

IN THE FAMILY COURT
SITTING AT CHESTER

[2021] EWFC 127

HIS HONOUR JUDGE PATES
(sitting as a Judge of the High Court pursuant to section 9(1) Senior Courts Act 1981)

F (a local Authority)

Applicant

- and -

G

1st Respondent

- and -

H

2nd Respondent

- and -

J

3rd Respondent

- and -

The Children (M, N, O AND P by their Children's Guardian, Clare Callaghan).

4th to 7th Respondents

Hearing Dates: 31 March 2021, 1 April 2021, 12-16 April 2021, 19 April 2021, 21-22 April 2021, 17-19 May 2021

DATED: 7th June 2021

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

His Honour Judge Pates:

THE CHILDREN

1. The details of the children are as follows: -

<u>NAME</u>	<u>DOB</u>	<u>CURRENT AGE</u>
M	19/3/09	[12.2]

N	14/8/11	[9.9]
O	19/1/17	[4.4]
P	23/2/20	[1.3]

2. The children are represented by their counsel, Mr Ekaney QC and Ms Hughes taking their instructions from the Children's Guardian, Clare Callaghan, an officer of CAFCASS.

THE PARTIES TO THE PROCEEDINGS

3. The Local Authority (F) are represented by their counsel, Miss Cavanagh QC and Mr Christian. The allocated social worker is Ms Natasha Goodwin.
4. The Mother, G, is represented by her counsel, Mr Stonor QC and Mrs Porter-Phillips. She was born on YY YYYY 1989 [32].
5. The Father of M and N, H, is represented by his counsel, Miss Banks. He was born on YY YYYY 1979 [41].
6. The Father of O and P, J, is represented by his counsel, Ms Grief QC and Miss Anslow. He was born on YY YYYY 1990 [31].

THE CHILDREN'S CIRCUMSTANCES

7. M and N are the children of G and H. Both children were placed with extended family, A and B on 28 October 2020. Within the course of this hearing, A gave notice of N's placement on the basis that they were struggling within the household, and they were subsequently placed with foster carers.
8. O and P are the children of G and J. O moved into the care of extended family, C and D on 23 October 2020. P has remained in a foster placement where they have resided since birth.

THE APPLICATION

9. The application for a Care Order in Form C110A was issued on 13 June 2019 in respect of the 3 older children and on 25 February 2020 in respect of P.
10. For the purposes of this judgment, I shall refer to documents from the court bundle by letter and number. The bundle runs to over 3,500 pages.

THE BACKGROUND

11. This hearing concerns the finding of facts. The principal individual involved across the multitude of allegations is J. The allegations date from when J was a child. The first set of allegations relate to the sexual abuse of Q. The second set of allegations relate to the sexual abuse of R, the younger sister of J's childhood friend, S. Moving into adulthood, it is alleged that he has perpetrated domestic abuse within his intimate partner relationships, specifically G. There are three separate sets of allegations against him from T; from a young woman and good friend to G, U; and from another close friend of G, V. Consequently, much of this judgment is about whether facts have been

proved which would underpin the risk of significant harm to any of the relevant children. This exercise has not been straight forward.

12. The second thread of the enquiry is whether G and J have been honest in their dealings with the local authority or have sought to hide their relationship. By the start of the final hearing, it was clear that there was a measure of agreement over many of the allegations tending to suggest the continuance of such a relationship. Nonetheless, there remained issues in dispute. G sought a finding that she experienced domestic abuse, controlling or coercive behaviour within her relationship with J. It was therefore necessary to determine whether the evidence did support such a finding.
13. This judgment does not deal with the consequences of these findings, the adequacy of any of the current social work assessments nor the need for any further expert assessments all of which have already been listed for further determination once the factual matrix has been established.
14. The key events may be glimpsed from the chronology at L253.
15. Whilst there are criticisms which could be made as to the delay in this case, I am grateful to acknowledge the collaborative and expert help I have received from counsel, solicitors, social workers and other professionals (specifically those responsible for maintaining the bundle) all of whom have worked in earnest to help the Court to manage this remote hearing fairly. Participation directions were identified and implemented as set out in pre-trial documents. I hope that all parties felt that the hearing was conducted fairly irrespective of whether they agree with the decisions I have made.
16. I shall set out below the reasons for making the findings indicated.

THE LAW

Finding of Facts

17. The local authority (or the party seeking a finding on a disputed fact) has the burden of proving the facts upon which it relies. The standard of proof is the balance of probability. I have kept those matters at the forefront of my mind in weighing the evidence in this case.
18. I have considered and adopt the legal framework as summarised by the parties' advocates [L216]. It would be unhelpful for me to produce a further summary.
19. I adopt the pellucid summary of Peter Jackson, J in Re BR [2015] EWFC 41 at paragraphs 4 to 10. For a detailed and comprehensive summary, I am grateful to Williams, J in Re K (Threshold – Cocaine Ingestion – Failure to give evidence) [2020] EWHC 2502 (Fam) at paragraphs 27 to 50. That is probably as close as one might wish to get to a template direction on the relevant law.
20. I note the analysis given by the Court of Appeal in Re A, B and C (Children) [2021] EWCA Civ 451 regarding the appropriateness of giving a generalised 'Lucas direction' (Macur, LJ at paragraphs 57 to 58): -

“57. To be clear, and as I indicate above, a ‘Lucas direction’ will not be called for in every family case in which a party or intervenor is challenging the factual case alleged against them and, in my opinion, should not be included in the judgment as a tick box exercise. If the issue for the tribunal to decide is whether to believe A or B on the central issue/s, and the evidence is clearly one way then there will be no need to address credibility in general. However, if the tribunal looks to find support for their view, it must caution itself against treating what it finds to be an established propensity to dishonesty as determinative of guilt for the reasons the Recorder gave in [40]. Conversely, an established propensity to honesty will not always equate with the witness’s reliability of recall on a particular issue.

“58. That a tribunal’s Lucas self-direction is formulaic, and incomplete is unlikely to determine an appeal, but the danger lies in its potential to distract from the proper application of its principles. In these circumstances, I venture to suggest that it would be good practice when the tribunal is invited to proceed on the basis , or itself determines, that such a direction is called for, to seek Counsel’s submissions to identify: (i) the deliberate lie(s) upon which they seek to rely; (ii) the significant issue to which it/they relate(s), and (iii) on what basis it can be determined that the only explanation for the lie(s) is guilt. The principles of the direction will remain the same, but they must be tailored to the facts and circumstances of the witness before the court.”

21. I have had well in mind the observations of the Court of Appeal in Re H-N and Others (children) (domestic abuse: finding of fact hearings) [2021] EWCA Civ 448 and the analysis of Hayden, J in F v M [2021] EWFC 4. The key in considering the existence of domestic abuse in its various forms, including coercive and controlling behaviour is to understand that they must be understood as a series or pattern of acts which must be analysed cumulatively. That may be an insidious process which should not be lost amongst the tendency to highlight a particular event.
22. When evaluating the witnesses, I have looked beyond demeanour in the witness box, which may often be an unreliable feature in determining veracity. I have sought to take account of the contemporary documentation, the written evidence and the quality of the evidence given orally. I have not looked only at isolated incidents but fed the inherent probabilities of a range of events into an holistic assessment of the underlying allegations. The position at which an allegation is considered or determined in this judgment is a stylistic choice and not a reflection of the path of assessment of evidence and reasoning which led to that conclusion. I have summarised matters in my conclusion to aid the understanding of all parties.

ANALYSIS

23. For the purposes of this judgment, I have received and am grateful for detailed written submissions from the parties. It is disproportionate and unnecessary to refer to every detail or complaint. I make abundantly clear that I have carefully considered the submissions, which in total, run to hundreds of paragraphs in determining the allegations before me.

24. J was born on YY YYYY 1990. He has a number of siblings including his 2 full siblings. He has 3 younger half siblings born to his Mother, and his Paternal Uncle, Z, namely P, Q and R.
25. There is an age difference of about 2½ years between J and Q
26. J faces allegations of rape, assault or exposure by a number of females. That is the first underlying set of allegations, which fall to be considered on the totality of evidence before the court. The second underlying allegation is the nature of his relationship with G and whether there has been continuing dishonesty in relation to it.
27. G seeks to suggest that notwithstanding her dishonesty, at times, about the extent of her relationship with J, she was subject to domestic abuse, coercive and controlling behaviour by him. That is not part of the Local Authority case but it is an allegation pursued by G aligning with her case against the Local Authority that they did not properly investigate or assess those allegations.

J

28. J gave his evidence generally clearly. He was persistently challenged over events which he denied had happened at all. What was striking about my overall assessment of him is the complete lack of any empathy towards others and his obsession with himself. I was struck by how often when considering questions about the impact of his actions on others he inserted himself into those answers. He admitted a significant deterioration in his conduct after the allegations emerged from Q in March 2016 but I did not gain any sense that he had developed any insight into his behaviour and he continued to talk about the impact upon him and frequently to answer questions tangentially focusing upon the account he wanted to give rather than the import of the question. This was evident in his oral evidence when he was asked about the impact of his behaviour on G by Mr Stonor QC and within his Police Interviews (for example at G209 E-H when discussing an allegation of rape). He was not a witness who impressed me with his candour but affirmed the impression I gained of him that from the age of a young teenager he demonstrated coercive, often sexually orientated, conduct towards females which demonstrated a complete absence of empathy or understanding. He has demonstrated an arrogance and impetuosity about this conduct which is revealed in the repetition of abuse and the circumstances in which it continued. The façade he adopts of a professional person, an Army reservist, who works hard to support his family and possesses qualifications in youth work is inextricably bound up with a self-aggrandising and abusive individual.
29. It is submitted on his behalf that he referred throughout his oral evidence to the counselling he has sought and that he has already made a number of concessions about his behaviour. Further, that it is not suggested that he has behaved badly to the subject children and there is a warmth toward his children seen in contact. That is true. However, in my judgment, these aspects are in no way inconsistent with the behaviour alleged against him.
30. J appears to have had a very difficult childhood. He described still being affected by the suicide of his father in 2013. He did not adjust to the remarriage of his mother to his Paternal Uncle. Around the age of 10 or 11 years old, towards the end of his time in primary school, he moved to live with his Mother, Uncle. He described a very

confrontational relationship with his Mother which involved mutual recrimination and swearing. He had previously lived locally with his brother W and his grandmother. He said that he continued to suffer from nocturnal enuresis for the period that he stayed with his mother until about 15 years old. He described desperately wanting to return to live with his grandmother and for periods of time he did so. By January 2007, he had been excluded from college. He was referred for anger management but did not attend and was discharged on 12 December 2007 [C28].

31. J did not describe a difficult relationship with Q at the time. He said that the only bone of contention was his unwillingness to accept his Uncle as his stepfather. He described resenting his mother's purchase of cheaper branded goods for the children whereas better branded goods were purchased for her and his uncle. He resented being asked to babysit the children and not being paid for it. That stands in contrast to the fact that Q appears to have been paid for the babysitting she was doing. Thus, ironically, it was J who perhaps had more reason to be resentful of Q than she of him at the time. I offer this snapshot merely to indicate that the behaviours which are alleged against J must be assessed within the context of familial dysfunction or even undocumented harm which he has suffered within his childhood.

Social Workers

32. An illustration of the *modus operandi* of J can be seen in the way in which he confronted the previous allocated social workers, Sue Capper and Leanne Thorpe [L400 – 421; C467 – 472]. What is described is a hostile, antagonistic and controlling pattern of behaviour which is outside expected or acceptable behaviour. His bombardment of social workers with texts or missed calls and aggressive tone indicate his underlying personality. I do not suggest that the Local Authority have been a paragon of efficiency and excellence but it is the extent of his reaction which is noteworthy. The extent of his behaviour is revealed in Facebook posts which have been placed before the court. He described Sue Capper and Leanne Thorpe as a “vile creature[s]” whilst reposting a profile picture and personal details [L418]. He described in another post putting “another one”, “on here for the vile cretin she is too” [L416]. In another post, he described them as “vile and disgusting and I feel they are just as bad as terrorists and child abusers. I believe they abused children far more than anyone else has ever done...” [L413]. He also appears to have “liked” a post by somebody else describing in graphic detail the torture and dismemberment of both social workers [L419].
33. Both Sue Capper and Leanne Thorpe described J as hostile, aggressive and intimidating in their dealings with him (usually by telephone). His actions were disproportionate. I accept that from 2016 to 2019, J is likely to have felt frustrated (for example, with the postponement of a Pre Proceedings Meeting). It was a difficult period involving the police investigation into the allegations of Q and the criminal trial in relation to the allegations of R. It is perfectly plausible to suggest that the Local Authority did not, at times, act or communicate efficiently. I accept that there were, at times, significant pressures on J and issues, such as taking photographs of the children in contact, which were emotive. However, I reject the submission that his actions were directed at “social work practice”. That was part of it (based upon his sense of what was acceptable) but it went beyond anything recognisable as acceptable criticism and illustrates, in my judgment, basic features of his functioning as an adult.

Q

The Allegations

- (1) *J then aged between 11 and 16 years old on multiple occasions indecently touched Q, then aged between 8 and 13 years by:*
 - (a) *Touching her naked breasts;*
 - (b) *Touching her genitals with his fingers;*
 - (c) *Placing his mouth over her genitals, then touching them;*
 - (d) *On all occasions J used force on at least one occasion he squeezed her around her throat.*
- (2) *On multiple occasions when Q, aged between 8 years old and 13 years old, and J was aged between 11 and 16 years old, he inserted his finger(s) into her vagina and touched her genitals.*
- (3) *J, aged between 11 and 16 years old, performed multiple indecent acts on Q, aged between 8 and 13 years old by:*
 - (a) *Masturbating himself by holding and rubbing his penis until erect and on occasion in a preparatory act to (b) below;*
 - (b) *Grabbing Q's hair and forcefully inserting his penis into Q's mouth by force and making her suck it.*
- (4) *J, aged between 11 and 16 years old, pinned down and forced Q, aged between 8 years old and 13 years old, to hold his erect penis and made her masturbate him until he ejaculated.*
- (5) *On an occasion J, between the ages of 11 and 16 years, used force to push Q, between the ages of 8 and 13 years old, into a bedroom wall and vaginally penetrated her with his penis in that he: -*
 - (a) *Placed his hand over her mouth;*
 - (b) *Touched her naked body inside her nightclothes with his hand;*
 - (c) *Attempted to kiss her on the lips;*
 - (d) *Forced his penis into Q's vagina;*
 - (e) *Caused Q to feel pain in her genitals;*
 - (f) *threatened to kill Q if she told anyone about the incidents.*
- (6) *On an occasion when Q, was between the ages of 8 and 13 years old, J, who was between 11 and 16 years old, used force to push her on to a bed and vaginally penetrated her with his erect penis in that he:*
 - (a) *Tied Q's hands to the bed with an item of clothing;*
 - (b) *Placed his hand over her mouth;*
 - (c) *Kissed Q's neck with his lips;*
 - (d) *Forced his penis into Q's vagina;*
 - (e) *Caused Q to feel pain in her genitals.*

34. In considering the allegations of rape or sexual assault I have taken into account relevant material identified by the Judicial College following the decision in JH v MF [2020] EWHC 86 (Fam), including: -

34.1. The Crown Court Compendium (December 2019), Chapter 20 ("Sexual Offences");

- 34.2. “Responding to the challenge of rape myths in court. A guide for prosecutors” by Dr Nina Burrowes (March 2013);
- 34.3. “Rape and Sexual Offences” (2020), Annex A, “Challenging Rape Myths and Stereotypes” issued by the Crown Prosecution Service (“Annex A”).

