff*". She described an incident when on holiday and said he had placed umbrellas in a circle and took Y and her little sister Z inside the umbrellas and made them "*do stuff*". On a holiday in Ibiza he had pulled down his pants to expose his penis. Y said that at home, three or four times a week he had *done stuff* in the living room when he would close the curtains and get her to "*do*

stuff". FA would get his penis out which was erect. Y had touched it once, "he grabbed my hand, it felt horrible". Y is recorded as having said that FA asked her to go on his X-box and then started rubbing her leg. He asked her to "suck his willy" a couple of times when she was about 10 years old. She said the last act of abuse was when she was laid on the bed watching TV. He came in, grabbed her hand and tried kissing her.

52. Y said that following the police interview in 2009 GM threatened her and told her that she had to drop all charges "*otherwise consequences are going to happen*". Y said that GM told her to say the only reason she had made the allegations was so she did not have to go to live back with her grandmother and told her to say that social services had told her to lie about it and say that this had happened so she did not have to go back again (to be interviewed) "*and that's when I said that as well*" In her written statement to this court she repeated this account;

"When I went to the police on the first occasion, my grandmother, [GM] told me to "leave it". She found out I had gone to the police and persuaded me to drop all charges against him. She said at the time that I was only making the allegations as I didn't want to live with her."

53. Y repeated this in her oral evidence. As referred to above in 2009 Z was recorded as having made allegations that she too had been sexually abused by FA but she did not cooperate with a planned police video interview on 30 July 2009. On 3rd September 2009, Y cancelled a further video interview due the following day so that in October 2009 the police decided that they were unable to pursue the matter.
54. In respect of GF Y's evidence was that she was and remained unsure if he knew about the sexual abuse but said that he would say "*you're not going in that bedroom*" meaning FA's room. Both in her interview in 2014 and in her oral she described GF coming into FA's bedroom, finding her there and seeing FA had left tissue soiled with semen on or near his speakers. GF denied that this happened and said in his oral evidence that it could not have as FA's speakers were wall-mounted.
55. Both Y and Z repeated in their oral evidence that they had been pressurised by GM not to pursue their complaints against FA. The police records refer to an incident on 23rd June 2009 when Y complained that GM had come to MA's home address with several third parties in relation to allegations made by one of her grandchildren against her "partner." MA supported the evidence regarding the pressure that GM put on Y to retract her allegations. In her statement she said "*This happened in 2009 when my mother attended my home and the police were called. I told the social worker at the time that I felt my mother was pressurising the girls*".
56. The complaints about FA having sexually abused Y and Z re-emerged in 2013 and 2014. When Y gave birth to her daughter in April 2013 she was, by then 20 years old and living independently. She was visited in hospital by GM, GF and X. It was Y's evidence in her statement and in her police interview, and repeated in court, that GM waited until GF left the room and said "*I'm telling you now it's in the past, leave it in the fucking past*"; the police interview transcript read "*and then when my gran came up to the hospital she said why are you messaging [your brother] going on about ya uncle ya know he's been messaging [FA] saying he's gonna kill him and all this lot and he's a sicko and I says well ya know and she says well I'm telling you now she*

says you drop it it's in the past you leave it where it is...that was it and then she just went".

57. In her evidence GM accepted that she attended at the hospital following Y giving birth and that she raised the issue of messages from Y's brother but that was the extent of the conversation. However during December 2013 Y referred to her allegations against FA on her Facebook page. Y sent a message to FA on 18th December 2013 in which she directly referred to the abuse; Y messaged three times to the effect that FA had messed her life. She complained that FA had not even said he was sorry or why he did it to her. The message referred to having lied in Court when *"they brought it up...for grandma"*. About that time Y sent a message in which she referred to FA as a paedophile who had abused her from the age of 6.
58. The same day (18th December 2013) Y messaged GM to say that she was sorry to bring it back up *"but [you know] how messed up my head is after everything FA did [to] me"*. She followed this up with a number of messages saying that she *"wanted answers"*.
59. GM has said in her statement to the police in 2014 that she received these messages on Facebook *"again going on about [FA] abusing her."* She told the police that FA wanted to go to the police himself *"but I told him not to. I wanted to get Christmas out of the way"*. Although she was consistent about the latter in her oral evidence GM denied getting all the messages as she said she had two Facebook pages and had not seen them at the time.
60. Just before Christmas on 23rd December 2013 Z sent a message via Facebook to Y saying *"he did it to me as well"*; but Z said she was scared about losing her grandmother if the allegations were made. In her police interview Y said that her mother (MA) telephoned after she had learned from Z that Y intended to bring up the subject of sexual abuse. Y said that at the time MA told her to *"leave it where it is ... you know your grandma's not well"*. This action is consistent with MA's reaction to Y's being raped by Ali.
61. In January 2014 Y once more complained to the police of sexual abuse by FA; despite the resistance of other family members. Y was interviewed by the police on 24th January 2014. In the course of her interview, which I have watched Y described acts of sexual abuse by FA. She said that he had begun by stroking her arm and touching her legs. Y said that FA had introduced what he called a "fun game" to Y and Z which involved him touching his own private parts and those of the two little girls; Z said she wanted to go and she left the room. FA had taken Y's hand and got her to touch and rub his penis
62. After that initial occasion he would get her to masturbate him and sometimes hold her hand. She described digital penetration when FA put his finger inside her vagina; he said what he was doing as a "game". She said he had used one finger, it hurt and it finished with him ejaculating. FA told her not to tell her grandparents or she would be in trouble. Y said that she did not know what was going on and felt sore, dazed and confused. Y said that he would use opportunities when going to the bathroom to rub himself on her in the bathroom and when she said stop he would say *"no it's a fun game that we're playing"*. She told the police he took photographs of her private area using a mobile phone.

63. Y described an incident when FA forced her to perform oral sex; he had asked her to give him oral sex and when she said she would not, he made her do it. This happened only once when she was aged between 8 and 10, she said; *"He were doing the usual first and then he says do you wanna try something different in the game and I says what d'ya mean he says put ya mouth around it ... I says I don't wanna he says no just try it you'll like it ... so I did and dint like it it tasted horrible and that and I said I felt sick I don't like it he let me go get a drink of water from the bathroom and I never never did it again"*.
64. Y described being abused by FA on a family holiday in Ibiza; there had been a couple of times when he put umbrellas around two sun beds so that he could not be seen. He then abused her as he had at home; masturbating and touching her. Y said that FA had abused her in the daytime and sometimes at night when others in the house were asleep. She described FA trying to kiss her on the lips and put his tongue in her mouth; he would do this quite often and had told Y to move her tongue about as well. Y told the police that when she had told him she didn't want to do things, *"he'd sometimes say alright and then other times he'd say no you've got to do it"* ; using the term "a game".
65. Y said the abuse sometimes happened downstairs when the grandparents were out but she said it was only *"very rarely downstairs... few times"*. FA closed the curtains and told her to remove her pants; he would do the same, lie next to her, he inserted his finger into her and masturbated. Sometimes he had said nothing and at other times he had said *"don't worry it's just a game"*. At the end of the abuse he had said, *"remember don't say anything you'll be in trouble"*. Y told the police FA never said sorry or anything. After ejaculating, he had gone to the kitchen for tissues to clean himself up. She described how, when he had ejaculated, *"it would go everywhere... like on my hand and things"*.
66. Y described one occasion when the family stayed at the home of her auntie (SM) and FA abused her; he had crept into her cousins' bedroom where she was sleeping on a bottom bunk. He had climbed into her bed and made her put her hand in his shorts and masturbate him whilst he had touched her "inside". He had not ejaculated on that occasion but just got up and went out.
67. Y told the police that FA had penetrated her with his penis on one occasion. She gave a detailed account of the occasion; she said that he had raped her in her bedroom by making her sit on him. She told the police that she had cried and had told him it was hurting her but he had pushed her down by her shoulders. Y was clearly and visibly upset giving this account on the DVD. Later in her interview she gave a further account:

Q: *"Just describe to me everything that happened on that occasion.*

A: *Like how it's begun like.*

Q: *Yeah.*

A: *I was just playing on the computer and he just walked in... and I just carried on like playing and he's been in his boxers and he's told me to stand up so I did and he's sat down on the computer chair and he's told me to take his pants off so I did and he's pulled his boxers down to his ankles*

told me to sit on him but when I sat down I just sat like on his knee kind of thing... and he said no not there he said further back and erm he grabbed his penis and then when I sat down he put in place and then pushed me down and I started crying saying it was hurting he erm wunt let me go I were crying then he just carried on pushing me down until he'd finished while I were crying

Q: So I think I know where he's put it but where did he put his penis then?

A: In my vagina."

68. Y told the police that she had sat with her back to FA and that he had pushed down on her shoulders; she was crying and said it was hurting, he said nothing, the interview had continued:

Q: ".. how did it finish ... that time?

A: When he ejaculated he told me to when I got up he told me to go and clean myself I were dirty and then I were bleeding as well so I went to the bathroom still crying and then afterwards cleaned himself up and just went back into his bedroom and I just laid on my bed crying and I was sore... it was really swollen and sore ... quite painful."

69. The Applicant local authority submitted to the court that Y had given a compelling, detailed account of experiences of repeated childhood sexual abuse by FA to the police as recorded in her DVD interview on 24th January 2014. The local authority relied on several features in Y's account, the detail given by Y which included her description of incidental details of things said or done during the abuse. Y's demeanour during the interview, her distress when recalling the abuse, particularly the rape. The lack of exaggeration or embellishment both to the police and in oral evidence. Y's description of the effects on her of having suffering sexual abuse.

70. The repeated description by Y of FA telling her that the abuse was part of a "fun game" or a "game" was, said the local authority, consistent with a description of a pattern of grooming. When added to the repeated threats that she must not tell any one or she would be in trouble this submission has some force to it. The local authority referred to Y's description of FA arranging the umbrellas, on holiday in Ibiza, so as to shield him from view as an example of authentic detail. In the police interview Y had said:

"then he'd do it when we went abroad get all the brolleys he'd put em all round so no one could see in two sun beds and he'd do things to me then come round to the apartment...".

71. In her evidence Y had given details of the sensation she had felt during the acts of abuse such as her recollection of the sensation of FA ejaculating onto her hand; her description (as set out above) of FA making her perform fellatio; and her recollection of both how FA made her do it and the sensation she had felt when doing so. The description she gave of the rape, which I have set out above, reflects her age at the time for because she had not known she sat on his knee and he had had to move her placing her on his groin and physically forcing her down on to his penis. Y described the pain she had felt and her feelings after it had happened. Y had also described the

pain she had experienced on digital penetration and that she had not known what was going on, and had felt sore, dazed and confused.

72. During her interview when describing the rape and the abuse on holiday Y was visibly distressed; her voice broke and she was clearly distressed. The local authority submitted that her distress was genuine, triggered by emotional trauma brought about by having had to relive the abuse she describes. The local authority contrast this with the evidence of FA, GM, GF and her sister X. I shall return to the evidence of X later, however all four insisted in their oral evidence that Y was putting on an act. GF went as far as to shout out “drama queen!” during Y’s oral evidence. I found there was a total lack of empathy or even some little concern for a close and far younger family member evident in their demeanour in court throughout the hearing and in the manner in which GF and GM gave their oral evidence to be a striking feature of this case.
73. The local authority relied on a lack of embellishment and exaggeration in respect of both Y and Z as evidence of their credibility. Specifically the local authority submitted that in relation to oral sex Y said that it had happened on only one occasion. She had also said that sometimes FA would not insist on her participating in abuse. Y was clear that FA had taken pictures of her vagina and nowhere else. When Y described bleeding after being penetrated she said that the bleeding did not last long. Y was asked in interview if FA had touched her breasts and had replied simply, “no”. Similarly she said “no” when asked if anything else had happened on holiday. There was, I found, a straight forward and plain quality to her answers in interview which was repeated in her evidence before me. There were occasions when she could have easily added to the descriptions which she had given, she did not do so.
74. In addition the local authority relied on the corroborative evidence of three school-friends of Y to add weight to Y’s evidence. All three gave oral evidence to the court. KK had said that when she and Y were about 13 or 14 Y asked KK if she could tell her something and that if she did so, KK was not to tell anyone else; KK had agreed to do so. Y then told her that her uncle had touched her and that this had happened a few times. Y had said to KK that she did not want to tell her grandmother because she was too scared.
75. MG was another school friend and she had given a statement to the police in 2014 in which she said that during their last year at school Y had told her that her uncle would come into her bedroom and “*touch her up*”. MG had asked Y why she had never told her grandparents to which Y responded, “*Because they wouldn't believe me*”. Some time after Y had told her this, MG said that she was with Y at her mother’s (MA) house when GM arrived with X and someone else who MG did not know. GM was angry and had said “*Why are you doing this? You're just ruining the family. You know he hasn't done anything to you*” GM had gone on to say “*Look what you're doing to A*”. MG said that Y was upset and crying. According to MG a few days later Y had said to her that “*she wasn't going through with it because of her cousin A*”; Y had been crying as she was telling her and said that she did not want to ruin A’s life or for him to grow up without a dad.
76. BP made a statement for the police, in which she had said that at the age of 13 or 14 years Y had regularly cried at school. Despite BP having asked her and asked her why Y had refused to tell her. Y would cry at school sometimes during the day and sometimes after school. BP said that she had known Y was always falling out with her

family but that she knew something was very wrong. BP remembered one occasion when she had asked Y what the matter was, Y had kept saying "*It's [FA]. It's [FA]*". That night they had gone back to BP's home because her mother was out and Y could talk. BP said that Y had difficulty saying anything but eventually had told her that FA was making her have sex with him and making her touch him; "*He does it when everybody is out. He makes excuses for us to be alone or waits until everyone is out*" BP said that Y was just crying and had said she did not know how long he had been doing it. He made excuses for doing it and BP said that Y had told her, for example, that if she had been cheeky at home he had said it was her punishment. BP told her she had to go to the police and tell her grandparents but Y would not do so. BP had presumed her grandparents would believe her and would have supported Y. After that BP had asked Y if she had told her grandparents but she had kept saying "no". There came a point when Y told her that her grandma did not believe her and had "*told her to stop making it up and to stop lying*". BP went on to say that she was still friendly with Y and that she (BP) had felt such relief when Y had finally gone to the police as she knew how much it had affected Y.

77. Having seen all three witnesses give oral evidence during which each, when challenged, maintained the evidence that they had given in their statements I have heard nothing that is capable of undermining the veracity of the evidence they have given. I do not think that it is likely that each or any have been motivated by friendship to enter into a conspiracy to prove the local authority's case. They have no reason to lie or to concoct evidence about what Y told them when they were younger. There is no evidence that they are motivated by antipathy towards FA or GM.
78. It is part of the case of FA, GM and GF that Y is motivated by her desire to make a claim for criminal injury compensation for false allegations of abuse against FA. In 2011 Y had received a sum in compensation after she was raped by Ali. This knowledge has fuelled the suggestion that her complaint against FA was and is financially motivated. While it was put to Y that the resurrection of the allegations in 2014 was financially motivated FA, GM and X have all accepted that she had not been motivated by money when she had first made the allegations in 2009. I accept the local authority's submissions that they had little option. Those complaints made by Y in 2009 were long before there was ever any suggestion that Y was aware of criminal injuries compensation. In addition Y had confided in school friends that she was suffering sexual abuse before the complaints were made to the police in 2009. In any case Y did not receive compensation monies until after Ali was convicted in 2011.
79. There is no evidence to support the assertion that Y was motivated financially in 2014 other than the words of the parties making that assertion. I note that this motivation was not pursued by counsel for FA in his closing submissions. Nor was it a notable feature of FA's oral evidence.
80. The local authority submitted that I can reject the suggestion that Y made false allegations in 2009 to avoid being returned to her grandparents' home. In 2009 FA was not living in the home of GM and GF by then and had not done so for some time. I can see no reason for Y to make false allegations against FA to avoid living with GM and GF when he was no longer there; in any case she returned to live with them later that year. By the time Y made the allegations against FA to the social worker, and then to the police, she was over 16 years old and could leave to live with her

mother or elsewhere if she wanted to. Moreover Y had previously confided in school friends about the sexual abuse that she was experiencing. Y had asked her friends to keep her confidence and her friends abided by her request which is incongruent with making false claims in order to be able to leave home. Her behaviour is more consistent with a victim of abuse victim who felt shame and embarrassment. The local authority submitted that the emergence of allegations by Y against FA in 2009 is consistent with her having reached an age and finding herself in a situation where she felt able to speak about her experiences, in circumstances where she was unable to previously.