Key Messages

35. In this area, assumptions about behaviour are likely to be wrong or at the very least unreliable. People are different and react differently to sexual trauma. A late complaint does not necessarily equate to a false complaint. Embarrassment, shame and confusion particularly when the sexual trauma is experienced at a young age are all factors which may be relevant. The focus is upon assessing the evidence on its intrinsic merits and avoiding bringing stereotypical assumptions about response or demeanour into that critical evaluation (Miller [2010] EWCA Crim 15780).
36. Given the length of time over which this enquiry has ranged there is a need to reflect carefully on inconsistency of account: (a) are the accounts inconsistent and if so, (b) why is that so? Ultimately, the Court must assess the evidence and apply the relevant burden and standard of proof to determine whether the allegation is true. In avoiding unwarranted presumptions, experience within the criminal jurisdiction has shown “that inconsistencies in accounts can happen whether a person is telling the truth or not. This is because if someone has an experience of the kind alleged in this case, their memory may be affected in different ways. It may affect that person’s ability to take in, register and recall the experience. Also, some people may go over and over an event afterwards in their minds and their memory may be clearer or can develop over time. But other people may try to avoid thinking about an event at all, and they may have difficulty in recalling the event accurately” (Example 4, Crown Court Compendium). Equally, a consistent account does not necessarily mean that the account is true.
37. The evaluation of testimony based on memory is a matter requiring great care. That was captured by Leggatt, J (as he then was) in Gestmin SGPS SA v Credit Suisse (UK) Ltd & Anor [2013] EWHC 3560 (Comm) at paragraphs 15 -21. I quote but a part: -
 - 37.1. “...psychological research has demonstrated that memories are fluid and malleable, being constantly rewritten whenever they are retrieved. This is true even of so-called 'flashbulb' memories, that is memories of experiencing or learning of a particularly shocking or traumatic event. (The very description 'flashbulb' memory is in fact misleading, reflecting as it does the misconception that memory operates like a camera or other device that makes a fixed record of an experience.) External information can intrude into a witness's memory, as can his or her own thoughts and beliefs, and both can cause dramatic changes in recollection. Events can come to be recalled as memories which did not happen at all or which happened to someone else (referred to in the literature as a failure of source memory).”
38. The Court must be wary to avoid relying upon presumptions or supposed indicators of truth.

39. I bear in mind that delay may have a bearing on the quality of the evidence and the ability to assess or challenge the veracity of it.

40. I set out some relevant extracts below taken from Annex A: -

Section	Stereotype/Myth
Rape	“Some victims may return to the suspect after the event and/or contact them with friendly messages to reduce the risk of being raped again by the perpetrator, or because they want to block out the abuse in order to return to a sense of normality.”
General	<p>“There is no typical response to rape. People react in a variety of ways.”</p> <p>“A victim coming forward to report rape and support a prosecution is incredibly brave.”</p>
Intoxication	“Just because someone is intoxicated at the time of the incident doesn’t mean their recollection of events is unreliable. Research conducted by Dr Heather Flowe and others has shown intoxication to impact upon the level of detail that can be recalled by the witness rather than on the accuracy of memory.”
Victims’ response to Rape	<p>“There is no typical response to rape – the traumatic nature of the offence means that victim can behave in a huge range of ways some of which might seem counter-intuitive.”</p> <p>“When under threat, the brain will implement instinctual survival responses that the victim will not necessarily have any control over. The response may not appear logical to others, or even the victim, but in the moment the brain might choose to react based on basic instincts: not just fight or flight, but flop, freeze or befriend.”</p> <p>“Many people experience a form of shock during or after a rape that leaves them emotionally numb or flat - and apparently calm.”</p>
Delayed Reporting	<p>“Most victims of rape do not report the attack to the police. The trauma of rape can cause feelings of shame and guilt which might inhibit a victim from making a complaint. The process of reporting rape itself can be traumatic, as well as prosecution process, and can deter victims from reporting the rape.”</p> <p>“Some victims may tell a friend, GP or other individual. Many others will not tell anyone perhaps owing to feelings of shame, guilt and fear of the perpetrator and/or fear of being disbelieved.”</p>

	<p>“A delayed allegation is not equivalent to a false allegation.”</p> <p>“The time taken to make an allegation is not indicative of the level of upset.”</p>
Inconsistent Account	<p>“Inconsistencies in accounts can happen where a person is telling the truth or not.”</p> <p>“Avoid an either/or argument that allows a complainant’s evidence to be wholly dismissed because of a peripheral inconsistency. Don’t pit it as either you believe the defendant OR you believe the complainant for this reason.”</p> <p>“Rape can be very traumatic and memory can be affected in a number of ways. Understanding the effects of fear and the psychological mechanisms that may occur during a sexual assault is vital when considering recall and memory. Some, understandably, may try to avoid thinking about being raped or try to avoid recalling it all – this can impact upon recall.”</p>

41. The research as to memory and intoxication (referred to by the CPS) synthesises findings from over 1,100 participants in 10 research studies (“*Rethinking the effects of alcohol on eyewitness memory accuracy: A meta-analysis of the literature*” updated 6 November 2020¹). The central finding of the meta-analysis is that “alcohol intoxication during memory acquisition reduces the number of correct details recalled about a crime but does not increase the number of incorrect details recalled. Thus, acute alcohol-intoxication at the time of the crime reduces the completeness but not the accuracy of participant witnesses’ memory reports.”
42. Research has not demonstrated: (a) differential rates of forgetting for sober as compared to intoxicated people; nor (b) that intoxicated individuals are more prone to incorporating misleading information into their memory reports.
43. The original paper, “A meta-analysis of the effects of acute alcohol intoxication on witness recall” (Applied Cognitive Psychology, February 2019) has been published and peer-reviewed². The abstract is described in the following terms: -

¹ <https://www.heatherflowe.com/post/rethinking-the-effects-of-alcohol-on-eyewitness-memory-accuracy-a-meta-analysis-of-the-literature>

² [Applied Cognitive Psychology \(wiley.com\)](https://onlinelibrary.wiley.com/doi/10.1111/acp.12488), section 5 Peer Review Guidelines. Further the research has been cited with approval by at least 1 further peer reviewed research article: [The intoxicated co-witness: effects of alcohol and dyadic discussion on memory conformity and event recall](https://onlinelibrary.wiley.com/doi/10.1111/psp.12488) Bartlett, Gawrylowicz, Frings, et al. 2021, [Psychopharmacology](https://onlinelibrary.wiley.com/doi/10.1111/psp.12488). It was cited with approval in 2 others and mentioned in 11 further articles with no contrasting articles seemingly yet published: [A meta-analysis of the effects of acute alcohol intoxication on witness recall - \[scite report\]](#)

[Rape and Sexual Offences - Annex A: Challenging Rape Myths and Stereotypes | The Crown Prosecution Service \(cps.gov.uk\)](#) - Item 3 under heading ‘intoxication’

(1) Flowe HD, Colloff MF, Karoğlu N, Zelek K, Ryder H, Humphries JE, Takarangi MKT (2017) [The effects of alcohol intoxication on accuracy and the confidence-accuracy relationship in photographic simultaneous line-](#)

There is widespread belief in the legal system that alcohol impairs witness testimony. Nevertheless, most laboratory studies examining the effects of alcohol on witness testimony suggest that alcohol may affect the number of correct but not incorrect details recalled. However, it is difficult to draw conclusions because sample sizes, testing paradigms and recall measures vary between individual studies. We conducted a meta-analysis to address this issue. We found alcohol intoxication had a significant and moderate sized effect on the number of correct details recalled ($g = 0.40$). The effect of alcohol on the number of incorrect details recalled was not significant. Further, the effect of alcohol on the recall of correct details was significantly moderated by multiple factors like intoxication level, the retention interval length between encoding and recall and the types of questions asked (i.e., free recall versus cued recall). We discuss the applied implications of the results.

44. I do not consider this academic evidence as providing a methodology for the court to assess in this case whether the evidence of any particular intoxicated witness should be relied upon. The evidence serves as a caution to the fact-finding tribunal to avoid making subjective and potentially unwarranted assumptions about the reliability of evidence given by a person who was intoxicated. The Court will need to consider that evidence with care and assess the quality and consistency of it as with any witness. It may be that in future there will be an opportunity to use a methodology to inform the assessment of the quality of such evidence but this is not the occasion to venture into such matters. This approach was agreed by the parties' advocates.

Ages and Time

45. The allegations of Q and R are historical in the sense that the passage of time and the repetition of the events may have had an effect upon recollection. One area which appeared very difficult for many of the witnesses was the concept of time. There was obvious difficulties in estimating ages at the time of events even as adults. Evaluating that type of inconsistency requires circumspection when one may be considering how traumatic events as a child are being recalled as an adult. When evaluating inconsistency, it is important to think about the context. The evidence of Q, R and J all relate to a time when they were at varying stages of physical, cognitive and emotional development but they were all children. I have borne that in mind when considering criticisms of the consistency or quality of their evidence (Achieving Best Evidence in Criminal proceedings Guidance at paragraph 3.74).

Q

[ups. Applied Cognitive Psychology 31\(4\):379-391. https://doi.org/10.1002/acp.3332](https://doi.org/10.1002/acp.3332) and (2) Flowe H, Humphries J, Takarangi M, Zelek K, Karoğlu N, Gabbert F, Hope L (2019) [An experimental examination of the effects of alcohol consumption and exposure to misleading post event information on remembering a hypothetical rape scenario. Applied Cognitive Psychology 1\(21\):393-413. https://doi.org/10.1002/acp.3531](https://doi.org/10.1002/acp.3531)

46. The first point I make about Q's evidence is that she was very poor in terms of describing the chronology of events. In fact, her oral evidence demonstrated a witness who appeared overwhelmed and at times unable to process the questions beyond answers which were short and often monosyllabic. She was however more animated when denying the suggestion that she had not been raped and sexually assaulted by J, over a substantial period. She said that she did recall that abuse. She was, at times, pitiable as she sought to latch onto that one essential truth with almost no confidence that she would be believed.
47. To place the allegations in historical context, when Q turned 13 years old on 8 July 2005, J would have been 15 years old. He turned 16 years old on 26 January 2006.
48. There is no doubt that sexual allegations of some kind did emerge in 2006. That is verified in police disclosure from that time which refers to such allegations although not *in any way* to the extent later referred to by Q in 2016.
49. The Local Authority and the Police record the referral as on 31 July 2006 [C44 and G75]. Q would have been 14 years old and J would have been 16½ years old. The Police note of this is as follows [G75]: -

[DELETED FROM ANONYMISED VERSION]

50. It is unclear where J had gained the idea that it had been alleged that "he had been involved in sexual acts with" Q when the Police appeared to be treating it as things being said but not done. It may be that that is too sophisticated an analysis to apply to a Police record.
51. On 3 March 2016 Q told the Police about her allegations against J. The Police undertook an ABE video recorded interview the same day at 4.19pm (transcript at G144).
52. The mother of J, X, sadly died in 2016 but she provided a police statement, dated 4 March 2016 [G186a]. X could not be cross examined. I recognise that her relationship with J appears to have been fraught with conflict. Applying the criteria in Section 4(2) Civil Evidence Act 1995, I make the following observations about the weight to be given to her written evidence: -
 - 52.1. It was impossible for the local authority to produce her as a witness;
 - 52.2. The statement was made contemporaneously with the allegations which Q made in 2016. However, the statement insofar as it relates to the subject matter of the allegations is made years after the events in question;
 - 52.3. The statement does not involve *multiple* hearsay in the main;
 - 52.4. X would have had no reason to conceal or misrepresent matters save to the extent that she had a conflicted relationship with J; she did not however seek to exclude him from the home prior to the allegations being made; on the contrary, J's case is that he was frustrated that he had to stay with her rather

than return to live with his grandmother and she welcomed him home after the allegations had been made;

- 52.5. The statement was taken by the Police for the purpose of investigating the allegations made by Q in 2016;
 - 52.6. There is no basis to suggest an attempt when the evidence was adduced to prevent proper evaluation of its weight.
53. X notes that in the week or so before Q contacted the Police “something was going on” with Q [G186c].
 54. Q had been referred to MARAC owing to concerns about the safety of the family because of the threats allegedly made by J [G181a]. The Health Visitor, Vicky Robinson, recorded her discussion with Q on 26 February 2016 in these terms: -

[DELETED FROM ANONYMISED JUDGMENT]

55. On 3 March 2016, Q told X that she needed to go to the Police with her health visitor, Vicky Robinson, “over J”. Later that evening Q reportedly told her that “when she was little it was more than what she had told me previously. J had raped her. She said she was confused and couldn’t remember all of the details, but it started when she was 8 until J was 16. She had been having flashbacks and had been to the police” [G186d].
56. It is likely given the Police report and the statement of X that the picture given by Q in 2006 was not nearly as extensive as the account given in 2016. I do not regard her failure to give an account of rape as inexplicable. Given my assessment of Q, there is obvious evidence that she struggled to say anything let alone give a full account of traumatic events. Her evidence is that, for example, she would cling to her X’s side to try to avoid being assaulted by J.
57. It is also clear that as the years have passed, Q has attended family events with her children, such as W’s wedding, when J was present [C411]. She denied matters such as that in her oral evidence [see also Police interview at G172C-G] which appeared inconsistent with the photographic evidence [C388 – C393]. Facebook messages (which clearly involved J) suggest that she was outwardly supportive of J’s relationship with G [C397]. She allowed Y, a former partner of J, to stay at her flat for a period and subsequently J whilst she stayed elsewhere. J appears to have been on his way to “Q[‘s]” after an incident with Y [G76].
58. In the period during which Y was very unwell leading to her death, J rebuffed any suggestion of helping with her care.
59. It is also clear that tensions surfaced involving Q, her partner or a friend and J and G. The allegations which were made to the police in March 2016 derive therefore from a place of conflict and there is an obvious risk that they may have been contaminated by the hostility in the relationship between Q and J.
60. Between October 2015 and February 2016, the Police record a number of incidents relating to this dispute. For example: -

- 60.1. 12 October 2015: Allegation that Q and her boyfriend had made threats to blow up the house and that J would not be alive by 8pm; the police concluded that the threats were not credible and this was a “argument that got out of hand” [G21];
 - 60.2. 25 November 2015: Allegation that J had threatened to beat up Q, her boyfriend and “to hit the 6 year old child” [G122];
 - 60.3. 26 November 2015: Referral to Police in response to an allegation about an incident outside school premises; “incident has been recorded against a school mum, re argument and threats made over Facebook involving J” [G121]; “J threatened to smash Q’s face in on the playground, he has threatened to throw acid in her daughter's face and on Friday, he followed her home intimidating her” [G20];
 - 60.4. 2 December 2015: Police attendance requested at school again; [G19 and G117-118]; J alleged to have sent a voice recording saying, “I will get you on the playground today” with his partner heard in the background saying, “I’ll smash your face in”;
 - 60.5. The VPA regarding 2 December 2015 [L528] records the following observations: -
 - 60.5.1. “Attended primary school where I spoke to Q. I organised to go round to the home address to discuss further. As Z and E walked past J and G they gestured towards them aggressively and left. I spoke to G and J who were in fear they may wait around the corner for them as they have to walk the same direction home, so I took them home in the police car. I then attended Q’s address where again Z and E were very vocal towards J and G. I advised them against this and if they have any problems to contact the police. I then attended J and G’s address who were spoken to regarding the messages on Facebook where they apologised and advised they have now blocked the others on FB and don’t intend on speaking to them again. I have advised all parties involved if they cannot get along then not to speak to each other at all, and also to delete each other off FB. Sgt Myatt aware.”
 - 60.6. 11 January 2016: Children’s Services received a referral that J had made serious violent threats against his Q and her children [C45];
 - 60.7. 26 February 2016: X called police alleging that J had followed Q’s children down the street in a car and said that he would “batter them” and “batter their Dad” as the children entered her home [G109-111 and J43].
61. However, on any view, allegations of a sexual nature emerged in 2006 long before the issues which related to the picture in 2016. They were not recorded to the extent apparent in the interview in 2016 but there are obvious reasons why that may be so (her age, a sense of confusion, guilt or shame). The key point is that sexual allegations were made by Q in 2006.
 62. X recalls Q telling her that J had been in her bedroom “with his pants down and said either suck it or sit on it. This had scared Q.” She states that she spoke to J “who admitted doing it and when I asked him why she had said he didn’t know it was wrong” [G186b].