81. The fact that allegations were made and retracted by Y is a matter to which I have given some careful consideration. It is the local authority's case that the retraction was as a result of pressure placed on Y and Z by their grandmother. There is evidence before this court that prior to 2009 both Y and Z had made some attempts to tell their grandmother of sexual abuse by FA. Y had described telling GM but her grandmother telling her to shut up. This is corroborated by what she told BP at the time. Y described Z trying to tell GM that FA had tried to do something. GM was described as having slapped Z on another occasion when she tried to tell her about FA. In her oral evidence GM denied either Y or Z had ever said anything to her. This conflicts with her statement to this court when she referred to Z having told her of abuse by FA, although she had added that Z then said she had made it up and "*I could never get to the bottom of what she was talking about*".
82. The fact that Y did not pursue the allegations in 2009 does not of itself cast doubt upon the veracity of what she had said in her interview and in her oral evidence. It has to be considered in the light of the evidence as a whole including the evidence concerning pressure put on Y (and Z) by their grandmother. The submission of the local authority that there are three particular events which, if accepted by the court, convey the pressure placed on Y to withdraw her allegations of sexual abuse against FA has some force. Each involved GM, the first in time was the visit to MA's home after Y's complaints in 2009; the second was Y's oral evidence at the Ali trial in 2011 and the third was the visit to the hospital after the birth of Y's child in April 2013. It is submitted that Y's oral evidence about these three events exposed GM's dishonesty and the willingness of other family members to support her in such dishonesty.
83. It is not disputed that GM went to MA's house when Y was there; the accounts given by Y and her friend MG are supported by MA. GM, her daughter SM and X gave evidence that although the visit took place it was before allegations were made about FA and it was to deliver a letter to Y about a college course. They all denied that MG was even present and say that nothing was said, at all, about FA or any complaints against him. If they are lying it is clear that all three of these witnesses, GM, SM and X have concocted evidence together to defend GM against any allegations that she put pressure on Y to retract her complaints of sexual abuse. It is submitted that their evidence that MG was not even present at the home and therefore the entirety of her account was made up is an illustration of the extent to which GM will go, assisted by members of the family to support her stance against her granddaughters.
84. MG gave oral evidence before me (as I have outlined above) and I found her to be a straightforward witness who give her evidence in a clear and dispassionate way. The account that she gave, and did not waver from could only have come from someone who was present at the time. Her description of GM was that she had arrived with X

and another person that she did not know; she went on to say that Y's grandmother was angry, but not shouting. MG told the police and repeated to the court what she had heard GM say to Y – *“Why are you doing this? You're just ruining the family. You know he hasn't done anything to you”*.

85. I have considered the evidence of MG which supports the evidence of Y in respect of this incident and I can conceive of no reason why this young woman who has no close connection with the family or reason to lie about her presence at MA's home at that time would tell her version of events to the police and then come to court to repeat them. She had little or nothing to gain by doing so and I accept her evidence.
86. The words used by GM then reflect her position now for she has shown no interest or concern for what Y may or may not have gone through; neither has GF. As far as GM was and is concerned the complaints made by Y were not to be believed and she has never given any consideration to why Y would make such allegations or how Y was affected by the situation. The same is true for Z. The words reflect the stance taken by GM from the outset and mirrored in her conduct during the hearing before me when she made her feelings plain by shaking her head and grimacing. GM has made it abundantly clear that as far as she is concerned, her granddaughter was and is telling lies and is "ruining the family". She has taken the side of FA regardless and has remained partial to him at all times.
87. MG's description of what happened that day from her vantage point is instructive for her observations are of a matriarch who will try to manipulate and control her family by intimidation (for why else was it necessary to bring two other members of the family both older than Y with her) and emotional manipulation by inducing feelings of guilt (the use of a baby to stop Y complaining). Once again the total absence of care or concern for Y is striking. In the middle of what turned into a row between GM and her daughter MA was a vulnerable and distressed teenager, for whom GM was responsible, who stood there crying. MA's role in this scene had little to recommend it; she used the opportunity to "have a go" at her mother for what she saw as her shortcomings. It was left to MG to provide such comfort as she could.
88. A few days later Y told MG that she would not pursue her complaints because of A. The police had wanted to interview Y again following her interview on 21st July 2009 but Y did not go to be interviewed again. FA, GM and GF have said this is because Y was lying. She was at the time a vulnerable young person, who did not have any family support and in those circumstances it would have been very difficult to press on with her complaints. She was susceptible to her grandmother's threats, such as those witnessed by MG. Her grandmother had provided Y and her sisters with the only semblance of a stable and secure home; her mother had never done so and was incapable of doing so (it is to be noted that by October 2009 Y was once again living with her grandparents following the rape at her mother's home). When considering the wider context of Y withdrawing her complaints in 2009 the effect of GM's pressure on her to do so, coupled with her disbelief of anything Y said about FA was more likely than not to have resulted in the suppression of the allegations.
89. As to the interview on 21st July 2009 the summary filed with the court is not a full transcript of the interview which took place and I keep in mind that any submission about inconsistencies in Y's account between what was noted as what she said in 2009 and what was seen on DVD 2014 must be approached with caution just as I must any

submissions of substantial parallels between her allegations in 2009 and 2014. However it is noteworthy that in 2009 Y told the police that FA had tried to get her to touch his penis, he had sexually assaulted her in the night when her sisters were asleep in the same bedroom and he had sexually abused her on holiday when concealed by umbrellas. It was noted that she had said FA had "*done stuff*" in the living room with the curtains shut, he had sexually assaulted her at her aunt's home and he had asked her to suck his penis. All of this is consistent with what she told the police in 2014.

90. In January 2009 Y, who was 15 at the time, was raped by an acquaintance of her mother Fashad Aziz Ali on 17th January 2009 at her mother's home. It is not necessary to go into the background or detail of all the events surrounding that serious sexual assault. MA emerges with little or no credit as a woman who was unable to protect her children from sexual predation, who allowed them to consort with older men at her home and to drink and smoke while they were with her. It was a home which offered no security, safety or consistency of care. Events have proved it was a dangerous environment for X, Y and Z. Y later gave evidence at the criminal trial of Ali in 2011 which resulted in his conviction for one offence of rape; he was sentenced at Bradford Crown Court on 14th October 2011 to a term of 8 year's imprisonment.
91. In her evidence before the court Y was asked about the allegations she had made about her uncle. She denied having been assaulted by him. This denial is relied on as evidence that she is an unreliable witness. The papers from the criminal proceedings have been disclosed and form part of the bundle in these proceedings. The circumstances surrounding the denial are, therefore, pertinent to any consideration of the strength of this submission. In a Facebook message sent on 18th December 2013 to FA Y referred to the oral evidence which she had given at the Ali trial; "*...I lied in court wen they brought it up not for Yu for grandma I should of told them but I didn't y. Y did u do it I need t no its messing my life up uv messed my life up..!!*" .
92. Y's message was to the effect that she had lied when asked if FA had sexually abused her when she had said that he had not. The import is that she lied for her grandmother and not for him. The local authority have said that GM had told Y to deny the allegations at the Ali trial. Y was cross-examined about this before me; she said that she was 'embarrassed' when she had been asked questions about FA and said what she did to get out of court. Y told me that GM had attended the criminal trial and had told her to deny that FA had abused her. In her oral evidence X told me that Y had spoken to her after she had finished her evidence in the Ali trial and had told X that she had been and telling her she had been asked questions about FA. X said that Y had been upset when telling her about it.
93. If GM did tell Y to deny abuse by FA during the Ali trial then that would be in keeping with her behaviour at MA's home as observed by MG and consistent with her determination to protect her son FA. GM told me that despite attending court with Y during the Ali trial she did not know what was happening with the evidence in court or what Y was to be asked about. She denied discussing it with FA at any time. I find this latter point particularly hard to accept as the truth for FA had told the police during his interview on 24th January 2014:

"... I just know that my mum had come back from Court and said that she's been questioned about me raping her and she said no ..."

94. GM and her daughter SM who gave oral evidence to this court have contradicted each other's evidence. SM told me that she said that GM *had* told her about what Y had said at the Ali trial (GM said that she had not spoken about it); she went on to say they (the family) would all have been pleased about this; why wouldn't they all be pleased that Y's allegation against FA had disappeared. As is accepted by his own counsel FA is "the blue-eyed boy", the favourite (and so, it is submitted the obvious receptacle for harbouring resentment). In her evidence when providing the court with a motive for Y making up allegations about FA GM related a conversation with her daughter SM when SM had told her that FA was her "little boy" and that hurting him was a way of hurting her (GM). This was the reason why allegations had been made against her son. When SM was asked if such a conversation had ever taken place she denied that it had.
95. Those contradictions in evidence and the previous conduct of GM point towards her having put pressure on Y to deny abuse by FA during the Ali trial. I do not accept it as likely that GM did not consider and discuss the possibility of the allegations against FA resurfacing in the criminal court; Y had been interviewed by the police in July 2009. There is evidence from SM and FA that they had spoken about it. It is more likely than not that GM would have wanted to make sure her blue-eyed boy was safe from further investigation or allegations.
96. During the criminal investigations Y was medically examined and there was physical evidence of previous sexual activity. Y explained this by saying that she had had sex with a male friend. In her evidence to this court she said that she regretted saying this as he was gay and they had not had sex. This has been relied on as Y having said that she had non-consensual sex with this person. Three people including the young man in question came to court to give evidence on behalf of FA. Counsel for FA seeks to rely on this evidence as proof that Y has previously made serious allegations of sexual assault which were not true. This young man when he came to give evidence told me that it was because he had been led to believe that he was being accused in court of sexually assaulting Y and that that was the reason he had, reluctantly, come to give evidence. If that was the case (and it seems likely that it was as he had previously not agreed to come to court) he had been seriously misled for there was no such allegation before the court; I consider that he had been manipulated into coming to give evidence.
97. The two other witnesses were friends of FA. All three accepted that they had no direct evidence that Y had claimed to have been sexually assaulted by the young man in question. These three, GM, GF and FA all said that they had not been told by Y that she had been assaulted by the young man, they all said that they had heard from other people who they could not identify, that she had been saying this. On the balance of probabilities and on this evidence I cannot find that Y had "made a false and extremely serious allegation against an innocent person" as urged by Mr Tyler QC on behalf of FA.
98. In April 2013 when Y's daughter was born it is not disputed that Y was visited in hospital by GM, GF and X. In her police interview in 2014 and in her oral evidence Y gave a consistent account of their visit to hospital shortly after the birth. All three visitors agreed that GF had left the room at some point during the visit. What happened next, however, involves widely divergent accounts. GM and X denied in evidence that there was any discussion at all about FA or Y's allegation about him

during the visit. Y gave a vivid account of sitting up in the hospital bed a matter of hours after having given birth. Y described GM putting her face in Y's face when she spoke to her. She demonstrated this while giving evidence and one had the clear impression of the intimidation inherent in GM's behaviour. She said that when GM spoke to her she moved, positioning her face very close to Y's. GM then made reference to Facebook messages sent by Y's brother and asked why Y was messaging her brother FA. In her police interview Y said that GM continued: "*she says well I'm telling you now she says you drop it it's in the past you leave it where it is...that was it and then she just went.*" In cross examination of Y it was put that GM had not made any reference to the allegations.

99. GM then repeated this denial in her oral evidence. I note that it was a feature of GM's oral evidence to repeatedly, and somewhat belligerently declare herself to be telling the truth and to point out that that she had sworn on the bible. Unfortunately her evidence was contradicted by her own statement to the police which read: "*Then in March 2013 I started to get messages on Facebook from[X's full brother, Y's half-brother]. He was saying things like "I can't believe what you've done" and "You've let it happen." He was referring to the allegations made by Y...At this time I wasn't really in touch with Y but out of the blue she invited me and X to see her new baby. I went round to see her and the baby in April. I asked her what the messages from [her brother] were about. Y swore to me she hadn't told him anything and she didn't know what he was on about. I knew she was lying but I just left it.*"
100. GM's oral evidence was inconsistent and contradictory she went from denying any discussion at all with Y about Facebook messages to giving a new account which was not put to Y and which the court had not previously heard. GM said that she had spoken to Y about Facebook messages that Y's brother had sent denying that he was anything like his sister Z. Her oral evidence and the change in the accounts she gave is consistent with an attempt to obfuscate and to mask what actually happened.
101. I find on balance that it is more likely than not that she had, as before, gone to the hospital in the company of others to try to intimidate Y and to attempt to pressurise her into dropping any complaints about FA. It is regrettable that X, again as she did in her evidence about the visit to MA's home in 2009, chose to support the obviously untruthful account given by her grandmother. GM chose to go to the hospital within hours of Y giving birth when she was vulnerable and alone; that choice must have been a deliberate attempt to increase the pressure she could put on Y.
102. I must make clear that while I have concluded that GM has, on the balance of probabilities, put pressure on Y to desist in her complaints about FA sexually abusing her that does not mean that I can conclude the abuse took place. I return to the evidence of Y.
103. The complaints resurfaced some months after the visit to the hospital. GM had made it clear once again that her sole concern was her son. Her actions show that she cared little or nothing for Y and had no interest in what she may be going through. Y was older by this time and living independently from her grandparents. The Facebook messages she sent shed some light on Y's motivation. In her Facebook message to FA on 18th December 2013 Y repeatedly refers to his having messed up her life and that he had not even said he was sorry or why he did it to her; it refers to her lying in court not for him "*but for grandma*". The same day Y sent a message to GM and said that

she was sorry to bring it back up "*but [you know] how messed up my head is after everything FA did [to] me*". There followed several messages from Y which said she "*wanted answers*".

104. The fact that Y was seeking answers is supported by what she told the police in her 2014 interview when talking about sending the Facebook message to her grandmother, she said, "*I first said I'm sorry to bring it back up I says but its playing on my mind and everything and its making me go right funny I says it's always on me mind I says why why didn't you ya know why did he do it and things why has he never said sorry why dint you ring the police ... All I want to know is why*". This account by Y discloses her motivation and does not fit with a desire to seek revenge or benefit financially and I do not find any evidence in support of the latter as a reason for Y giving evidence in these proceedings which are brought by the local authority in respect of five children and not by Y to seek reparation.
105. The description of the emotional effects of sexual abuse given by Y to the police in her 2014 interview are compelling; "*I felt sick...like felt horrible in myself felt I was blaming myself all the time and... I was trying a think of what I could do to stop it like couldn't think of anything and I felt I thought of telling me grandma..and when he was saying I'd get into trouble I was too scared so I didn't...I didn't tell no one...just felt really embarrassed...disgusted*" Towards the end of the interview Y said when asked about the impact on her; "*bad really ... just can't sleep most nights ... sometimes I feel right worthless ... and feel like I don't wanna be here ... I feel like embarrassed by it all as well ... like down*".
106. I found Y to be a quietly impressive witness in her oral evidence. She was consistent and did not exaggerate, add to or embroider her evidence. When asked about an incident in 2007 when she said FA had tried to touch her (following her sister's car accident) she was adamant that it had happened but said, "*Nothing happened but he tried.*" I have referred to other aspects of her evidence already, and will return to it when I reach my conclusions.
107. Z's evidence. It is clear that GM and GF found Z a difficult child, indeed they have said as much. It is equally clear that they treated her as such; they have said so. By the time Ms Begum, the social worker, became involved with the family the pattern of Z's behaviour and her grandparents' responses to it was established. On 18th March 2009 social services records show that GM was reported to have admitted to Suna Begum that she had whipped Z with a belt. The record read "*Grandma also disclosed that when her husband went to Scotland in February grandma was really fed up with Z's behaviour that she whipped her with a belt. Z was screaming in pain. Grandma later realised what she did was wrong. I informed grandma this was not acceptable and that grandma should never do this again. Grandma also stated that a couple of weeks ago Z was itching her head and stated that she may have head lice. Grandma got really fed up and cut most of her hair off. Throughout my visit grandma made negative comments of Z*". Ms Begum told me in oral evidence that Z's hair looked like it had been hacked off.
108. At the beginning of April 2009 Z made allegations that she was abused by her mother and grandfather. Z was spoken to by the social worker and it was clear that she was telling the truth referring to any suggestion that she had lied as "*mad*". Z continued to live with her grandparents, subject to some continuing respite care. Although there is