63. Q was described as “always a mummy clingy child and uncomfortable around J. If J had told Q to jump, Q would say how high.” [G186b]. This is also apparent from Q’s ABE interview [G151]: “he stopped for a while because I just stayed attached to my mum and never left my mum’s...wherever mum went, I went with her, I wouldn’t be near him.” [G151].
64. As to timing, her recollection is described thus:
 - 64.1. “I remember taking J to social services. I think it was around the time he was starting High School” [G 186a];
 - 64.2. The timing she ascribes is probably in error although there may have been contact with social care regarding J (the historical records have not been filed) in that period; the description is similar to that summarised for the entry in the chronology for 31 July 2006 [C44 and G75];
 - 64.3. The reference to an incident “12 yrs ago” on G75 seems very unlikely to refer to the incident described on that page given how young Q and J would have been and is more likely to relate to something within the extensive period of social care involvement with the family from 1990 to 2003 [C43].
65. X states that she gave birth to aa on 9 June 2006 and she did not leave J alone with the girls. She “kicked [J] out” at age 16 years “due to his violent and aggressive behaviour” [G186c].
66. There is a further suggestion, supported by a statement from the paternal aunt, bb [G222a], that shortly after the allegations emerged in 2006, she was told by cc that “Q had been lying. She had made it up to get J out of the house.”. She does not suggest that J returned to live with X; he stayed with her for a few weeks; returned to stay with cc before moving in with Y.
67. There is no source given for the information relayed by cc about the family meeting.
68. There is conflict in the evidence as to whether J returned home. J says that he did for a time. Q appears confused about the chronology but taken at face value appears to accept that he did given her account of rape taking place after the Police were involved. In my judgment, it is likely that J stayed substantially with X from around the age of 10 years old until a point in 2006, probably by 31 July 2006.
69. J recalls that he was told or was aware that there had been a meeting at which Q had apologised for making allegations which were false and J was welcomed back to the property. He refers to that in Police Interview [G211B-C] but that account does not refer to Q accepting that she had lied about her allegations. In his statement, he says he was told “X, dd and my aunt that Q had lied” [L170 paragraph 14]. He does not name the Aunt concerned but if it was bb as is likely then she does not seem to have been in a position to tell him that given that her information derived from cc. She does not refer to any discussions with Q, dd or X.
70. J says in his statement that it was a day or two after “arriving back” from a short holiday in the Lake District, that “dd said that we needed to have a chat. Q at that time confirmed that she was sorry because she had lied and made it up. Following that it was brushed under the carpet and never mentioned again.”

71. There is very little evidence about this putative meeting. It is not referred to by X. There is no explanation for the reason (if any) given by Q for having lied about such matters. Q is resolute that her allegations are true and she has no memory of such a meeting. bb does refer to this issue but it is unclear where cc got her information from.

The ABE Interview

72. It is impossible to convey the detail and nuance of the ABE interview in the form of a judgment. Having viewed the ABE interview of Q, there is a striking level of detail regarding the descriptions of the abuse of her by J. There is no doubt as to the identity of the perpetrator. I regard it as unlikely that the witness I observed could have invented allegations, which are described so graphically and with emotional congruence if she had not experienced them. I believed the essential truth of the allegations as summarised in the schedule of findings at sections 1 to 6.
73. I offer a few examples of the quality of her descriptions: -
- 73.1. "I remember having a good grip on my knickers" [G149/E];
 - 73.2. "he grabbed hold of my hair and he made me suck his ...suck his dick and the more I was pulling away, the harder he pushed my head down and the more I was telling him to stop cos he, he was hurting my throat..."[G152/D];
 - 73.3. "I remember scrubbing my teeth and washing my mouth out and just getting in the bath and put...er putting my head under the water to get the horrible taste out of my mouth and scrubbing myself..."[G152/D];
 - 73.4. "I can remember him messing with me again and one night I just let him do it because I didn't have the energy or the strength for him to stop doing it..."[G156/B];
 - 73.5. "Putting his fingers up me again. I just remember his fingers going like this all up me [indicates wiggling her fingers] and stuff like that" [G158C];
 - 73.6. "he pinned me towards the wall but there was a radiator there so I had, like, a mark on the back of me where he'd pushed me into the radiator..." [G160/G];
 - 73.7. "I remember wearing a purple nightie...I was trying to fight him off and pulling my nightie down so he couldn't get it off me..." [G160H];
 - 73.8. "I remember having hand marks on my shoulders there [indicates to left shoulder] and he'd squeezed them that bad putting the pressure on them, I had finger marks on my shoulders..." [G161/A]
 - 73.9. "...I remember trying to push him away by his shoulders, pushing him away, and I just couldn't get out of it at all and I told him to stop cos it was really hurting me..."[G161/C]
 - 73.10. "...was pushing my hand...my hand closer to his dick and then, erm, I squeezed my hand really tight together so I didn't have to touch anything..."[G166/C]
 - 73.11. "I could feel his dick going inside me and the more he pushed his, his dick in, the more it hurt and I told him, I kept telling him to stop..."[G168/B];
 - 73.12. It was clear that her chronological accuracy was no better in her Police interview than in her oral evidence [G174G];
74. The main features of her account may be summarised thus: -
- 74.1. At G147 she refers to an early incident when she was running a bath. She describes him grabbing her arm, then the back of her neck and chucking her over the bath. She refers to them playing games but that J "always used to

make it into a sexual game”. It is plausible to think that he would have begun to explore sexual boundaries and emboldened and potentially aroused accelerated the extent of the abuse; she described the clothes he was wearing as a dark grey jacket, hoodie with a Man United top on.

- 74.2. She described the abuse as starting from the age of 8 years old and stopping when he was 16 years old [G147];
- 74.3. At G149, she described J as being scared of the reflection in the mirror and asking her to get into bed with him, top and tail; on one occasion, she described him playing with her “bits”; there is a detailed account at G149E including the reference to her remembering, “having a good grip on my knickers”;
- 74.4. She refers to X and dd being downstairs but said that J “used to cover my mouth up as well” [G150H]; pinned her somehow and put his hand over her mouth because she was trying to shout for “X”;
- 74.5. She did not tell anyone and tried to act like nothing had happened; she said that he would stop for a while because she stayed “attached to X” [G151D];
- 74.6. She then gives a detailed description of an incident when they were playing a game, which she described as “injured soldiers” and a nurse [G152A]; she described checking J as if she were a nurse when he grabbed hold of her arm and then proceeded to make her watch him masturbate before forcing her to take his penis into her mouth such that her throat hurt; the description at G152 is detailed and vivid; she could not remember her age when this occurred; she said that she threatened to tell X if he didn't leave her alone but she didn't tell her.
- 74.7. She described there as being further incidents when he pinned her down and was “messing with me”;
- 74.8. At G156, she describes one such incident when afterwards she did not sleep and waited until her dd got up to get ready for work at 5.00am in the morning when she run into her X's room; at G156D, she describes telling X that J had been doing “horrible things to me. She said, ‘what do you mean?’ so I told her that he'd been messing with me and he won't stop doing it”[G156 and G159]; this appears to relate to the occasion when the Police were called out and spoke to J;
- 74.9. She stated that she did not tell the police officers everything.
- 74.10. At G160G, she gives how account of being raped by J; this account is again detailed and vivid; she recalls being pushed against the radiator; she recalls him wearing “boxers”; she recalls the pressure as his hands squeezed her shoulders resulting in finger marks; she described him trying to kiss her lips but she kept moving her head away from his so he kept kissing her neck; after being put on the bed, he placed his hand over her mouth and she describes that she couldn't look at him; she did not describe her age at this time beyond being “a little bit older”;
- 74.11. She describes a subsequent incident (apparently sometime after the Police had been called [G166]); she describes him telling her to grab his penis and grabbing her neck; she described squeezing her hand really tight so that she didn't have to touch it; he then began to sexually assault her;
- 74.12. At G168, she describes an incident when she was playing with J and he tied her arms on the frame of a metal bed; again she gives a vivid description of what was said and of the feeling when she was raped (“I could feel his dick going inside me and the more he pushed his, his dick in, the more it hurt and I

told him, I kept telling him to stop, it was hurting and he... and he, he wouldn't"); she gave a specific reference to her arms being tied with a "Manchester United scarf", "red and black" (a scarf that J accepted he had although his case was that he kept it at his cc's house for fear that X would throw it away as it had belonged to his father);

- 74.13. At times she refers to her age at the time and her confusion about what was happening: "when I was younger I never understood what it was so I didn't know if it was normal or not normal until I started to watch things on the telly or X used to re-read things in the newspaper and things like that" [G169].
75. She has been clear throughout that the face of the person who abused her was J. There were moments when her response appeared entirely genuine. For example, her comment to J: "But I don't want to have sex with you I don't even know what it means." His reported response was "it doesn't matter you'll enjoy it" [G168B-C]. In my judgment, her account was replete with detail redolent of her experience of abuse including appropriate confusion and inconsistency in the context.
76. J accepted that when he "wet the bed" he would, on occasions, try to wash his sheets at night or allow them to dry on the bed whilst he slept next to the bed. That suggested at the very least the ability to move around the house without waking the adults. It is at least plausible that rather than sleep on the floor he would have sought the comfort of his Q's bed. I accept that the descriptions of sexual assault given by Q suggest the probability of noise emanating from it. I cannot say that is anything more than a factor to keep in mind as to whether he would risk it and if he did whether it would have woken another occupant of the house.
77. Q's account also suggests an impulsive and progressive process whereby J moved from "sexual game", exposure and touching to penetration. That is similar to what R describes in terms of exposure and then penetration.
78. J has suggested a range of implausible aspects to her account, such as the noise likely to have been caused which would have awoken an adult. It is also argued that the reference in an allegation of rape to Q's hands being tied to the bed with a "Manchester United scarf" (March 2016) in Police Interview is a contextual detail which is inconsistent with the reference to a "dressing gown rope" (February 2021) in her statement [C356 paragraph 12]. I accept that this is a relevant inconsistency which must again be weighed in assessing the evidence as a whole. Again, one is assessing adult accounts given some years apart relating to a much earlier traumatic time as a child. Is it simply confusion or is it indicative of a false narrative? Ultimately, I find that it is the former. There is a kernel of truth which remains.
79. Whilst Q's statement in these proceedings suggests abuse between 8 and 11 years old [C355 paragraphs 4 and 6] as opposed to 14 years old in the Police Interview, I do not regard that as significant in the context of the witness I observed. She clearly struggled with dates in the Police Interview. Her account, if true, is of a traumatic period of abuse stretching over about 5 years experienced as a young child. In my judgment, her evidence appeared entirely faithful to an imperfect but unrehearsed account of a pattern of abuse. I do not regard it as an inconsistency borne out of a desire to invent or exaggerate her allegations. The fact that the date range appears in her later statement is a mark of her struggle to order something which is likely to have been frightening,

painful and confusing as a child. I adopt the perspicacious words of Peter Jackson, J (as he then was) in *Wigan MBC v M & MR & Ors* [2015] EWFC 6 at paragraph 1, 2 and in particular 82(iii): -

- 79.1. “1. The perpetrators of sexual abuse are inadequate individuals who control weaker people, often children, for their own gratification. Their behaviour is always an abuse of power and usually a breach of trust. They destroy families and blight childhoods. They create dread in their victims by convincing them that the consequences of speaking out will be worse than the consequences of silence. They create guilt in their victims by persuading them that they have somehow willingly participated in their own abuse. They burden their victims with secrets. They poison normal relationships, trade on feelings of affection, drive a wedge between their victims and others, and make family and friends take sides. They count on the failure or inability of responsible adults, both relatives and professionals, to protect and support the victims. Faced with exposure, they commonly turn on their victims, try to assassinate their characters, and get others to do the same. Most often, their selfishness is so deep-rooted that they ignore other people's feelings and are only capable of feeling pity for themselves.
- 79.2. “2. The effects of sexual abuse on the victim can be lifelong, but because of the way perpetrators operate, most abuse goes undetected. It takes courage to ask for help. Victims are beset by feelings of shame, guilt and fear. They should be able to have confidence that their accounts will be adequately investigated and that they will be appropriately supported. Instead, experience shows that the abuse is often compounded by sceptical or inadequate reactions within the family and beyond. It is not always possible to establish where the truth lies, but where it is possible to investigate, there must be a good reason not to do so. The position of a complainant whose allegation is described as 'unsubstantiated' is extraordinarily difficult, but sometimes 'unsubstantiated' is no more than a euphemism for 'uninvestigated'.
- 79.3. “82 (iii) I am not troubled by the numerous variants within the evidence. They are entirely consistent with what one would expect from children who have been chronically abused. The accounts cover a very large number of highly-charged occasions over a very long period. As B said at one point, things get blurred. Young people cannot be expected to give a photographic replay of sequences of similar but varying events and get all the distasteful details right. Assessment of such evidence cannot only focus on the level of precision with which children give descriptions, but calls for a much broader survey of all the relevant features.”
80. It is argued that in her statement, as an adult, she refers to vaginal rape as the first incident: “[t]he night he raped me I was 8 years old at the time. The sexual abuse started after this” [C355 paragraph 6]. This is not the pattern of grooming suggested in her Police Interview. The short point is that this is an inconsistency in the evidence of Q seeking to complete a statement about the abuse she allegedly suffered as a child. Why is there such an inconsistency? Is she dishonest and cannot keep her story straight? Was she mistaken and confused when giving an account to the Local Authority in that statement? Having assessed her oral evidence, against her written

evidence and reflected on the context in which she has given her accounts of a traumatic period of her life, I believed her evidence. I accept that her accounts do not always tally (for example the first time the alleged abuse happened, when the alleged abuse ended, the circumstances, the sleeping arrangements within the home). These inconsistencies are meticulously described for each witness in the three sets of written submissions prepared by Ms Grief QC and Miss Anslow on behalf of J. However, I do not find that Q had any malign motive to make any allegations in 2006. I do not think she hatched a plan to resurrect and exaggerate allegations in 2016. I accept she has been inconsistent and has probably not been truthful about how her relationship with J has featured in her life. I find that she is a vulnerable woman, worn down by her history, who gave her evidence with palpable weary and anxiety but stoically told the truth about the horror that punctuated a substantial period of her young life. She appeared, at times, resigned that she would not be believed but she maintained that the abuse happened to her and that the person responsible was J. Giving evidence appeared to be a considerable undertaking and one which she undertook without enthusiasm but a determination to ensure that the events of her childhood were not repeated in relation to other children in the care of J.

81. The assessment of inconsistency lies within an holistic assessment of the evidence, acknowledging the age of the person, the variability of response to the abuse if it occurred and the passage of time. I find that she is not wrong about the nature of the sexual harm she suffered nor about the identity of the person responsible, namely, J.
82. Equally, care is needed to avoid assessing J as an emotionally affected teenager living in what were plainly difficult circumstances by the standards of the adult male who gave evidence before me. I have not forgotten that important aspect of the case. His evidence must be placed in its proper context.
83. In my judgment, over a period of time, it is perfectly conceivable that with a level of impetuosity and arrogance having achieved initial success, J proceeded to abuse and rape Q in order to fulfil his needs, which clearly predominated. That essential characteristic is one which is entirely consistent with his presentation as an adult in his evidence before me.
84. On 17 January 2017 the police confirmed that no further action would be taken in relation to the allegations made by Q.
85. I find the allegations proved.

R

The Allegations

- (7) *J, aged 15 or 16 years, exposed his erect penis to R, aged 10 or 11 years old, and repeatedly moved his hand holding his penis around. These acts were undertaken for J's own sexual gratification.*
- (8) *J, aged 16 or 17 years, used force to pin R, aged 11 or 12 years old, to a tree and vaginally penetrated her with his erect penis in that he:*
 - (a) *Used force to push R and pin her against a tree;*
 - (b) *Forced his penis into R's vagina;*
 - (c) *Repeatedly moved his penis in and out of R's vagina;*

- (d) *Ejaculated inside of R's vagina;*
- (e) *Caused R to suffer pain and bleed vaginally.*

86. R was born on 31 March 1996. Her older brother, S born 26 September 1990 was a close friend of J. Her younger brother was ee born 26 August 1998. There is no doubt and I find that throughout her childhood J and other friends spent time at her family home. There is no doubt that J was a familiar face at the property. There is no doubt that when S was younger, he and his friends spent time playing in the garden and in an area of what was disused land with trees and other vegetation situated on it at the rear of the property, known as the "back field". As S, J and their other friends got older, they would tend to play football away from the property at a local park or associate elsewhere.

The Fence

87. One small but significant aspect of the evidence was the means by which the children or teenagers got to the back field. It is agreed that there was more than one way. There was a gate not far from the house, which J said that he used to avoid getting stung when climbing over a wire fence at the boundary of the rear garden of the home. S, his younger brother, ee and R all confirmed that they would climb over the fence with their friends, including J, to get to the back field. The fence, in its modern context, can be seen in the top photograph on G585: -

[DELETED FROM ANONYMISED JUDGMENT]

88. I find it implausible that J, older and probably taller than the younger children would leave the rear garden and go round to get in by an external gate when everyone else, both younger and shorter, would simply climb over the wire fence, which in the photographs still bears all the hallmarks of that process having been undertaken on countless occasions. As S said, they used the same path so the route stayed open from brambles and nettles. I find it likely that J did cross using the fence as suggested by the other family members. The firmness with which he asserted the contrary does not suggest faulty memory but can be associated with his desire to seek to extricate himself as far as possible from the events which led to the allegation of rape of R.

R

89. Overall, I found R to be a clear and convincing witness. She maintained that the person who had exposed himself and subsequently raped her was J. I did not gain any sense that she was seeking to cover up the identity of the actual perpetrator and placing responsibility on the shoulders of J. I found her to be a persuasive witness seeking to do her best to give an account significantly removed in years from the events in question.

90. It is clear that she did not tell her family about the perpetrator for a significant period after her ff, had been made aware by gg that R had been raped. I did not gain the sense that ff or S pressured R into revealing more information about the rape or the perpetrator.

91. It is clear that she was, at times, badgered by gg to tell her who had done it. The identity of the perpetrator was revealed during a drunken evening with gg and another friend or neighbour. Having considered her evidence in the round, in my judgment, she is very clear as to the identity of her abuser. I do not regard it as likely that she picked J

as the person in order to hide the identity of the actual perpetrator. Firstly, why maintain such a lie in the first place? Secondly, she did not tell her family initially and the way the name emerged when she was in drink does not suggest planning or calculation. Thirdly, my assessment of her is that she is more likely to have said nothing about the identity of the perpetrator than wrongly to accuse a friend of the family, J. That is the reason she gave for not giving his name at least into adulthood when the abuse appears to have impacted her mental health having entered into an intimate sexual relationship. In the event that she sought to hide the true identity of the person responsible then why not simply say that he was a stranger to her? Why pick J? I did not detect a witness seeking revenge or punishment but a witness who had reluctantly been required to give her evidence. Her evidence remained clear, thoughtful and she answered the questions put to her. In other words, I found her an impressive witness.

92. The allegation made by R bears some similarity to the allegations made by Q. R did not report the rape at the time but subsequently undertook an ABE interview on 28 April 2017. R was 21 years old at the time of the interview.
93. Subsequently, J was charged with sexual offences against her and stood trial in the Crown Court at Chester in October 2018. J was acquitted of the charges.
94. R turned 10 years old on 31 March 2006. J would have been 16 years old at the time. The allegations appear to relate to the period somewhere between her being 9 and 10 years old although her evidence as to this is not entirely consistent. That would place J at around 15 or 16 years old.
95. Similarly, to Q, her accounts were detailed reflecting the essence of what she could recall. I highlight the following aspects of her account in Police interview: -
 - 95.1. At G476, she described playing hide and seek and finding herself hiding at the side of her mother's bed when J entered the room and exposed his penis. She said that he "pulled his pants out and grabbed it" [G476] he was "just, like, messing with it" [G478]. She states that she "only, like, got flashes cos I was hiding, and I was hiding my face because it was funny, I thought it was funny" [G476]. She did not tell anyone: "I was embarrassed so I didn't think about telling anyone" [G479]. "I didn't really think it was such a bad thing" [G481];
 - 95.2. R agreed with the suggestion made to her that this incident happened when she was 9 or 10 years old [G479]; it happened in the "summer"; the second incident happened not long after and "we used to build dens out in the forest, and stuff like that. So I knew it was, like, summertime and it was warm weather, and stuff" [G480]; she said that she was about the same age, 9 or 10 years' old when the alleged rape took place [G482];
 - 95.3. At G481, she described the backfield as a sort of "mini forest" [G481]; the children used to climb over the back fence, play around in there "and build dens, and stuff";
 - 95.4. She describes that she and J were messing about in the backfield when he "grabbed me and pushed me up a tree, and, erm, like, pulled my pants down, told me to shut up, and just did what he did" [G481]; it was "only a small" tree [G484];

- 95.5. It is clear from the interview at G482 that she struggled to know how to describe what he did, a struggle which did not appear rehearsed or artificial;
 - 95.6. She was asked to provide more detail and she describes her being stood up against a tree with a recollection that J's hands were "around my waist, like, painfully" but "I remember the pain more here than down there. (*indicates*)";
 - 95.7. She described, "kind of, just blanked it out" and being warned by J (similarly to what Q described) with words to the effect of "'Don't, don't say anything cause you'll get in trouble'" [G486];
 - 95.8. She thinks he told her to shut up and she, "like, kind of, froze" [G484] and didn't know what to do;
 - 95.9. She could recall wearing, "like, combat trousers...with all the pockets" [G483]; she is asked whether she had trousers on and she said: "No, he take, he takes that off first" [G484] but she did not remember him doing so [G485];
 - 95.10. He was taller than her at the time [G485];
 - 95.11. During the rape, she said that she "was just thinking it hurt";
 - 95.12. when asked if he ejaculated inside her, she was not sure: "I think, I think he did but I'm not sure" [G486]; she thought he had because "he finished like a guy finishes" [G487], "he was making the noises, and stuff" [G487];
 - 95.13. she could not recall ejaculation in first discussion with Police ("Don't remember") [G511];
 - 95.14. She describes not saying anything during the course of the assault: "I just, like, kind of, froze and I didn't know what to do...From start to, like, when I... when he left I, I didn't say anything" [G484];
 - 95.15. At G487, she refers to "bleeding", "just after", "after, when I went to the toilet";
 - 95.16. she did not recall in her statement ("I don't remember if there was bleeding, don't think there was, but there was some stuff that was more like discharge") [C149 paragraph 6]; there was some difference between whether blood was seen in her knickers or the toilet;
 - 95.17. She did not tell anyone at the time: "...I thought I was the one that did something bad, so..." [G488].
96. In short, the rape is alleged to have occurred after the initial allegation of exposure although the timing of this is not consistent (later that summer or up to a year later). It took place by a tree situate within the back field. In her oral evidence she described it being on a slope. As noted earlier, there is no issue that R, her younger brother ee, S, J, W and other friends used this area periodically. It is likely that they used it less as they got older but it is likely that there would have been occasions when S and some of his friends, including J, would be around at the family home when S had been asked to look after his younger siblings . S recalled a time when he was about 16 years old and playing in the back field in camouflage with J and ee and Q before getting a lift to Army cadets. ff said that S would sometimes look after the younger children with his friends in attendance. By this time, S, J and their friends were probably spending most of their time playing football or walking around the streets or visiting each other's homes to play video games. It is likely that they did occasionally play games with the younger children but in any event, it would not have been unusual or noticeable if J had followed R into the back field on an isolated occasion. There would likely have been a risk of discovery which, if the allegation is true, would suggest an impetuous or arrogant approach to the risk of discovery. The allegation is that on an occasion R found herself alone in the back field with J. He raped her and warned her not to say

anything. She did not say anything. Her account is plausible, detailed and appears unrehearsed. The inconsistencies do not undermine the core allegation. I find it implausible that such an account, nuanced and graphic is an invention. By the close of her oral evidence, R remained clear that she had been raped by J.

97. The explanation as to how J came to be the subject of this allegation spans a number of years. It is clear that R did not say anything at the time and in the context of the allegation that is entirely plausible given her age, fear and confusion or guilt.
98. R described telling a friend, a close friend, hh within year 10 at High School that she had lost her virginity but not like other people did and vaguely explained what had happened without identifying the perpetrator [G489]. It appears that as adolescence began, R wanted to impress other girls who were beginning to talk about such matters and entrusted that information to hh to consolidate her place within that social group.
99. hh stated that R had told her (“in Year 8”) that something had happened to her and implied it was of a sexual nature and that it was wrong. The perpetrator was described as an older mate of her brother, S [C732]. In oral evidence at the criminal trial, she said that R had told her that she was “sexually abused” by one of her brother’s friends when she was younger [F101D to E].
100. jj is the sister of the partner of R, kk. Her statement dated 28 June 2017 was read to the court in the criminal trial [F93].
101. jj said that one night in 2016 she had stayed up talking to R. She had asked R why she suffered from PTSD? R told her that she suffered from PTSD because she was raped “by someone she used to hang around with when she was a child” [F93]. R told her she was worried about telling kk. R asked jj to tell her brother, kk.
102. On 21 April 2016, R is recorded as having seen her GP complaining of “getting panic attacks at work- no obvious cause. Denies any stresses in her life” [G518].
103. On 9 June 2016, R is recorded as giving a history to her GP of nightmares; working at McDonald's with lots of people causes panic attacks; mostly anxious, stressed and panicky rather than depressed; counselling due to start 8 July 2016 [G518].
104. On 8 July 2016 at 1.43pm, there is a note from the counselling service regarding R: -
 - 104.1. “Sexual abuse, few times, by family friend when aged 10” [transcript at G333 – G334; note at G505].
105. The CBT therapist, Karl Woolley, prepared a discharge report, dated 8 July 2016 as follows: -
 - 105.1. “... she is having panic attacks 3 days a week...fear of being trapped. R further explained that she has been sexually assaulted when she was ten years old, for which this trauma has resurfaced due to entering into a relationship” [G535];
 - 105.2. R was referred to the Rape and Sexual Abuse Service (“RASAC”).
106. A letter from an hospital consultant, Ms Pinto, dated 20 July 2016 refers to R “... having counselling for post-traumatic stress disorder and anxiety” [G536].

107. Between the 25 July 2016 and the 3 February 2017 R engaged in therapy with RASAC [G554].
108. In or about August or September 2016, R called gg (a friend of her and ff) in a state of panic. There was reference to her suffering some form of “breakdown” at her place of employment, McDonald’s, and having “sworn at her manager”, whereupon she had been sent home (statement of gg, dated 31 January 2021 [C734]).
109. R stayed overnight with gg. gg made an appointment for R at her GP surgery the following morning. gg recalls that R told her that she had been referred for counselling. Given that gg also suffered with anxiety, she expressed some scepticism as to whether counselling would help.
110. A week or so later, gg became aware that R had received a referral for counselling. R told her that she needed to “phone somewhere in Scotland” [C734]. It was clear from the oral evidence of gg that she sought an explanation from R about why she had been referred for counselling. Later that evening, she persisted and recalls that R “kept pulling the duvet up to avoid the conversation”. R “eventually told me she was raped when she was 10 years old” [C734]. gg asked further questions and R told her that:
 - 110.1. she had been raped once;
 - 110.2. the person had also flashed her or shown her his penis or words to that effect;
 - 110.3. he was about 18 years old and she was ten years old when it happened;
 - 110.4. (after being badgered for a response) he was a family friend but she would not provide a name for him;
 - 110.5. she thought he had moved away from the area and she had not seen him;
 - 110.6. she didn't know if he was “on Facebook”.
111. It is clear that the age given of “10” years is not what was said in Police interview. The age of the perpetrator and the age difference is not that of R and J. She would have known that he was on Facebook. R’s explanation that she was trying to avoid giving his name and the answers were misleading is entirely plausible given how she was being badgered by gg. It is likely that she was emotionally closed and unwilling to open the door further to exposure of her personal affairs.
112. When gg told ff the following morning (with R’s permission), she appears to have rapidly come to the conclusion that the person concerned was J (“ff, almost instantly said, the only person she could think of was J” [C735]). The age gap would not have been correct but some basic estimation must have been made. I did not get the impression from ff that she was sure about the identity and it is correct to note that R did not provide or confirm the name to her at that stage. S said that ff said initially that it “could have been” J. ff said she can recall mentioning J and asking, “was it him that done it? I raised it because he has been accused before. I think that was why”.
113. It is likely however to have been a difficult and upsetting time for R and ff. I do not accept, however, that ff was persistent or harsh in seeking an answer from R.

114. S was told of the rape of R and recalls telling ff that “there was only one person it could be, and that was J” [G377]. He could not recall asking R about it. He suspects that he would have spoken to ff.
115. On the way to a counselling session, gg spoke to R and told her that J had been mentioned by ff. She states that R said “it wasn't him but then shut down all conversation” [C735]. Again, whilst that is plainly relevant and, on its face, exculpatory of J, it is also consistent with R's desire not to be drawn at that stage as to the identity of the perpetrator.
116. At some stage, R was at the home of gg with a neighbour. It is clear that this was a social gathering involving alcohol. gg describes R as “very drunk” [C735]. She records the following (paragraph 12): -
 - 116.1. “R started talking about what she had been through, she didn't tell me anything more but said that it was J that had raped her... I can remember being shocked that she had told me, especially as my neighbour was there... I asked R why she had said it wasn't him that time I took her to counselling and why she had never confirmed it to her mum and she just said that she genuinely thought he had changed, he had recently become a dad and seemed happy. I remember her saying why would she ruin his life.”
117. It is submitted on behalf of J that her “answer that she didn't want to cause trouble or bring attention to herself flies in the face of the suffering it was causing to her family not to know. The only logical explanation was that either it was no-one or someone else that she felt she could not reveal. Her mother was expressly putting to her if it was J – again – it makes no sense to maintain false denials in those circumstances and her explanation is therefore simply not credible.” I have quoted this because I do not accept the logic described. Her answer is entirely consistent with measuring the impact on J of confirming the identity of the perpetrator. The suffering of her family was principally the fact that she had been raped which would remain whether or not the perpetrator was identified. Her choice was to retain the information, tell the truth or to provide a false narrative. The evidence, in my judgment, is consistent with all three: (a) not giving J's name; (b) giving misleading characteristics about the perpetrator (age, location and Facebook presence); (c) consistently identifying that person as J. Her responses were, in my judgment, credible.
118. I do not accept that R had no real choice but to name J. I do not recognise from the evidence of ff, S or ee the hostile environment pressing upon her. I accept that the circumstances of finding out that others had found out whilst she had been away on holiday after her birthday caused her some anxiety. However, I do not accept that she has been propelled into a false narrative. In my judgment, it is likely that it propelled her reluctantly to tell the truth about J.
119. On 16 March 2017, S and J were planning to attend football training together. Just prior to 7pm, S was telephoned by ff, who sounded “quite panicky”. The combination of her asking him to come home and inquiring as to whether J was going to be at football training led him to the conclusion that J was the person responsible for raping R.