a record sheet entry from 8th May 2009 that indicated that the police were to speak to the GM regarding her admission of hitting Z with a belt nothing further was done. On 5th June 2009 MA contacted social services to say that Z was refusing to go home to the grandparents and had said that her grandfather hit her with his hand and a belt and she was frightened to go back to live there. I pause here to reflect that MA found Z difficult to deal with and it is not disputed that she would on occasion refuse to have her at a weekend when she, Z and Y were to stay with their mother. Any suggestion that MA is party to Z fabricating stories about GM and GF is undermined by the fact that MA did not want Z to stay with her. It also added to the unfavoured status of Z within her family.

109. The social work record sheet 5th June 2009 in respect of Z's complaints about her treatment read "*Slap me anywhere. Sometimes soft and sometimes it's hard. Last time grandfather hit me was a couple of days before Y left home. My grandmother used to hit me but now leaves it to my grandfather. Most of the times he slaps me. He hits me with a belt a few times. Anywhere he could get me because I hide under the covers*". A note of a telephone call to Z recorded that Z was asked if she was telling the truth about her grandfather hitting her and that Z had replied that she was telling the truth as she was "*sick of being treated like this*".
110. Z was interviewed by the police on 9th June 2009. The DVD of that interview was played in court. In that interview Z asked to be put in a safe place because "*my grandma and granddad always hit me with their hands or with a belt*". Z said that if she did the slightest thing wrong she would get a slap but if she was a bit out of turn then her grandmother hit her with a belt "*and they've just carried on since then*". Z told the police of a time when GF was not there, she said on holiday, when her grandmother had whacked her; "*so my grandma went to hit me but I was screaming not to hit me so she got the belt and just whacked me with it...and like it kinda stung so I was upstairs in my bedroom all day crying*". Z said that she had tried to hide under the covers of the bed but GM pulled off the covers and whacked her with the belt. She said it was her grandfather's belt, and that she was hit on the leg once. Z said that Y had run away a few weeks before she was interviewed and that the last time GF had slapped her was two or three days before Y left. When Z was asked why she had run away herself she said "*when they hit me and blame say it's my fault they're dying and all that*".
111. Z went on to describe her grandparents shouting at her all the time, hitting her and saying that she either had to go out or stay upstairs. She said that she was not allowed to eat downstairs with the family. Z said that she remembered that her grandmother had hit her a few times, but not as much as her grandfather. Z described an occasion when GF had pulled her off the top bunk bed by her hair and that he had slapped her around the face. Z was asked how often she had been hit to which she had replied more than once a month. Z said that her grandmother had hit her only once with a belt, but that "*it were really really, really hard*". Z said that she thought her grandfather had used a belt once or twice. Despite this interview neither grandparents was interviewed by the police who took no further action, neither did the local authority as no proceedings was issued, indeed by September 2009 Z had returned to her grandparent's care after retracting her complaints.
112. GM denied that she struck Z with a belt but has had to accept there was an occasion when she slapped the belt on a bed given the account she gave the social worker at the

time. In her statement dated 16th April 2015 filed in these proceedings she had said that she was frustrated with Z who was "*playing up excessively and I did slap the belt on the bed, but this was in frustration and there was certainly no use of the belt on Z directly and she is stating this against me now*". During their assessment as long term carers of K and L, the issue of physical chastisement was discussed with GM and GF. GM accepted that she had used a belt to scare the children, however only in the form of hitting the bed with the belt; she denied harming the children with a belt. GF had queried what was wrong with giving children "a good smack".

113. Z had discussed about her childhood experiences with Rachel Jennings, the social worker undertaking a recent pre birth assessment with her. During this assessment Z had described her childhood "*horrible*". She said that her grandparents "*beat me up*" Z described an occasion when she had been wrongly blamed for the theft of money from her grandparents' bedroom and was beaten up which she described as having been "*punched, kicked and hit with a belt*".
114. The evidence of the social worker about what GM told her at the time (in 2009) contradicts what GM has said in court and her case that she had just hit the bed with the belt. The social work record entry read that at the time GM had admitted to striking Z with the belt; it records GM as saying that "*Z was screaming in pain.*" It is very unlikely that the record would have included the details of Z actually being hit if GM had said she had hit the bed only. Z's account to the police on 9th June 2009 (set out above) is consistent with what GM is recorded as having told the social worker less than two months previously. Z recalled this event in her oral evidence; when asked about it she said "*I just cried*". Z was asked how it had felt and said that she remembered it "*stinging*". Z did not attempt to embroider her account she gave simple and short responses. She did not exaggerate when she was asked whether this was the only time when GM had hit her with a belt and she said it was the only time she could remember.
115. In an attempt to bolster GM's evidence SM said in her oral evidence that she had a phone call from GM within seconds of the incident having occurred. SM said that she could hear Z screaming and swearing in the background. None of this was put to Z and the first time that the court heard of it was when SM gave evidence. SM had no sympathy for Z and clearly blamed her for anything that had taken place. SM's evidence was almost exactly the same as GM's. I was not impressed by SM as a witness and found her to be unconvincing and as belligerent in her manner as her mother was when she gave evidence. GF said that GM had told him that she had used the belt to hit the bed. I shall return to his evidence later.
116. Z was clear that her grandfather had pulled her off the bed and hit her. She was challenged about the number of times that she had said GF hit her and asked whether he had hit her once or twice, she replied "*I know [GF]hit me more than once or twice but because I could not remember the occasions I said once or twice*". That is the response of a witness who would rather understate than exaggerate or add to her evidence.
117. GF's denials regarding hitting Z were undermined both by his complete lack of empathy with Z and the fact that he made it clear that he believed such methods of discipline of children were appropriate. GF said in his oral evidence to this court "*to me there is nothing wrong with having a child over the knee and giving them a good*

hiding." Previously he had queried what was wrong with giving children "a good smack". There would, from his point of view, be nothing wrong with hitting Z. He betrayed his attitude to Z when giving evidence describing her as "evil". I have little, if any, doubt that Z was treated very differently by them. I accept the evidence of the social worker that Z parenting by her grandparents lacked any warmth and that she was always spoken of in a negative manner and in derogatory terms; I have observed them in court and heard their unkind, unsympathetic and uncaring attitude toward Z.