120. This is supported by the text message sent to J at 6.52pm:
 - 120.1. “J u better not turn up here I’ve just found something out when I see you ur dead” [G361].
121. At 7.54pm G received a message from S [G362]:
 - 121.1. “All I can say is get that prick away from your kids”;
 - 121.2. G asked, “What’s happened???”;
 - 121.3. S responded: “All I can say is the dirty peado is fucking dead get him out of your house”;
 - 121.4. G responds asking “...what has he done??? Please tell me what’s happened because it does involve my kids”;
 - 121.5. S replies that “[h]e raped R when she was 10” [G363];
 - 121.6. S suggested that “I’ve only just found out it was him. I found out six months ago she was raped...” [G364]. S was very angry at this stage and his estimation of time may have been influenced by that (compare the reference to 2 weeks [F52]).
122. G left the children at home with J to find out more by visiting and speaking to ZZ. G and J gave an unconvincing account of W joining them. W suggested a fluid situation where J moved between his house and his cc’s house focussed on finding out what was going on. I do not find it likely that G sought the attendance of W to act as a safeguarding factor for M and N whilst she left the property. I reject her account. She is unlikely to have suggested that J required supervision when she was intent on finding out what had happened.
123. Whilst at the property, G spent most of the time in the kitchen talking to ff..
124. At 8.01pm, J telephoned the Police: “...I have been accused of raping a 10 year old girl and obviously it’s untrue I’ve just found out all this today, and I’m worried about the safety of the, I’ve got kids in the house as well.... Is there any way you can send someone round try and talk to me and see what the steps are” [G570].
125. On 17 March 2017, the Local Authority received a child protection referral from the Police. “J was asked to leave the family home and not to have any contact with N and M and his contact with O was to be supervised by a third party, a written agreement was put in place” [C46].
126. On the 13 April 2017 the Police attended upon R and she gave an account to Police Officer Deakin [G369 to G374].
127. On the 28 April 2017, R gave an ABE video recorded interview to the Police [transcript at G470].
128. Seemingly at a point after R had undertaken her ABE interview, she spoke again to jj. I am not clear that this assertion is necessarily correct but what R is reported to have said is described as follows [F94]:-
 - 128.1. “R told me that when she was younger she had been playing with her brothers and some other people she used to hang around with. I remember her telling

me that they were in some sort of wooded area at the back of somewhere I cannot remember exactly where. She told me that a friend of her brother had taken her somewhere by a tree. I think she said he covered her mouth and then he raped her. I remember her telling me that he pulled her pants down and then pulled his down. R may have gone into more detail about the actual rape, but I found it uncomfortable to listen to and think I may have blocked out some of the conversation.

128.2. "I think R might have told me the name of the person who raped her, but I cannot remember it. I have seen his Facebook profile, but I cannot remember anything from it. All I can remember her saying was that it was a friend of her brother's from when they were younger.

128.3. "There has also been a time when R has told me that before the rape happened the same person flashed at her. I think he showed her his penis, but I cannot remember that conversation in detail."

129. On 11 June 2017, J was interviewed by the Police [G258-273 and G589-616].

130. J was charged and his trial was held from YY YYYY 2018 at the Crown Court at Chester before His Honour Judge Berkson, a transcript of whose summing up may be found at G233. J was acquitted of all charges and released from bail.

131. R was as I have already observed an impressive witness. The essential nature of her complaint has been consistent in terms of the exposure of the penis and the subsequent rape on the back field. There are clearly inconsistencies, such as the time gap between the incidents, but that is explicable given the context and must fall into the balance. There is a clear explanation for why she initially gave a misleading account as to the characteristics of the person who had raped her. It is clear that she was concerned, as an adult, with the implications of making such a charge against a close family friend who had his own relationships and children. To make this allegation was not easy for her. The emergence of the issue appears to have been prompted by her growing anxiety and the resurfacing of feelings and emotions linked to her experience of traumatic events after she had formed an intimate sexual relationship. She was described as a person who shied away from attention. She did not call the Police and felt embarrassed to learn that this had arisen whilst she was on holiday and she had not been told until after her birthday on 31 July 2016. There is no real basis, in my judgment, to suggest that she was pushed into nominating J as the perpetrator. I do not regard the evidence as establishing that she was pressured to name him or any perpetrator. In my judgment, the family approach was more sensitive than that. Furthermore, my assessment of her is that she would have withstood attempts to pressurise her into giving a name. Further, if she had chosen to give in to such pressure then it would have been much easier for her to name a stranger.

132. I do not regard the height difference between J and R as in any way undermining her evidence. To expect her account of such a traumatic event at a young age to expose the mechanical capability of penetration against a tree on an area of sloped ground is

unrealistic. Whether she was “slightly picked up” or she could not be sure is of little consequence.

133. The fact that, as an adult, she put the tree at about 2 average car lengths from the back fence is relevant. Firstly, I am not confident that her memory is accurate in estimating distance. This requires a degree of caution in evaluating the point. Secondly, I do not have contemporaneous evidence of the physical context of the tree, the slope and the fence. Thirdly, even if that estimation is accurate, to rape a child that close to her home would be an high risk strategy. That does not, however, establish that it would not have happened. It would be a relevant factor to consider.
134. Her description of “giggling” and thinking it “funny” during the first incident of exposure [G474 and G476-477] is odd if she was seeking to fabricate an account. Why suggest that?
135. J’s suggestion that the perpetrator was probably another family friend, mm emerged adventitiously at the criminal trial [L140-L142]. It is not for J to prove anything but I regard this matter as of little consequence.
136. At heart, I have no reason to doubt R’s substantive account given to the Police, the Crown Court and in her oral evidence.
137. I find the allegations proved.

G and H

138. G and H met in 2007. She was aged about 17 years old and he was 10 years her senior. That relationship involved volatility and calls to the Police in November 2012 [G5] and June 2013 [G6 -7]. They appear to have separated around this time.
139. It is agreed within the schedule of findings that they have had a volatile relationship and at times the children have witnessed such arguments and been present in the household or vicinity to hear them.
140. J has also been involved in a physical altercation with H.

Y

141. Y is the former partner of J and mother to the children born of that relationship, namely, nn (born 28 August 2010) and oo (born 28 July 2012). Her mother is T who features as another alleged victim of J.

142. They met at college although they were undertaking different courses. They commenced a relationship in about 2009 or “officially” as she put it in February 2010. J was about 19 years old and Y was about 17 years old.
143. Y has within private law proceedings made allegations of domestic abuse against J [J6] including Police call outs in January 2013 and July 2013 [C326a and G76]. He has not spent time with or otherwise had contact with either child since January 2016 [C7].
144. The incident of 6 January 2013 is recorded by the police as involving J losing his temper following an argument about mess within the home and his frustration at being out of work. Y describes an event where J had taken her phone off her. She asserted there was physical injury when he pushed her to the ground and pinned her down causing a bruise to the left arm. Later, after tracing the call, she felt frightened to speak to the Police and J was no longer aggressive. In my judgment, it is plausible that the Police caught the tail end of the situation and the incident was as Y described in her evidence.
145. On 17 July 2013 at 2.10pm there is a police report of an argument which resulted in J damaging a laptop. It appears that Y wanted J to leave the address and he was in the process of packing a bag when the police arrived. He had agreed to pay for the damage. The entry at J50 specifically refers to Y complaining that she had been locked out of the house: -
 - 145.1. “...Original incident report: verbal argument with partner, he has smashed laptop, locked informant out the house, 2 children inside aged 3 YO and 1 YO”.
146. Her evidence is that he was always quite aggressive and confrontational in their relationship. She described him taking her phone. She described feeling quite uncomfortable when he was touching her legs. She referred to occasions when he would shout and become intimidating. She described him smashing a laptop and locking her outside or pushing her to the floor and bruising her arm.
147. Y described a relationship which became increasingly hostile or toxic over time. She described him as aggressive and feeling pressured by a partner who was quite confrontational. J described intense negative feelings towards her: “I fucking despise her as a person”. She described how J became increasingly controlling of her. That control his illustrated by the way in which he is alleged to have bombarded her with text messages to find out where she was. It is evident in the consequences he suggested in the event that she chose not to engage in sexual relations. She alleges that he would threaten to use money required to care for the family for his own personal non-essential expenditure, such as going to the pub, if she did not consent to sexual relations. She alleges that he would lock her out of the property on occasion. The picture painted is of a self-centred individual with little regard to the interests of those around him, including family members where they impacted upon his own individual desires or preferences.

148. Y described an occasion when she had gone out and J rang her repeatedly from the home phone to such an extent that her father looked at the telephone bill. After their separation, there were likely many other occasions when she experienced the bombardment of text messages or missed calls as she described.
149. For some time, J's earnings were paid into an account in the name of Y. However, J had access to cash withdrawals.
150. Y refers to an occasion after they separated in July 2013. The children loved to see their paternal grandmother, although she felt that J was not happy about that. They would all go together to spend time with J at the home of his great grandmother, cc. She described J getting cross because nn wanted to open the door to go and see his grandmother, X with whom both children had a good relationship. She said that the door was locked and he took the front door key. He did eventually unlock it. She did not have any recollection of a large dog in the property on that specific day. She rejected the suggestion that the children were in the living room and the front door was locked because of the dog being present. She said the front door was locked and the keys were taken. This is similar to the allegation made by U.
151. Y denied allegations which J has made of her having multiple sexual partners and encouraging J to take steroids given her own drug use. In the early part of their relationship, she said that J had smoked cannabis and taken cocaine. She rejected the suggestion that she had taken cocaine.
152. Y describes permitting contact initially at her home but when that became uncomfortable because J would wait for her on the doorstep, sometimes quite late, she moved and arranged for contact to take place in public places.
153. The submission made on behalf of J that as an "assertive and strong-willed woman", Y would not easily be controlled or coerced is not one that I accept. It does not reflect the process at hand or the vulnerability of anybody to such a pattern of behaviour.
154. What was striking about the evidence of Y was her fear of separation from J borne out of her fear of thereby exposing her children to risk when spending time with J. At a basic level, she did not and does not trust him. I recognise that an acrimonious separation and subsequent proceedings suggests caution in simply accepting her account where much of it is denied by J. However, my evaluation is that her evidence as to the nature of the relationship is likely to be true. Her evidence is consistent with my overall assessment of the behaviour and personality of J revealed within the evidence placed before me. Her evidence about taking the children to see X without

telling J because she felt that she had a greater degree of control appeared genuine and emotionally significant.

T

The Allegation

- (9) *On or about the 29 June 2011 for his own sexual gratification J exposed his penis to T, and when she sought to get away from him, he pursued her and indecently touched her bottom.*
155. T alleges an incident occurring on or about 29 June 2011 (“it sounds about right. It was summertime”) on which day she was visiting the former matrimonial home owned by her husband and shared by Y and J. Y is clear about the date from pictures she has of her son, nn, playing in the paddling pool on a day when she knew something was wrong.
156. T used to live at the property and had contents still within it. She describes going upstairs to what was her bedroom to change her clothes before travelling home that afternoon. She was in the en-suite bathroom and then went to the mirror in the bedroom to fix her hair. She was shocked to see J in the mirror. It is alleged J said that she looked “nice” and as she turned to speak to him her words were abruptly interrupted as she saw him exposing his genitals to her. She describes him wearing blue, three-quarter length trousers, which were half down exposing his genitals.
157. She describes leaving the property in a rush and being followed by J down the stairs. At about the bottom of the stairs, she describes being touched on her bottom by J (“it was like he was pressing against my bottom. It could have been two but was definitely one hand”). She says that she saw him smirking at her from a window as she hurried away.
158. I found T to be a convincing witness. Her account had all of the hallmarks of something which she had experienced. She appeared visibly revolted at the suggestion that she had been attracted to J and rejected any suggestion that she had invented the incident in light of the hostility which had arisen following the separation of Y from him (“I don’t find this easy to be here. I don’t want to talk about this. This is the father of my grandchildren. He put me in a difficult position with my daughter. He saw some difficulty and he preyed on that and wrecked my life.”).
159. She rejected the suggestion that she had ever asked him to stay over with her alone. She said it had happened once but she had not asked him and she had told Y, that she was not happy about it.
160. Y said that it was J who referred to T as a “slag”. He has said to her that if he ‘tried it on’ with T then she would sleep with him.

161. Y said that T had left very suddenly that day. She had arranged to get a lift but she left the house on foot. It seemed very strange to her. She said that she saw J standing in the window waving to T.
162. At the time, there appears to have been some friction arising out of the level of involvement of T into the life of her grandson. This appeared to have been related to a concern that T's health might put her grandson at risk if she was caring for him unsupervised. T appeared to feel somewhat marginalised.
163. It is clear that T did not immediately tell Y about what had happened. I accept her evidence that she wanted to think and take advice about how best to tell her. She appeared emotional in describing the steps she took to decide what to say to her daughter. I accept that it was *at least* 3 weeks and possibly as late as September or October 2011 when she attempted to tell Y in circumstances which were not propitious (they had some sort of minor argument and Y was about to leave the property to meet a friend). She handed Y a quickly jotted note which gave some kind of summary about what she said had happened. The gist of it, according to T, is that J had exposed himself to her. Y read it having left the property. T was described by her as very upset and crying.
164. Y said she cried, did not go back to the house and met her friend at the bus stop as arranged. She said that she knew it was true but was not ready to have that conversation. She wanted to distract herself. She said that she felt humiliated and if she admitted to this then it was an admission that she was not safe in the relationship and could not protect her child. I do not regard that reaction as implausible. I accept that she reacted in that way.
165. This appears to have arisen at a time when J was away with the Army reserves for 2 weeks possibly in September or October 2011. Y said that she probably spoke to J and sent a text to him but that he denied the allegation. J suggests that he was told that the allegation was that he had "tried it on" with T. Y had packed up her things and was staying at Q's flat to "escape" the situation; Q was staying elsewhere at the home of X. J returned to stay with Y at the flat.
166. I accept that Y was in a difficult position in evaluating what had happened ("I stayed impartial to J but I believed her in my heart of hearts") given the context of the relationship she was in with J. Notwithstanding issues of (a) the chronology of the incident and the subsequent production of the note; (b) questions as to why T waited to tell Y and (c) why Y did not immediately separate from J, I do not regard this account as invented or rehearsed. It is a strange allegation to make when Y would have had every opportunity to invent her own allegations if they were designed to frustrate contact. She did not suggest in her evidence that she had experienced rape or sexual assault at the hands of J.

167. In the private law proceedings between J and Y, when the latter completed her form C1A on 13 December 2016 she noted a number of matters including under the heading, “sexual issues”: -
- 167.1. “(a) during the relationship he demanded sex and threatened things if she did not agree including spending money for children’s nappies or controlling TV”;
- 167.2. “(b) June 2011, he exposed himself to maternal grandmother and touched her. He wanted her to perform a sex act”; or exposed his penis “while making sexual comments” as described in her statement [C326a paragraph 16]
- 167.3. “I there has been an incest/rape allegation against [J] by his sister”.
168. It is unclear where she got the suggestion from that J wanted T to perform a sex act. That was not the evidence of T (she referred to “muttering”) and at best it was an assumption by Y. It is submitted on behalf of J that this reveals the women caught out in the lie. I have taken that into account in evaluating the evidence of Y. I find it likely that it was an assumption on her part from what she had been told. A safeguarding report was filed by CAFCASS on the 24 January 2017 [J19] In her interview with the officer, Ms Leadbetter, Y said that J “displayed inappropriate sexual behaviour: exposing himself to T and making inappropriate sexual comments about young girls” [J21]. I have not explored and the Local Authority have disclaimed reliance upon the latter allegation. I do not rely upon that assertion as truth of the contents of it.
169. At a hearing before District Judge Wallace on the 2 February 2017 it is recorded that Y “reluctantly concedes that she would not be in a position evidentially to prove the allegation of historic sexual assault made against J to the police in February 2016” [J29].
170. The Police investigation prompted the private law application to be adjourned until December 2017. By Order dated 18 December 2017, J was permitted to withdraw his application [J40].
171. Y has recently issued an application in relation to change of name. That application remains pending.
172. I accept the kernel of the evidence of T. I find that the allegation is proved.

G and J

173. It appears that G and J began to cohabit very quickly, within a matter of days have gone on their first date, in January 2015 [J25 and C7]. During his oral evidence, J appeared to accept behaving in a very negative way towards G following the allegations which surfaced from Q in March 2016. That suggests an acceptance that there was an element of behaviour which went beyond the normal travails of a healthy relationship.
174. The problem underlying these allegations is that G has already admitted to including elements of dishonesty in her accounts to the court in most of her witness statements. J suggests that she has sought to exaggerate reasonable differences in order to placate the local authority who have sought for her to reveal such a narrative over the period of

their involvement. In other words, she has buckled in the hope of regaining the care of her children.

U

(10) The Allegation

In or about January 2016 J exposed his penis to U and repeatedly moved his hand holding his penis around and was violent to her by placing her in a head lock.

175. U knew G, who worked at her Mother's nursery, since she was 10 years old. They had been friends from about 2014.
176. From pictures uploaded to her Instagram account, she said the incident probably occurred on Saturday, 30 January 2016. This is consistent with a celebration of J's birthday (26 January).
177. They had been out that night to a nightclub to celebrate the birthday of J. His friends were there including S, mm and ee (younger brother to S and R).
178. I found U to be a credible witness who acknowledged that her recollection may have been impacted by intoxication. She did not appear aligned to any party in describing events. She gave a clear account of going home after the night out to discover a party in progress and her bedroom being occupied. She then walked to the home of J and G in the early hours of the morning and was invited in. There appears to be agreement that all parties were under the influence of alcohol.
179. U has a clear recollection that at some point J followed G into the kitchen and as he did so, turned around and "got his penis out and flashed it me [sic], he wiggled it around..." [C210a]. She appeared to treat the incident as a light-hearted moment of theatre ("He flashed deliberately but to be funny"). I find it an odd thing to do to a teenage friend (U was about 18 years old) with your partner walking just ahead of you. It is impetuous and risky. It is arguably consistent with a drunken stunt or an attempt to test her reaction to an overtly sexual act.
180. The second feature which appears to be agreed is that in some way J ended up on the floor with his arm around U's neck in a form of headlock. U described how she felt frightened and short of breath ("His arm around my neck; I couldn't breathe for a second. Lot of force...He was squeezing my neck really tight that was why I couldn't breathe I was trying to get up"). Eventually, he let go of her. The atmosphere appeared to change after she regained her feet and sought to leave the property. Her account is that J locked the door ("you're not going anywhere") and it took some time before the door was unlocked and he angrily threw her out of the house with some force and she landed on the ground. J accepted that he threw her out of the property but not that she fell to the floor [C348].
181. U shouted at G to come with her likely because of what she perceived as the risk posed by J ("when I was on the floor outside, it was just in my head that J was dangerous and I did not want him to do it to her").

182. I find it highly unlikely that J was seeking reasonably to subdue her. It is frankly incredible that he would have engaged in “playfighting” as a mature male in his family home and a partner in the same property. Again, I posit the possibility that this was less about calming U and more about getting “hands on” with a young woman to whom he had already shown his penis.
183. I pause to note that this bears some similarity to a different occasion on which J is alleged to have assaulted V, another friend of his and G, by gripping her neck after which that friend had sought for G to leave with her such was her fear of the actions of J. G could not have misunderstood what they were saying to her.
184. U did not recall G telling J to get off her or expressing worry about her going home. J agrees that G said words to that effect.
185. J’s accounts have shifted over time: -
- 185.1. “Both G and I agreed that [U] could come to our house. I fell asleep on the sofa that evening. I refute any allegation of sexualised behaviour” [C132 para 4(f) and L428] (June 2019);
 - 185.2. “They went downstairs and carried on drinking and I fell asleep on the sofa... Me and [U] were having a little play fight, it’s the first time I’ve done that, G was still up, I said fucking hell G she’s a lot stronger than she looks... The girl just turned. Once I realised she was turning I stopped. I don’t know why to be honest. I just said leave then, if you don’t want to stay, go, she just walked out...” [C275 para.113] (November 2019);
 - 185.3. In oral evidence, he described them “prattling around” and it got out of control; U was getting quite loud and he was concerned about the impact of the noise on the neighbours;
 - 185.4. During his oral evidence, he expressed for the first time a potential explanation for the exposure of his penis: that, having had sex with G, he came downstairs, still erect, and as he has lifted his top “she’s seen something she didn’t want to”.
186. U did not report the incident to the Police. It appears that the information was conveyed to others, possibly via a Facebook group chat or through a conversation with mm, the latter of which led to the Police being informed. She says she was contacted by the police. She did not want them to do anything. I gained the clearest impression that she wanted to forget about it and have nothing more to do with J or G. She had no confidence that she would be believed given her state of intoxication. I do not accept that there is any evidence that U has been coached by mm, a member of the R’s family or anyone else into making these allegations. She wanted to forget about it and have nothing further to do with G and J. She was reluctant to become involved in these proceedings [L60]. I note that she is likely to have had some knowledge of S and ee given that they were part of the group celebrating the birthday of J. The evidence does not, however, bear the weight of the submission that her failure to clarify the name ‘R’ in questions on behalf of the Children’s Guardian having stated that she did not know her name is significant. The risk of misinterpretation in seeking to establish what was said, by whom and when is admittedly large. However, I do not accept that the evidence, as a whole, supports the inference that U has been persuaded or has sought to provide an aligned and inaccurate account.

187. U is clear about J displaying his penis. U is clear about the aggression when being held about her neck. She is clear about the shortness of breath. She is clear about reacting and demanding to leave. She is clear that J locked the front door and then he unlocked it. It is agreed that she was thrown out of the house and she is clear that she fell onto the ground. I find her account bears clear and convincing elements of truth. She did not unreasonably claim to have a better memory than she did. She did not reject the possibility that she had been “playfighting” but did not recall that.
188. In or around December 2017, pp sought to employ G within her nursery. Pending arrival of the DBS checks, she asked G to complete a disqualification form. She states that during this discussion G told her of an incident in which a young woman had come back to their home after a night out and she had gone to bed leaving the woman and J alone downstairs when “all hell broke loose”. G went downstairs and related that the young woman had accused J “of touching her and exposing his penis. He had apparently been tickling her and play fighting” [C206].
189. G’s accounts may be summarised thus: -
- 189.1. When referring to this incident in June 2019, G stated that “this was U. We had been to a party and she was inebriated. The only thing I saw as I walked out the kitchen was her and J play fighting in the hallway (the children we’ent present)” [C123 paragraph 21];
- 189.2. In February 2020, she suggested that U had said nothing to her about J exposing himself [C336] and that it was J who told pp about the allegation [C336];
- 189.3. Her account was that having invited U to stay up or go to sleep in the children’s beds, she went upstairs with J. They heard “a lot of banging” so she went downstairs possibly with J behind her. Her narrative jumps to a point when she is walking out of the kitchen: -
- 189.3.1. “I saw what I believed to be U and J playfighting in the hallway which ended up with them being on the floor. I can recall U screaming and I told J to leave her alone and let her get up. *U stormed out of my house* and down the road before calling me asking me to go and speak to her outside. I said I wasn’t letting her walk home on her own and I would call a taxi or her mum but she was adamant she wouldn’t go in a taxi or with her mum. *She was screaming for me to leave with her and when I said I wasn’t going with her she stormed off.* We had all been drinking but U was very drunk” [C336].
190. In her oral evidence, she appeared at one and the same time to state that she believed U but also denied that she heard screaming (“more shouting to get off”); or denied seeing his arm around her neck but not recalling it; or denied U was choked by J; or denied that she saw him lock the door but did not recall if the door was locked. Essentially, she tended to deny some of the particulars and/or to having any recollection of them. She did say that she saw J push her out of the house. When it was put to her that that her statement [C366] refers to U, storming out of her house, she said that she did not think she remembered it when she made her earlier statement. Another option is that she was simply aligning her evidence to J’s written case. When asked about this in

April 2020 by Alison James, former Children's Guardian, she retorted: "J and U were only 'play fighting' and 'there was nothing in it'" [C417 paragraph 22].

191. My evaluation of her evidence is that she has given an account skewed towards the interests of J. I find it likely that the account given to pp is probably the more accurate account. It is consistent with the evidence of U. It is unlikely to have been given in anticipation of legal proceedings.
192. I find the allegation proved.

V

(11) The Allegation

In or about 2016 or 2017 J was violent to V by:

- (a) Lunging at her and pulling her up by her clothing from a seated position;*
- (b) Grabbed her throat with his hand and squeezed her throat;*
- (c) Used force to push V into a wall by holding her throat;*
- (d) Caused her by this use of force to hit her head on the wall and hurt her throat.*

193. A case note was prepared by social worker, Heather Dale on 13 January 2017 at 9:21am in relation to contact with an anonymous caller on 8 December 2016 at 2:30pm. V confirmed in her oral evidence that she was the anonymous caller. The note records that [C216c]: -

193.1. "Caller said that she was concerned about G and her children because her partner had been very aggressive towards her today. Caller was very upset and said that earlier today (am) he had been aggressive towards her whilst her son and G's children were present. Said an argument occurred at G's home. Said the police had been called so she left the home' Said G decided to remain at the house with her partner. Said G's partner was a very aggressive man and had done the same thing to another friend of G's previously. Caller said she was frightened of him and stressed that he mu'tn't know that she had called today or he would retaliate against her or her son."

193.2. I note that J is described as behaving in a "very aggressive" way although on either account that would not be an accurate description of events, which involved physical confrontation.

194. A Police Report which appears to relate to this incident is dated 19 November 2016 at 4.27pm [G93] although it is not without some doubt: -

194.1. "Closure Summary: Facebook argument about football amongst friends. No offences, not domestic related and all parties advised."

194.2. "Original Incident Report: caller reporting he has had a fallout with his girlfriend's friend and her family are at the front door. Thinks they would want to cause him harm. Caller is currently in the back garden and the back door is locked. But his girlfriend is at the front door trying to calm the situation".

195. I accept that there is some confusion about dates but regard the Police record as likely to be accurate as to the date of the incident. The Local Authority case note was prepared on 13 January 2017 and it is possible that either the date of the referral has been expressed incorrectly or the gap between the incident and the referral is longer

than V suggests. I have taken that inconsistency into account given the vehemence with which V rejected the existence of a delay of that length in her oral evidence. V was a friend of J and G. She was a very good friend to G and saw her regularly. She had worked at a nursery owned by U's mother.

In her evidence she related aspects of the way in which J behaved which stood out. Firstly, he appeared in a persistent way to suggest that he was the father of her son. Again, the clear impression I formed from her evidence was that these assertions became increasingly wearing and caused some difficulty in her personal life in that she agreed to undertake DNA testing to establish paternity with the putative father after the Child Support Agency had become involved following comments made to him by J that she had already had a DNA test. This carried over into comments that suggested they had slept together, had sexual intercourse and dated. It was clear from her evidence that at first she laughed it off and it became more problematic as it "was all the time, all the time".

196. The second aspect is the suggestion that, at times, J appeared to belittle G by referring openly to their sexual relationship and the sexual positions they would use from time to time. She described sitting on the sofa when J said words the gist of which were 'that was where he and G had sex'. This clearly made her feel uncomfortable and concerned for her friend
197. On the day of the incident, she describes J revisiting the allegation about the paternity of her son which caused her to become irritated: -
 - 197.1. "I became annoyed and told him that I was sick of his constant references to such and that he wasn't to my taste"; "I asserted that I did not fancy him;"
 - 197.2. Her oral evidence was that as soon as she had said that they would never be together and she did not find him attractive he launched or lunged at her.
198. J's account is that he was teasing her about her partner not being allowed to go out to watch football that night. There is no doubt from her evidence and the evidence of J and G that a physical confrontation took place and that J was angry. This is not surprising given his personality which tends to inflame rather than defuse conflict where he regards himself as correct or unfairly treated. He was sitting away from V who was on a sofa by herself. Her case is that he lunged at her grabbing her neck and pushing, throwing or slamming her up against a wall. He squeezed her neck "hard as he had me up against the wall" [C216b]. She describes a bang to her head and pain in her neck when thrown at the wall.
199. J describes a situation whereby V jumped or "flew" up from the sofa and J pushed her back down onto the sofa with his right arm before she jumped up again and the two of them had their faces close together.
200. V denied having acted in a flirtatious way with J, for example, by sitting on his knee or putting her legs across his legs. She denied putting her son on his lap and suggesting he was his father.

201. G's evidence is that she pulled them apart. V said G pulled J off her ("got him away from me"). Otherwise, G's evidence is supportive of J.
202. V did not call the Police. V left the property with her young child. M and N were in the property. She called her brother who attended at the property "to get me home not to cause trouble" as she put it. She was upset.
203. J went into the garden ostensibly to keep out of any further trouble or to protect himself against the risk of any further difficulty. The Police were subsequently called by him [G94].
204. In a similar vein to U, V, obviously upset, would not leave the area outside the property without pleading with G to leave with her. She said she called the Local Authority because she did not think G and the children were safe with J.
205. I accept the evidence of V. Her presentation was of a witness who did not appear to embroider her evidence. She appeared emotionally congruent and convincing in her description as an imperfect recollection rather than a neat fabrication. She did not have any obvious reason to attack J on the day in question. She was friendly with both parties. It is inherently likely that she would have become irritated with his persistent references to the paternity of her child.
206. I do not regard J's evidence as credible that the only reference to paternity that he made was the notion that he spent so much time looking after the child of V that he might as well be his father.
207. It is inherently probable that confronted with the suggestion from J that she held no conceivable sexual interest in J that he would have felt slighted and become angry. It is not unreasonable to suggest that J is apt to become physical in his dealings with others when angry or aroused in some way.
208. G accepted in evidence that V was genuinely concerned about the welfare of her, M and N. That is consistent with the fact that U made a child protection referral. In those circumstances, it is, in my judgement, inherently unlikely that she would have invented an account in circumstances when she has not sought to call the police, she has made a child protection referral and appeared genuinely to fear for the welfare of G, M and N. This action was from a very good friend of G.
209. G intervened as a heavily pregnant woman probably to protect V from serious physical harm at the hands of J. She accepted fearing that serious harm might occur. She sent J out to attempt to calm him.
210. The evidence of J [C349] was generally clear but I found his description of a potential reason for V lying about events, namely, that she blamed him for introducing her to the father of her child, who subsequently failed to support her as incredible. There is nothing on that day to suggest that she was carrying a grievance so stinging that she erupted into violence and then subsequently lied about a key element of it.
211. I find the allegation proved.

G and J: Relationships and Written Agreements

Written Agreements

212. Over a lengthy period, there have been a number of written agreements regulating the permissibility or conditions relating to contact between J, G and the children.

213. J signed a written agreement on 3 March 2016 (“WA1”) [F3]:-

[DELETED FROM ANONYMISED JUDGMENT]

214. On 10 October 2016, NAME signed a written agreement with the Local Authority as follows (“WA2”) [F5]: -

[DELETED FROM ANONYMISED JUDGMENT]

215. NAME was born on YY YYYY 2017.

216. On 8 August 2017, NAME entered into a revised written agreement with the Local Authority as follows (“WA3”) [F7]: -

[DELETED FROM ANONYMISED JUDGMENT]

217. On 8 March 2018, a further written agreement was signed by G dealing with the immediate issue of her living with the children in the home of 2 adults regarded as inappropriate. The terms of the agreement (“WA4”) were as follows: -

218. The final written agreement (“WA5”) signed by G and J on 6 June 2018 [F14] was as follows: -

[DELETED FROM ANONYMISED JUDGMENT]

219. J was acquitted of the charges brought against in respect [REDACTED] R on YY YYYY 2018.

220. Care proceedings were issued on 13 June 2019.

221. P was born on 23 February 2020.

Allegations and Admissions

222. I have not determined any of [REDACTED] individual allegations in [REDACTED] [REDACTED] ation. They form part of a whole which I have considered before determining the [REDACTED] individual elements. The allegations as pleaded are set out in italics.

(12). *Whilst at all [REDACTED] material times averring that they were separated from each other and knowing that [REDACTED] must not be in the company of the children G and J acted as follows:*

[REDACTED]

(a) *In or around June 2017 G and J met up together in the company of M and N on multiple occasions including J spectating at their swimming lessons and seeing him on Father's Day.*

223. The only issue raised by G about J seeing the children during their swimming lessons is that this occurred before a written agreement was signed.

224. J accepts being a member and attending the gym where M and N swam and therefore on occasions, he would see them.

225. G accepts that M and N saw J on Father's Day 2017, including dropping presents off for J (said to be by way of exchange of presents through the car window).

226. J does not recall such a meeting but accepts the children would send him cards and gifts.

227. I take judicial notice of the fact that Father's Day in 2017 was on Sunday, 18 June.

228. On 22 June 2017, during direct work with the girls, M and N "talked about seeing J regularly including him coming to watch them at swimming and seeing him on Father's Day" [C45-46].