118. In the DVD of Z's interview in 2009 I saw a feisty, bright and resilient child. She appeared candid and her answers to questions were given without prevarication or any sign that she was dissembling. I found the change in Z by the time she was interviewed in 2014 almost heart-breaking. The palpably vulnerable young woman in the DVD appeared defeated, diffident and struggled with her answers. Z was interviewed by the police on 8th October 2014. Her account of sexual abuse to the police was, if anything, understated; there was nothing in her manner that suggested that she had set out to mislead or to invent quite the contrary. For example when asked if anything like that had happened before she said "*he'd touched me before but never done that and that's all I can remember honestly it is*".
119. Z had difficulty in remembering things both in interview and in her oral evidence; however, at no stage did she try to make up a response when she could not remember. Z recalled an incident similar to that described by Y when they were on holiday to Ibiza and said that FA had put the umbrellas up and made a den and did something to her in there, but she could not recall what it was she could only remember crying, that something happened and that it hurt "*down there*". In interview Z had given a description of an occasion when FA forced her to carry out oral sex. Z said that she had gone upstairs to his bedroom to ask for a drink. When she had asked for a drink and he said "*suck ma dick*". She had not understood but he had "*just pulled his pants down and forced me to do it.*" He had grabbed her hair and was "*pulling my head back and forth*". After the assault was over he gave her a bottle of pop that he kept in his room. Z says that she remembered feeling sick. This detail about the drink of pop links in with how the social worker had observed Z being treated in the home. Ms Begum said that Z was not allowed to get a drink without first asking her grandmother's permission. It is likely that Z would have gone to ask FA for a drink; he would not have been kept short of pop. Z's demeanour on the DVD is of a young woman distressed by what she is recalling. Z shut her eyes and her voice broke and strained as she spoke. When Z described him pulling her head back and forth, holding her hair, she visibly winces; it was a tangible piece of evidence. Z remained distressed as she continued the interview.
120. In addition to the matters set out above during the course of that DVD interview Z told the police that the abuse occurred when her grandparents went out shopping or "*on a night-time*" or "*sometimes Y would be playing in room on like computer with him and I think he did stuff to her then*". Z said that FA would "*make us suck him off if we wanted a drink*" Z could not remember when the abuse started but said she would have been "*younger than ten*". Z said that as she got older she had tried to tell her grandmother but "*she never listened ever*". Z had told her GM that he had been touching her and her grandmother just said she was confused and young and "*I dint know what I were on about*" Z told the police that was "*when I started harming myself cos no one else would listen to me*".

121. Z said that the abuse had happened quite a lot of times but she could remember two occasions specifically, when he had forced her to perform fellatio when she asked for a drink and the occasion on holiday in Ibiza. Before the occasion when FA had forced Z to perform fellatio he had touched her if she was upstairs or walking to the toilet, she said *"Everywhere he'd just try touching my arse if I were walking past everything"*. FA had told Z not to tell anyone because no one would ever believe her. She said that she thought Y had been abused because *"she used to cry on a night time and I'd ask her what's wrong and she just wunt tell me she'd just say FA I had an instinct cos obviously it were happening to me"*. Z said that she had hoped that his abuse of her would protect her sister and that she thought X had also been abused but would not tell anyone.
122. Z described her memory problems which were the result of a serious assault by an ex partner, when she suffered a head injury; she said *"Before my accident I could remember a lot more I knew he'd done a lot more stuff to me but I can't remember that now"*. Z told the police she had not wanted to hurt her grandparents and referred to her grandfather dying. Z was asked why she said that the abuse did not happen in her previous police statement she said *"cos that's when I was talking to my grandma and I dint want to hurt my grandma...because she kept crying every time I said I were gonna do it she kept crying...she just kept saying Z it dint happen don't lie please don't lie granddad will die and it just hurt me"*.
123. This reference to one or other of the grandparents dying as a result of allegations being made is a feature of the evidence which has been repeated throughout this case and has no evidential foundation.
124. At the end of the interview Z was alone in the video suite when the police officer had left the room to speak to her colleague. Z was visibly in great distress crying quietly and crumpled in her chair. I have no doubt that her distress was genuine. When FA was asked during his oral evidence to account for her distress he said that he did not wish to comment. I told him that he had to respond and he then said that he did not believe she was crying. FA told the court that he believed that the way both Y and Z appeared on the DVD was all an act. GM, GF and their own sister X denied that there was any basis for the distress shown by Y and Z. It was all an act by Z.
125. Although she clearly had difficulty in remembering Z did not try to add to or embroider her oral evidence any more than she had done when interviewed by the police. She was always cautious in her approach and limited her evidence to what she was able to recall. Z did not try to bolster Y's accounts of sexual abuse by FA and told the court that she could not remember seeing FA abusing Y. She said that what she did remember was that she heard Y crying herself to sleep at night. Y would not tell Z what was wrong but just said "FA". This account accords with the evidence of Y's friend who described Y crying at school.
126. Z is said to have lied to support her sister's false allegations or because she is on bad terms with her grandparents. There is evidence that Z was torn about giving evidence and losing her grandparents; on 23rd December 2013 Z sent a message to Y on Facebook: *"Y please I can't loose grandma don't do it ino it's like f...ing with your head he did it to me as well but u e just got to get on with it ... Y I don't wanna loose [lose] my grandma x"*

127. It is congruent with the fear of losing her grandmother that Z gave a police statement in March 2014 denying any sexual abuse had taken place. In cross-examination by counsel for FA Z was taken to her police statement in which she had said that FA had never come into her bedroom. Z replied that she had said that then as she was in touch with GM and she had not wanted her grandmother to be hurt or angry with her. Z told counsel for FA that she had told the police about the abuse "*because it messed me head up and made me person I was before I have my daughter... lost daughter. Thought that talking to someone about it I can move on with my life*". Z denied the suggestion that she was lying and said "*I am telling the truth because it happened*". Later she said "*I have come so I can get it out of my head and move on with my life and concentrate on my son and not dwell on the past*"
128. Z told the court that GM had dismissed her when she had tried to tell her about being abused when she was still a child. She said that she had told GM that FA was touching her but that GM had said that Z was a liar and that she was confused.
129. Police interview of FA. FA was first interviewed on 24th January 2014 He said he had received messages, approximately one year earlier, from the brother of Y and Z making threats and alleging that he had raped his niece. Then about one month before the interview he received a Facebook message from Y saying that he had raped her. His mother GM told him to block Y on Facebook. He claimed that he wanted to get in touch with the police "*but mum said not to that she'd speak to her and see what she were on about but then next thing I knew you were at the door ...*" He was aware of and brought up the questions asked of Y during the Ali trial. He said that the abuse could not have taken place because his nieces were not allowed in his bedroom; because when he was not in his bedroom his parents were always there; because that he never babysat for his nieces; and, because he was always out with his friends or playing sports either that or he was out as he would "*stop at my friends houses and I were at work and at college*". FA said he was only in the girls' bedroom when his parents were there. He denied that either Y or Z had been in his bedroom whilst he was there and furthermore they would never be left alone in the house without his parents.
130. FA said that he always got on well with his nieces but then said he distanced himself from Y and Z because Z had ADHD and Y was always stealing from his mother; he described Y as being "sly". Clearly on this account he did not get on well with his nieces. When asked by the officer conducting the interview if he could think of any reason that Y had made the allegations FA replied that he could think of no reason except possible jealousy of his close relationship with X. FA denied that he had masturbated himself in front of his nieces and indecently assaulted them; he said "*I've never never touched her I've never played with myself when the kids was well ever really I didn't need when I were younger I never even thought about masturbating or anything so*".
131. FA denied taking any indecent photographs of Y, he did not have a camcorder but had a normal Nokia phone. He denied that he had forced Y to perform fellatio as he had never had oral sex from any woman or girl. FA denied that he had raped Y saying he was roughly 20 years of age before he lost his virginity. He denied abusing Y or Z by the swimming pool when on holiday. The girls were not allowed to go to the swimming pool by themselves. They had to be with his parents.

132. FA was interviewed again on 10th October 2014 following Z's police interview. FA told the police when he was asked whether he would accept that there might have been a time when he would have been on his own with Y and Z that he had not been "...not for a period of time anyway maybe like a few seconds or summat ...". This time he said that whenever his mother (GM) went out the girls went with her. He was never asked to babysit the girls and his mother GM very rarely went out. He could not think of any reason why Y would make the allegations except that she had fallen out with his mother, possibly about a wedding dress.
133. In response to Z's allegations he then said his parents had not gone out shopping on their own and that his mother would stay at home when his father went out. FA said, he would hardly ever be in the house on an evening (from the age of 16) as he would either be working or with friends. He never had the opportunity to sexually abuse the girls as he was never alone with them. FA described Y and Z as "*always lying*", blaming each other.