229. In context, I am satisfied that the allegation is proved. The parties were in a relationship and probably continued to meet and allow J to see the children. It is likely that the children would refer to something experienced recently than a distant memory especially when they refer to a specific recent memory of Father's Day. I found G's explanation that the children did not have a concept of time, in this context, unconvincing.

(b) *G permitted J to have ongoing contact with the children during August 2017 including attending at the N's birthday party at the family home and attending at the family home when the children were present*

230. G accepts that J attended N's birthday party at the family home.

231. J does not recall the specific date of the birthday party but can recall attending a birthday party when N and M were present.

232. The Local Authority chronology [C47] notes the following entry in "August 2017": -
232.1. "Third party information received from two separate family members with concerns that J was having contact with N and M and unsupervised contact with O."

233. N's birthday was on Monday, 14 August 2017.

234. The contact at the birthday party for N occurred within days of WA3 being signed. It was a clear breach of the agreement and symptomatic of the reality of what was probably going on a more regular basis. I accept the evidence of G as an admission against her interest. I find the allegation proved.

- (c) *On the evening 19 January 2018 J was inside the family home with the children present permitted by G. J was observed leaving the property at by PCs Deakin and Whitehead.*
235. G accepts that J was at her property. His attendance related to the occasion of O's birthday party. J was in the house. She denies seeing him leave from her property but does not challenge the observations of Police Officer Deakin and Whitehead [C340].
236. J accepts that he was at the property for O's birthday party. He accepts that the police officers may have seen him.
237. It is likely that all of the children were involved as would have been the case for N's party.
238. Police Officers Mo Deakin and Whitehead made enquires at two houses that evening at 6.35pm [email timed at 21.52 on 19 January 2018: L55]. The Police Officer knocked at G's address and asked G if "J was at the address and she told me 'No'. She said that she hadn't seen him this evening, she said he might be playing football or at the pub, but confirmed that he was not at work".
239. Police Officer Deakin went to cc's address, knocked on the door and spoke to W: "I asked if J was in, he told me he thought he was across the road at G's and then he asked his grandmother if she knew where he was. I heard J's grandmother say 'he is across the road'".
240. They returned to G's address with W. G opened the door before they got to it. When asked if J was at the address, again she said, "No", "I don't know where he is" and "he could be anywhere." She offered to telephone J and appeared "very uncomfortable."
241. At about 6.45pm the Police Officers returned to the Road, parking about 40 to 45 feet away from cc's address facing both properties. After about four minutes they saw J "coming from the front pathway of G's address, he crossed the road furtively looking all around him as he walked. He then walked straight into cc's address."
242. Police Officer Whitehead records that "PC Deakin pointed out J who appeared from the front entrance of G's home, he crossed the road and looked to his left and right and then walked back into cc's address" [L107].
243. The Police Officers knocked on the door of cc's. G was seen with a mobile phone pressed to her ear and spoke very loudly the gist of which was "the officers have just been to see you, can you give them a call?"
244. W answered the door and J appeared at the top of the stairs on the phone. Police Officer Deakin told him that he had been seen leaving the address and that G had lied to him twice that evening. J said, "I haven't been there." He was told that he had breached the arrangements social services had put in place regarding contact with the children.
245. I find that the evidence of the Police Officers is likely to be true and this is a good illustration of what I regard as dishonesty by J and G regarding their relationship and the contact which J was having with the children in January 2018. G had lied in her statement of June 2019 [C119 paragraph 6] as she accepted. The failure of G to

acknowledge fully her deceit in her oral evidence is significant (for example, “I didn’t say he hadn’t been there. I just said he was not there at the time”).

- (d) *On another occasion during January 2018 G brought O into contact with J by taking her into the property in which J resided.*
246. G accepts attending the home with O in January 2018. Her case is that J was not present as the purpose of attending was to collect her belongings and she would have confirmed with J in advance that he would not be present.
247. J states that he does not know if G brought O to the property nor whether he was present.
248. After the 19 January 2018 G moved out of her address and J moved in. G claimed that she had not been in a relationship or intimate with J since January 2018 and has not spoken to him since 23 February 2020 [C669 paragraph 35; P C84 paragraph 18].
249. In December 2017, both parents attended a paediatric appointment together with O [H1015].
250. On 11 December 2017, the Health Visitor, Natasha Johnson made a note of her visit to see G and O [H1015]. The relevant extract of which is as follows: -
- 250.1. “Discussed Paediatric appointment and J attending with G. G reports that J did attend but she did not see it as a problem. J’s clothes seen on the washing stand, when questioned G reports that J does not do his washing so she does it for him. Informed G that HV would be informing SW Debbie Roebuck of this unsupervised contact. Discussed the importance of G safeguarding O and her children and adhering to the child protection plan.”
- 250.2. The notion that J would bring the washing over and leave it outside, as G suggested, is incredible.
251. In context, I find it likely that there was a variety of contact including with O. It is inherently likely that they regarded any separation as artificial and disregarded any restrictions when they wished. That is probably the case with the attendances at this address.
- (e) *G and J went together with the children to Blackpool for a weekend and at least on one other occasion in or after September 2017 but before the 12 March 2018. M stated this on the 12 March 2018.*
252. G accepts that she went to Blackpool twice with J and the children but this was not after early 2017.
253. J agrees that he visited Blackpool with G and the children early in the relationship but not between September 2017 and March 2018.
254. On Monday, 12 March 2018 during direct work with her family support worker, M (9 years old) told her that “she had gone to Blackpool over the weekend with her mum, N and J”[C49].

255. In context, I find it likely that the allegation is proved. It is inherently probable that on a Monday morning she would have related a recent memorable event rather than a memory in early 2017. Furthermore, beyond the fact that she did not appear to have been ‘coached’ to say nothing of it, it is consistent with the underlying relationship between the parties.

(f) *On the 15 April 2018 G and J were together in a public house with O.*

256. G accepts that she was in the pub with the children for a meal but it was not arranged.

257. J states that he was in the pub watching football with his friends at the same time as G and the children but states that they were not eating together and it was not arranged that they would be together.

258. The Local Authority was given this information anonymously on 19 April 2018 [C52]:

258.1. “...G, J and all of the children had been seen in a pub together. The person was also able to provide photographic evidence of this which they provided to the Social Worker. The referrer reported this was not a one-off incident and they were aware that J has regular contact with all of the children. G and J both denied this had happened.”

259. Whilst it is not the case that G and J deny that this happened, they seek to minimise the impact of the contact by suggesting it was a coincidence. I find it unlikely it was simply a coincidence and it is more likely that it falls into a pattern of them meeting up with the children on occasions.

260. In September 2018, the previous allocated social worker, Sue Capper observed that [C15]:

260.1. “However, [G] is not acknowledging the risk of sexual harm that J poses to her daughters. She and J have stated in multi-agency meetings that they have allowed unsupervised contact between G’s children and J. When M and N have been spoken to they will not make any comment about seeing J suggesting that there has been parental coaching for them not to disclose the contact.”

261. The Local Authority refer to a child protection case conference on 27 July 2018. The minutes of the case conference should have been produced timeously given it is specifically referred to in the written opening of the Local Authority.

262. The minutes include the following matters of relevance: -

262.1. It is noted that G and J had booked a family holiday abroad with the children in May 2018. G stated that she had cancelled the holiday.

263. There was a gap in J having contact with O. On 6 September 2018 the following is recorded [C55]: -

263.1. “On arrival to contact O went straight over to J and lifted her arms to be lifted up by him. O showed no signs of having not seen her father for several months.”

- 263.2. The obvious inference is that she was used to seeing J.
- (g) *On or around a weekend before, but proximate to, the 7 November 2018 N was carried up to bed by J who was in the household and alone with the child, G had permitted and/or facilitated this.*
264. G denies that this happened in 2018. She accepts that J did carry N to bed when they lived in a previous address on or before January 2017.
265. J accepts that there were times when he carried N to bed when they lived together much earlier in the relationship than alleged.
266. On Wednesday 7 November 2018, N (7 years old) was speaking with her social worker at school when she said that “Daddy J had recently bumped her head when he was carrying her to bed. N stated this had happened the previous weekend”, namely 3 - 4 November 2018 [C56]. Sue Capper, social worker, described this as a conversation at school about what N had done “last Sunday”.
267. I find that the allegation is proved. It is consistent with the underlying relationship between the parties and it is unlikely that N would have confused the very recent past with an occasion so far back in her memory.
- (h) *In or around late January 2019 early February 2019 J and G were in a car alone with O.*
268. G accepts that there were occasions when she left her property with the girls in the morning to collect J and take him to work.
269. J accepts that there were a few occasions in January 2019 when G gave him a lift to work.
270. In her statement, dated 25 June 2019, G denied that H had seen her and J with O alone in the car driving around: -
- 270.1. “...that is not true. I have not been in a car with J and O since the last pre proceedings were commenced. H has made up these accusations many times. He even admitted to me that him and his mum were calling regularly to make allegations” [C115 paragraph 8].
- 270.2. That is a dishonest account. That was not maintained but it is clear that her motivation was to divert attention away from evidence of her continuing relationship with J.
271. G would leave her home early in the morning with the girls in order to take J to work around 7.00am to 7.30am. That is very early to get all of the children ready to give him a lift to work. In my judgment that is indicative of what was probably happening in terms of their relationship and contact with the children.
272. I find the allegation proved.
- (i) *On or about 8 March 2019 G and J were together when one or both of them spoke on the telephone to Leanne Thorpe.*

273. G accepts (a) the allegation and (b) that she dishonestly said that she had telephoned J and related the contents of the call from Leanne Thorpe to him. They were together at the time probably in or outside her car.
274. J denies being with G on that occasion. His case is that G telephoned him to relate what she had discussed with Leanne Thorpe before he spoke to Leanne Thorpe. However, in cross-examination he accepted that he had been in the car with G many times and could not be “100%” sure about that particular call.
275. On 8 March 2019, the allocated social worker, Leanne Thorpe made a telephone call to G to tell her the reason for not being able to hold the planned Pre Proceedings Meeting as arranged that week [Note created 8 March 2019 at 6.40pm: L66].
276. Ms Thorpe rang J shortly thereafter [Note created 8 March 2019 at 6.41pm: L64]: -
“(After my T/C with G I rang J a few minutes later, J was already fully aware of my conversation with G and due to it only being a short time since I'd spoke to G it is reasonable to presume that they were together during these conversations. J however stated that G had rang him and updated him)... J was hostile throughout the conversation stating that the Local Authority couldn't do their jobs right.”
277. Within her oral evidence, Leanne Thorpe was very clear that the timing was not consistent with G having had the opportunity to explain matters to J by telephone before Leanne Thorpe called him. There is no basis to think her scepticism is anything other than valid. G has, of course, changed her position and accepts that they were together. In my judgment, the combination of the clear perception of Leanne Thorpe, together with the evidence of G and the inherent likelihood that the parties were together at the time satisfies me that the allegation is proved. That conclusion is reinforced given that J was at least willing to accept the possibility that he had been with G on this particular occasion.
278. On 3 April 2019, J rang the social worker at least 16 times over a 55 minute period. During the course of a conversation in which he reiterated that he would call excessively if he felt it necessary to do so, J told her that “following the local authority ending their involvement he and G would be resuming their relationship as they had been ‘made to end their relationship’”[C60]. This rather illustrates the mindset in play at the time. There was no real sense of separation but at best a manipulated separation undermined by the reality of the ongoing contact taking place within the community.
- (j) *During May/June 2019 G and J were frequently together in the car with their children in the mornings.*
279. G accepts the scenario whereby she would give J a lift to work in the morning continued.
280. J accepts that he was in the car with G on occasions but does not regard it as occurring frequently.
281. I do not regard the adverb “frequently” as significant. What is important is that the parties acted as one would expect if they were in a relationship. Getting up early in the

morning at about 7:00am to collect a person with your young children in the car is an act which would commonly be seen when the adults concerned were in a relationship together. It says that they regarded this relationship as significant and did not regard it as risky or abusive at that time. It suggests a degree of regularity and continuity if it had spanned the period from January 2019 through to May or June 2019. It is another indicium of what was likely to have been happening in terms of contact.

282. G conceived P around the time of G's 30th birthday on 17 May 2019.
283. Anonymous third-party information, received on or about 5th June 2019 [C63], noted that J and G were frequently seen together in the mornings with the children either getting into the car or already in the car.
284. I find this allegation proved.
- (k) On the 7 June 2019 between 8am and 8.30am J and G were in a car alone with O.*
285. G accepts this on the same basis as she accepted the lifts to work set out within the preceding allegations but suggested it was probably earlier in the morning given that J had to be at work by 7:30am.
286. Similarly, J accepts that he may have been taken to work by the mother G on a few occasions.
287. I find this allegation proved for the reasons already given.
288. At a core group meeting on 10 June 2019 [C64], G was given information suggesting that J was having contact with the children. The social work chronology records her response as follows: -
- 288.1. "During the core group meeting G was informed of the information the Local Authority had received in regards to J's contact with the children. G stated this information was malicious and not true.
- 288.2. "G went onto say that the children believe J is currently away with the Army and she wants to "keep it that way". G also shared she doesn't want the children to be aware that the professionals have worries about J."
289. When cross-examined, she denied saying that. I find that highly unlikely. This is a very clear summary including what would appear to be reported speech. The likely position is that she was caught in her dishonesty. The children had clearly been seeing J and G wanted to suggest a reason why that would not be happening.
- (l) On the 10/11 June 2019 J stayed overnight at the family home when the children were present and left the property at circa 0705am on the 11 June 2019, observed by Suzanne Capper.*
290. G accepts that J was seen leaving the family home on 11 June 2019 but denies that he came into the house or stayed the night.

291. J accepts that he attended the home to give money to G but did not stay overnight at the property.
292. On 11 June 2019, Sue Capper, former allocated social worker, stated that she was in her car at about 7.05am when she saw J walk out of G's home and walk down the road [C112]. In her oral evidence, she said that she had been waiting in her vehicle for about 10 minutes awaiting a planned home visit nearby. She could see the beginning of the pathway near the property but not the front door as it was obscured by a privet hedge. She did not see J arrive but saw him walking away from the property. She could not see him come out of the house due to the hedge but saw him as he walked down the path. A matter of seconds later, G also came down her path to her car and got in it with the children. She set off in the opposite direction to that of J.
293. In my judgment, either Sue Capper was wrong on her timings or J was present for longer than the fleeting visit described by him and G [C129 paragraph a; C342 (xii)]. I think she is more likely to be accurate given she has clearly noted the time and the inference is that he was coming from the property rather than waiting by the front door to hand over some money before rushing away.
294. I have not seen any evidence of messages passing between G and J arranging for the handover of money at that time.
295. A reminder about the impact on the children of such deceit is seen in the conversation between them and social worker, Leanne Thorpe, on 12 June 2019 [L391]: -
 - 295.1. "M presented as anxious when I shared with her I was aware J had been to the home however she stated she hadn't seen him at the home and her mum had told her he was away with the army. M went on to say that if J has been at the house, she hasn't seen him..."
 - 295.2. "N presented as anxious and upset when I shared with her that I was aware J had been to the home. N needed to be reassured she wasn't in any trouble. When asked how she felt about J being at the home she said 'worried'. N was tearful and reluctant to share any further information."
296. The relationship was one where J probably did stay over from time to time. Fundamentally, I accept that neither J nor G recognised or respected the need for boundaries at that stage.
297. I find that the allegation is proved.
298. On 13 June 2019 the local authority applied for care orders.
299. On Tuesday 18 June 2019, N informed her teacher that "she was upset because her daddy hadn't visited her the previous night to pick up his Father's Day card and trophy. N went on to say she saw her daddy a lot and his name is daddy J" [C396g].
300. I take judicial notice of the fact that Father's Day in 2019 was on Sunday 16 June. This is further evidence of the reality of the relationship.