FA's case and evidence

134. I have set out the initial response of FA in his police interviews above. In addition he has filed a statement in these proceedings and has called three witnesses whose evidence I have referred to above. FA denies all the allegations; it is his case that Y and Z are liars and that in any case he never had any opportunity to abuse them as they have claimed. In his statement and for the first time (he did not do so in his two police interviews) he suggests that Y and Z are motivated by getting back at his parents and raises the likelihood of a financial motive on the part of Y to get compensation. He said that prior to Y sending him a message on Facebook referring to allegations of sexual abuse she had been at ease in his company.
135. I was able to observe FA when he gave evidence and during the hearing. He came across as impassive and calm; any emotion that he showed was reserved for his own feelings of self-pity. FA was unable or unwilling to consider or show any insight into the effect of the trial and giving evidence on Y and Z. He betrayed no understanding, if he had any, of the effect on Y of having to answer questions about the Ali trial; indeed he, like the others dismissed her distress as he said she was putting it on. FA was unable to tell the court what his reaction had been to (what on his case would be) the shocking allegations) made by Y; he said he could not remember. Nor could he remember the effect that Y's denial of any abuse had had on him after she had given evidence in the Ali trial. This apparent lack of recall of what would, on his case, be strong reactions undermined his credibility.
136. His case that he did not spend any time alone with his nieces is not credible not least because he accepts that he spent time with X. Nor can his claim that he was seldom at home be sustained, while I accept that he may have spent more time away from home when he was older and prior to leaving home that period coincides with when the abuse, according to Y, had ceased. In any case he would have been at home for meals, to sleep and to go to his room to play on his computer or to do his school work. There is no reason why his parents would not go out leaving all the children at home whether it was to shop, take one or another child to appointments, take the dogs out or any other of a myriad of reasons why parents have to leave even for a short time. Sexual abuse is a furtive activity and each act complained of would have been over in a matter of minutes.

137. I have read his counsel's submissions with care. I accept that the evidence of MA has to be approached with caution. For that reason I do not place any weight on the evidence given by MA unless it is supported by the evidence of others. I will deal with the retraction of the allegations further below. In respect of the photographs alleged to have been taken by FA of Y's genital area I do not accept that the evidence produced by FA of the Nokia –93 is an end to any consideration of Y's evidence. There is no expert evidence regarding either mobile phone photography or computer games and the allegations made about both are therefore a matter of the credibility or otherwise of the witnesses in question.
138. The evidence of FA is closely tied to that of GM and GF and so I turn to their evidence.

GM's and GF's case and evidence

139. I have set out some of the history of this family already in this judgment. GM and GF have five children. The eldest, a son, is in prison. The next in age is SS. She has not been in contact with her parents for 12 years and is recorded as telling assessors (the assessment dated February 2015 was a BAAF Family and Friends assessment of GM and GF carried out in respect of K and L) that she fell out with GM over her mistreatment of Y and Z and the way that they favoured X. She is recorded as saying that she believes that the sexual abuse by FA had taken place. She is also recorded as saying that she knew her father (GF) had hit Y and Z as she had heard them screaming when he was upstairs with them.
140. Their third child is MA, the mother of Y and Z, who does not have contact with her parents. She has had a troubled existence and is clearly on bad terms with her parents and with SM. She has described her childhood as including violence and physical abuse at the hands of both GM and GF, and of her sister SM being favoured by her parents. Her own children were removed from her care. I saw her give evidence and it was plain that she is, possibly with justification, bitter and resentful about her parents and the role that they played in her life.
141. SM is the fourth child of GM and GF. She is recorded (in the assessment of her parents) as saying that she and her sisters fell out about 18 years ago over some money. She now only has a close relationship with her younger brother FA. She told the assessors during her viability assessment that she had a close relationship with her parents and would do anything for them. SM came to court to give evidence to support her parents; I have already referred to certain aspects of her evidence. As a witness she was combative and argumentative and she was unmistakably partial in her oral evidence; as a result I could not rely on what she said.
142. SM said that the alleged abuse of Y by FA could not have happened at her house as Y claimed because there were no bunk beds; however she accepted that there were bunk beds in that room and said they arrived in February after the alleged assault in December. SM said nothing could have happened because she knew everything that happened in her house and that she had a memory of that night "*because I remember everything*". In her statement she had said "*we did not have bunk beds*" without qualification. She had said in her statement "*None of the girls were sleeping on the floor*" but then turned up at court with a photo of a corner of the room with the corner of one bed in it. The photo was of her daughter sleeping on the floor and SM said that

it had been taken that night. Apart from the fact that the picture conflicted with her statement there was also no evidence to support her assertion as to when it was taken and it was not shown to Y or put to her in evidence. No one remembers everything and I do not accept the evidence of SM.

143. FA is the fifth and youngest child of GM, there is some doubt as to the identity of his father, but GF has always acted as a father to him. FA told the BAAF assessors that his parents were “good parents” and that he could wrap his father round his little finger. There is no dispute that he was and remains the favoured offspring. He had nothing negative to say about any aspects of his parents parenting. I have little doubt that GM and GF would want to protect him from any complaints made against him. This is a dysfunctional and fractured family by their own account.
144. GM has always made it plain that she does not believe her granddaughters and all her actions are based on this belief. She has never, at any stage, approached the complaints with anything other than outright rejection; this rejection has extended to Y and Z themselves. When she provided a statement to the police in 2014 after Y repeated her complaints she said in terms *“I just do not believe it is true”*. It was she who first expressed the view that Y had made the allegations for money because she had previously received compensation. Her concern was always only for FA as said to the police *“his reputation is ruined and everyone is suffering”*.
145. In her statements to this court GM, at first, was less vociferous and said that that she had been sceptical about the reasons why Y and Z had made the allegations and that she was prepared to keep an open mind for the protection of K and L. This position was short lived and was not reflected in her oral evidence or in the way her case was conducted on her behalf in court. GM denies the complaints made about her and her son. In her second statement she said that when Y made allegations of sexual abuse in 2009 she was not aware of any sexual abuse in her home or anywhere else. She said she was told by a social worker about the allegations and asked FA if he had done anything to Y and he denied it. GM said that Y had then told her it had not happened and she had said it so she did not have to come home.
146. In her oral evidence GM maintained that Y and X were never allowed into FA’s room, that he kept it locked and that he was never, at any time left alone with the girls. She accepted however that X went into his room to play computer games. She then said that the computer games were kept downstairs and that FA had an X-box in his bedroom only latterly, coinciding with the time by which Y said the abuse had ceased. Before that FA had played computer games downstairs. Although GM said in her 2nd statement that she rarely left the house she accepted that FA had a computer in his room and made no mention of computer games being played only downstairs. Similarly GM claimed in her oral evidence that the girls were not allowed to be alone with FA, indeed she was quite adamant about this although, again it was not in her written evidence. She could give no reason why FA was not permitted to be alone with the girls until when pressed she said that she had been abused herself as a child. There is not a mention of any of this until she gave oral evidence.
147. GM was dismissive of her granddaughters’ complaints and at one point she said scornfully and contumelious manner *“that is not abuse”*. As with FA it was her evidence that the distress shown by Y and Z was all an act. She went as far as to say she was disgusted by Z. When asked what she had thought about the distress shown

by Z when left on her own at the end of the police interview her response was Z was “*not putting on a very good act, she can do a lot better than that.*” GM’s oral evidence was characterised by such dismissory words and there was not one scintilla of sympathy, understanding or even residual affection for two young women for whom she had chosen to be responsible while they grew up. Yet GM denies that she favoured X (who alone was allowed in FA’s room) and that Y and, even more so Z were treated much less favourably. Based on GM’s own evidence I have no difficulty in accepting instead the contrary evidence of the social worker Ms Begum that she had not seen either grandparent show any affection towards Y and Z and that Z, in particular, was always spoken about in harsh and negative terms.

148. While I accept that it is difficult to bring up children with ADHD (a diagnosis which has not been confirmed) or behavioural problems it is necessary to consider the genesis of those behavioural difficulties. I note that the report of Professor Mortimer (on which counsel for FA seeks to rely) says about Z having diagnosed her as suffering a mix of antisocial and borderline personality disorder reads as follows (internal page 24):

“Personality disorder of this nature and degree is inevitably accompanied by a most unpromising genetic background alongside a history of serious abuse, neglect or adversity in childhood, and [Z] is no exception. These factors are aetiological. It is highly likely that members of her family themselves suffer personality dysfunction. Her mother, sister and uncle like [Z] are all involved with Social Care in respect of their children. [Z]’s grandparents may, given her description of them, subscribe to personality dysfunction furthermore. In addition, [Z]’s mother is said to abuse alcohol and be depressed, her sister abuses alcohol and her brother abuses alcohol and drugs. It is of course very difficult to disentangle genetic effects from those of poor parenting. Again, [Z] endured a quite appalling childhood in most respects, and it is difficult to imagine how any young person would emerge with their personality unscathed. An unrealistic degree of robustness and resilience would be required to escape the consequences of such an upbringing. Neither did she benefit from protective factors, such as an unusual degree of intelligence, a particular talent, or positive support from an adult outside the family. As [Z] has indicated regrettably services failed to protect her, she was abused by her parents and grandparents throughout. I do tend to accept [Z]’s account of what happened given the nature and degree of personality disorder. Apart from physical and emotional abuse, [Z] also suffered sexual abuse and no one protected her from this. Regarding [Z]’s father, he played no part in her early life, and when she did go to him for help he suggested an incestuous relationship. There seems to have been no one who protected or cared for [Z] during her childhood as they should have done and I reiterate it is difficult to understand how any young person could have survived this. [Z]’s genetic background and her childhood adversity are, I would emphasise to her, not her fault.”

149. Both GM and GF failed to reveal the slightest sympathy or concern for their granddaughters, indeed they were both angered by them and their anger was evident when they gave oral evidence. GF instead of showing any concern revealed the depth of his contempt for Y by declaring that he did not believe that Y had been raped at all

and that she had made up the allegation of rape against Ali for financial reasons. This, then, is his view of his granddaughter, a 15 year old victim of rape.

150. GF had, as I have already said called out while Y was giving her evidence. As a result I had cause to warn all parties present in court that any further outburst would not be tolerated. He told me in evidence that he had felt that it was unfair to single him out. He said to me *“She might have needed comforting but I weren’t going to do it...I cannot show any love towards her with all this going on...wouldn’t care if I never saw her again.”* In this way he betrayed his concern only for himself, his wife and FA and his total disregard for the effect he had on Y. Indeed it is more likely than not that he had intended to unsettle or to intimidate her for there it is in keeping with his attitude towards Y and Z. Like his wife he denied all the allegations which were made against him and FA. FA had never spent any time alone with either girl and FA had never had the opportunity to abuse them. In his evidence to the court he agreed that he had said *“what is wrong with a good slap...all these do-gooders...[it happened] in my day ...what is wrong with this country.”*
151. X gave evidence after GF. She has very clearly decided to align herself with GM and GF and says she is on good terms with FA. There is every reason for her to take their side as her children are presently placed with her grandparents following the local authority issuing proceeding in respect of L and K. X has little choice. I did not find her a credible witness she clearly set out to support her grandmother’s evidence by, for example, denying that MG was present when she, SM and GM went to MA’s house to confront Y. X did not, however, give her evidence in support of GM and GF in as brazen a manner as her aunt SM had done. There were times when she was distinctly uncomfortable such as when she was asked about GF’s attitude to Y’s rape by Ali.

Final Analysis of the local authority’s evidence

152. I have set out the evidence of Y and X above and have referred to evidence of the social worker and the three school friends of Y where relevant to this judgment. It is the burden of the local authority to prove their case and their evidence is that of those witnesses. On the balance of probabilities I accept that these witnesses were truthful and have already set out some of the reasons why above.
153. The evidence of Y was consistent and such inconsistencies as there were are within reasonable bounds compatible with a witness who is giving evidence that happened over a period of years and some years ago. The fact that Y said that the abuse happened every day is more than likely to be congruent with her memories as a child of persistent and unrelenting abuse. Y did not claim to know what electronic or other device that FA took obscene pictures of her with and his own identification of a particular mobile phone is self serving and does not detract from her evidence about how the pictures were taken and what he said and did at the time. Sexual abuse is in essence furtive and clandestine, within families it invariably takes place when the opportunity arises for the perpetrator within the family home which includes when other members of the family are present in the same house. The descriptions of what was said to the children by their uncle is consistent with grooming and the threats about being in trouble would all too readily be believed by children who were aware they were not the favourites in the household.

154. The consistency of Y's evidence is supported by that of her school-friends. Although proof of complaint rather than the acts of abuse themselves they are evidence that something distressing was happening to Y and that she told them her uncle was abusing her. The fact that they kept their counsel at her request is in keeping with their ages at the time. There is no easily perceptible reason for them to have come to court to lie.
155. I found the evidence of Z compelling and was particularly struck by the way in which she punctiliously refused to be drawn into saying any more than she could remember. She was well aware of the limited memory that she had but the incidents she could remember were painfully recalled.
156. The fact that Y and Z retracted their complaints in the past can be explained by the pressure put on them by their grandmother. I prefer their evidence to hers. She contradicted herself in her evidence and attempted to build her case until her evidence amounted to her having been housebound for years if her account is to be believed. I do not believe her. GM was unabashed in her views about her granddaughters, young women that she had been responsible for bringing up, as liars and fabricators. The evidence of MG directly supports that of Y in respect to GM putting pressure in 2009. I accept the evidence of Y that GM did so again in 2011 at the Ali trial and again in 2013 hours after the birth of Y's baby.
157. I accept the evidence of Z in respect of physical abuse at the hands of both her grandparents. GM denials about hitting Z with a belt were undermined by her introduction in oral evidence of further excuses for using a belt to threaten Z. GM's 2nd statement contained no allegations that Z had been winding Y up about being raped although it contained many negative references to Z which sought to blame Z for the difficulties she had endured in her childhood. GM told the social worker that she had beaten Z with a belt shortly afterward and it is recorded in the social services records. It is highly regrettable that Kirklees did not take action as they should have done at the time.
158. The evidence of Z herself when added to GF's self proclaimed attitude towards hitting children and combined with observations about the lack of affection and care shown to Z in particular amounts to a strong case, and I accept that Z was physically assaulted by her GF and her GM when in their care.
159. **Conclusion and findings**
160. It follows that I find the local authority's case proved on the balance of probabilities and all the findings which I set out at the start of this judgment are found.
161. In addition I find that as children, both Y and to a greater extent Z were starved of love and affection; they were not protected by their mother or their grandparents; the latter abused the children and neglected their emotional well-being with results that are all too obvious in the difficulties that these two young women now face. X has her own difficulties and it is more likely than not that she had suffered significant harm as child herself; at the very least by being brought up in such a dysfunctional household where her sisters were treated so badly. X would have been aware of their distress and the physical abuse by GM and GF.

162. I am not able to find that GM and GF knowingly failed to protect Y and Z from sexual abuse. I do find that since 2009 GM and GF failed to do anything to deal with the effects of sexual abuse and that GM exacerbated the emotional abuse that is part of persistent intra-familial sexual assault by then pressurising Y and Z to retract their allegations. She has repeatedly failed her granddaughters and subjected them to emotional abuse, as has GF; that must include X whose children are now subject to these proceedings as a result of their mother's difficulties which, in turn, have impaired her ability to safely parent K and L.

Appreciation

163. I would like to extend my thanks to the court staff and to members of the judiciary at Coverdale House in Leeds for their assistance in the conduct of this case and to thank all counsel for their assistance.