(m) On the 3 July 2019 G and J were alone in the Town Centre together

301. G does not challenge the evidence of Sally Cooney which suggests that they were seen in town together.
302. J originally denied this but latterly stated that he does not recall being alone with the mother in town but notes that he did not have any dealings with Sally Cooney at this time.
303. Sally Cooney, Family Support Worker, states that at 6.05pm on 3 July 2019 she “was driving towards the Skoda garage roundabout when I saw G and J walking together towards town in the opposite direction. They were chatting to each other and appeared to be getting on well” [L111].
304. It was clear from her oral evidence that she had a basic familiarity with J and G. She had met G during home visits having been allocated on 27 June 2019. She knew J by description and had in the previous year been in the contact centre when J had attended to have contact with O.
305. When Ms Cooney came to give evidence, she obviously struggled with the technology. She confirmed under oath the contents of a statement which she did not make [C111]. It was a foolish thing to do but not one which, in my estimation, was designed to frustrate the truth (“I guess I lied rather than say I could not find the statement”). She should have taken proper care and failed to do so and I trust that she will learn that lesson in future. However, the combination of the technology and the way in which the evidence was led by Miss Cavanagh QC all contributed to her error.
306. However, I find it likely that her evidence is true. She accepted that her identification derived from driving her car and catching a fleeting glance of two people on the opposite side of the road as she drove past them. It is clear that that fleeting moment caused a pang of recognition of G and a male who seemed to resemble J. Whilst it is far from certain, it is probable that G was with J.
307. I find the allegation proved.
308. On 12 July 2019, it is averred that Leanne Thorpe saw J letting himself into the home of G [C369bg]. G states that she was undertaking voluntary work on the day in question and does not believe that J entered her home. She stated that there would be no reason for him to go to the property and he did not have a key [C371 paragraph 6].
309. Leanne Thorpe as a professional would, in my judgment, have no reason to invent this allegation. J’s access to the home, probably with a key, is consistent with the nature of their relationship by which they would weave their relationship around the interstices of supervision and in disregard to the working agreements.
310. On 3 October 2019, G represented the following to the Court [B161]: -
 - 310.1. “b. The mother stated that she had reflected on the Court’s observations on 23 July 2019 in respect of her relationship status with J. She seeks the return of the children to her sole care and to parent them alone unless and until there is

no risk identified in respect of J or any risk is identified as manageable. She does not intend to have a relationship with J if it is not safe for her children to be in the same home environment as J.”

(n) *On the 12 October 2019 G and J went to the cinema [Cineworld] together.*

311. This is accepted by G and J.

312. The identification of them attending together was confirmed in the statement of Elizabeth Szczurek, dated 25 October 2019 [C203p].

313. On 20 October 2019, the first session with the independent social worker, Ms Atkinson [C251], about 8 days after J had met G and she had allegedly told him that she was pregnant, she reports that J “could not state the last time he saw G on our initial assessment, but on 8 th November stated that they had met up in person the previous Friday.” It is inherently unlikely that he had forgotten when they had last met. Either it was the very memorable event of 12 October 2019 or it was only on the preceding Friday, namely, 1 November 2019.

314. The parenting assessment of G included 4 sessions between 18 October 2019 and 7 November 2019 [C224]. It is recorded in the parenting assessment that G told the social worker, Katie Lee, that “the last time she saw J was the 03/10/2019 at court but reports she didn’t speak to him and doesn’t see him outside of court or meetings” [C240 paragraph 19.10]. It is inherently unlikely that she had forgotten, at the very least, the visit to Cineworld on 12 October 2019.

315. This was the occasion on which it is said that G elected to inform J of her pregnancy with P. Rather than inform him through a third party or by message, she elected to meet him to inform him of the news. They appear to have eaten and were seen at the cinema.

316. On 21 October 2019, the former allocated social worker, Leanne Thorpe, received an email from G’s probation officer as follows [C240]: -

316.1. “G got very upset and stated that she is worried that J will hurt himself is (*sic*) she tells him there is no chance of a relationship. She states he has not expressly stated that he will kill himself but that he has indicated to her that he has lost everyone i.e., family and friends and she is all he has left. She states that she couldn’t live with his death on her conscience.”

316.2. This is illustrative of the continuing nature of their relationship but also suggests the emotional manipulation which J was capable of deploying.

317. The continuing nature of the relationship is evident in the conclusions of the independent social worker, Catherine Atkinson, in her report, dated 21 November 2019 [C249]. J admitted to her that “he remains in regular, minimum weekly touch with G” [C285 paragraph 156]. It was his intention at that stage for the family to reunite. He described to her a 12 month period over which this would happen. When challenged that it sounded like a plan of the local authority, he admitted it would happen a lot quicker. “He said he had discussed the plan with G and she had come up with the 12 month idea” [C285 paragraph 157].

318. This comment appears consistent with the likely dialogue between the parties at the time.
319. J told Catherine Atkinson that at that time he was not in a physical relationship with G “but we have met up on a few occasions where it has led to sex, other than that we are not in a relationship we are not planning to until this is all officially over and done together” [C285 paragraph 158]. Although this was denied by J and G in evidence, I find it likely to be true. It is precisely that type of conduct that led to the conception of P in May 2019.
320. It is also noteworthy that in this discussion J did not tell Catherine Atkinson that G was pregnant with P given that, on his case, he was told that a week before the assessment commenced on 19 October 2019.
321. Clearly, they did meet up and have sexual intercourse when P was conceived. It is likely that that was not the only occasion given their interdependence. I observe that when G felt alone on her 30th birthday or when in hospital with P, it was to J that she turned for solace.
322. The evidence of Catherine Atkinson was not challenged.
323. In my judgment, it is likely that such discussions about rehabilitation did take place and they were conveyed to Ms Atkinson as she describes. It is plain that the parties were of a mind to consider looking at a future together beyond the proceedings.
- (13) *G has failed to protect her daughters from sexual harm by bringing them into contact, including unsupervised contact with J when she knew or ought to have known that he posed a sexual risk to children.*
324. G accepts that she has allowed her children to come into contact with J but this was not unsupervised.
325. I find that she has rejected over a substantial period any risk posed by J. That was the case when the original proceedings were issued and any changes have been substantially after that time. I find it likely that she has permitted unsupervised contact given her rejection of or lip service paid to the risk posed by J in light of the evidence already considered. She had no doubt that the Local Authority questioned her ability to supervise J.
- (14) *G took M, N and O into, and stayed in, the home of two unsafe adults who posed a risk to children in that she:*
- (a) *at all material times G was on notice of the risk that the two adults posed to children through knowledge of the family and sight of documents shown to her by these persons;*
 - (b) *on the 28 March 2018 G had signed a written agreement expressly prohibiting her from staying in the home of the two adults and prohibiting her from bringing any of the children into contact with either adult;*
 - (c) *G only left the property when the police intervened.*

326. G accepts this allegation but notes that she and the children left on 28 March 2018 and she had not seen documents about the couple at that stage. I note that even if this is correct, she knew that children had been removed within the compass of involvement from the Local Authority.
327. The Local Authority chronology records the following entry for 28 March 2018 [C51-C52]: -
- 327.1. “G provided the Family Support Worker with the name of the people and the address where she and the children had been staying. The people G had been staying with had had their own children removed from their care due to them posing a risk of significant harm towards children. Following this information being received a joint visit, Social Care and Police was undertaken and G was told she needed to leave the property with her children, which she did.
328. G signed a written agreement on 28 March 2018, which prohibited staying in the home or allowing the adults concerned to have contact with the children [F10].
- (15) G failed to protect her children from both unsafe adults referred to in paragraph 14 above. Despite her state of knowledge G did not believe, at the material time, that either posed a risk to her children.*
329. G denies this allegation. She accepts that Mr W poses a risk to her children.
330. It is not necessary to go beyond this admission. This was a short spell of about 5 days and it is clear that Mr W posed a risk to the children. There has been no recurrence of the issue.
- (16) G brought the children into contact with J whilst, at all material times, knowing that there were reasonable grounds to believe that he posed a risk of sexual harm to children, in breach the terms of the following written agreements:*
- (a) 3 March 2016;*
 - (b) 10 October 2016;*
 - (c) 8 August 2017;*
 - (d) 28 March 2018;*
 - (e) 6 June 2018 in place until the 13 August 2019.*
331. G accepts the allegation in relation to the written agreements, dated 8 August 2017, 28 March 2018 and 6 June 2018 through to 13 August 2019.
332. I have already dealt with specific references.
- (17) J had direct contact with the children whilst, at all material times, knowing that there were reasonable grounds to believe that he posed a risk of sexual harm to children, in breach the terms of the written agreement dated the 6 June 2018 in place until the October 2019*
333. J does not accept he posed a risk of sexual harm to the children and states that he was in any event never left alone with them on any of the accepted occasions that he saw them.

334. I have already characterised the relationship and find it likely that there were breaches of the written agreement in the period referred to.

(19) P was conceived by G in or around May 2019 followings sexual intercourse with J.

335. G and J accept that P was conceived on or about the date of Tara G's 30th birthday on 17 May 2019.

(20) On or about the 29 November 2019, when at an antenatal appointment, G gave the details of her partner as J and gave his address as the same address as where she resided.

336. G accepts that the medical records demonstrate that this information was given but denies describing J as her partner or giving her address as his address. She states that J was at this appointment.

337. It is likely that either G or J gave her address as his address in relation to the birth plans [H1524, H1764]. The clinicians must have had some basis to record it. I cannot say who told them.

(21) When preparing her birth plan with the hospital after the 29 November but before the 22 February, G gave the name 'J' as the person who would act as her birthing partner which was then corrected to 'friend'.

338. G accepts this allegation.

339. J was originally selected as her birthing partner but this was changed to her friend, [H1775]. The friend had to leave the hospital before P was born.

(22) G and J were having contact by telephone and/or video call and/or messaging after telling him she was pregnant on the 12 October 2019 in that they:

(a) had a telephone call with each other on 17 February 2020 each says that the other called them;

(b) throughout the pregnancy G and J faceted each other at regular intervals.

340. G accepts speaking to J on 17 February 2020. She accepts that she should have ended the call sooner and regrets not having done so³. She denies throughout her pregnancy facetimeing J at regular intervals.

341. J accepts that he has had telephone calls with G including on 17 February 2020 [C381]. He states that he informed the Local Authority of this.

342. This allegation falls within the broad compass of allegations which suggests a range of contacts from the conception of P to the decision to meet J at a cinema allegedly to inform him of the pregnancy on 12 October 2019 and the telephone call on 17 February 2020. I find it likely that they were a sample of such contact between G and J.

³ The chronology on P C38 records the matter somewhat differently: "G reported that she had blocked J's phone number and she did not want any contact with him nor did she want him at the birth of her baby."

(23) *On or around the 16 December 2019 G and J were seated at the same table close to each other and were together at G's work's Christmas event [P C36]*

343. G accepts this allegation.

344. J accepts the allegation but denies attending the event as a couple [C381].

345. Given the nature of their relationship, I find it likely that they would have discussed and arranged or chosen to sit at the same table close to each other on this occasion.

(24) *During an antenatal clinic check on the 9 January 2020 G and J attended together and J had his arm around G.*

346. G accepts that they attended together but states that J had his arm on the back of the chair not around her.

347. J accepts attending the appointment but denies having his arm around G. He states that he had his arm around the back of the chair that G was sitting in.

348. I am not clear that there is a significant distinction between what is alleged and what is accepted. By definition if J had his arm around the back of the chair then his arm was also around the back of G. It is not clear whether what is being alleged is that his arm was in fact touching her back. However, in my judgment, what is significant is that his arm was around the back of the chair in which G was seated. That is, in my judgement, consistent with them being in a relationship in which J felt sufficiently comfortable to place his arm around the chair that G was sitting in. It is a relatively small matter and adds little to the overall picture.

349. Photographic evidence was shown to Alison James, former Children's Guardian, depicting that G had been with J in a supermarket on 16 January 2021 [C418 paragraph 24]. Despite that, G denied it was them and suggested she would call the Police to report H for having the photographs in his possession.

350. The first time that G suggested that she had been subject to domestic abuse and coercive or controlling behaviour by J was on the 28 January 2020. The issue has been ventilated during the hearing but no specific allegations have been made as opposed to aspects of his behaviour.

(25) *On the 22/23 February 2020 G and J spent in excess of an hour and half together on a video call whilst she was in labour with P. G would only say he was a "friend" to the staff and denied that it was her partner.*

351. G accepts that the video call took place. She expressed regret that it did. She accepts that she did deny that the person on the video call was her partner.

352. J accepts that the video call took place. He states that G was alone in hospital and he had been excluded from the birth.

353. The hospital records indicate that [P C68 paragraph 4 and H1729]: -

[DELETED FROM ANONYMISED JUDGMENT]

354. The substance of the allegation is accepted.

(26) *G sent to J images of P taken during her contact.*

355. G accepts sending images of P to J shortly after P was born whilst in hospital. She says that she regrets doing so.

356. J does not recall G sending any such pictures of P during contact.

357. I accept the evidence of G.

358. In summary, what the trawl through parts of the evidence reveals is a couple who have not been honest about the reality of their relationship. They never separated in January 2018 but remained in an emotional and sexual relationship. They have breached working agreements. They have essentially placed their own relationship beyond the interests of the children. They have frequently stretched credulity by their denials when the truth has been plain to see. For example, G left her address and spent considerable time during the day visiting the address to “collect belongings” in 2020 [C165] but she never ended her tenancy or removed any items (she says she boxed up some personal possessions). Even by August 2020, professional observation highlighted the contradiction in her position: the supposed glimmers of insight into the risks posed by J were almost extinguished [C683e paragraphs 13 - 14].

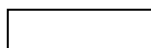
359. I have taken into account the helpful schedule prepared by the Local Authority as “Schedule 1” to their closing submissions summarising a number of salient points. It is a useful chronology and I adopt it by way of overview.

Domestic Abuse: G and J

360. G’s description of her alleged abuse may be seen most clearly in paragraph 19 of her statement of March 2020 [P C84]: -

[DELETED FROM ANONYMISED JUDGMENT]

361. It is clear from the descriptions given of the behaviour of J that domestic abuse, coercive or controlling behaviour was a part of his behaviour. The Local Authority accept that G has plainly made out her case. J accepted in general terms a range of unacceptable behaviour. That abuse took a number of forms such as expecting a G to respond to his numerous messages or calls straightaway and bombarding her until she did. It took the form of him talking about their sexual life in a way which made G feel uncomfortable. It took the form of pestering G for sexual relations and sulking, being nasty or similar until she relented. It took the form of emotional manipulation (for example, implying she is all he has left) where his needs and the effect upon him were paramount in the mind of his partner. It takes the form of exploiting weaknesses in G (for example, by arguing in front of the children or using the risk of removal of them as a threat). That is my finding as to the ways in which J probably acted within his relationship with G.



362. That assessment is consistent with the picture which emerged from the evidence of Y.
363. J did suggest in evidence that he struggled in his relationship with G after the allegations from Q emerged in 2016. To a degree, therefore, he accepted elements of inappropriate behaviour. He accepted the following traits: -
- 363.1. being quick to temper;
 - 363.2. being apt to telephone repeatedly to get a response;
 - 363.3. expressing low emotional mood and thereby applying emotional pressure upon G;
 - 363.4. being impacted emotionally by financial pressures;
 - 363.5. being more difficult after the allegations emerged in March 2016;
 - 363.6. being apt to pursue his sexual needs and not reflecting on G's needs in the same way.
364. G was a complex witness to assess. She had clearly chosen, at times, to lie about elements of her relationship. At times she appeared to focus upon what it took to obtain the rehabilitation of the children to her care. At other times she appeared to pity her own predicament.
365. There are many references in assessments or case notes from the Local Authority of her not describing the relationship as abusive: C126e; C33; C57; and C239 paragraph 19.6 (parenting assessment, dated 19 November 2019 in which she described the relationship as "good and most of it was really good").
366. In February 2020, she knew that J had not told her the truth about the extent of the allegations made against him by Q [C335 paragraph 4].
367. By April 2020, Alison James, the previous Children's Guardian described G's attitude to the risk posed by J in these terms [C417]: -
- 367.1. "22. G understood that the local authority was concerned about "J, because [she had] stood by him from day one". She argued that she had not been informed of all the allegations against J and it was only through the course of these proceedings that she had been made fully aware of the risks. Nonetheless, G proceeded to defend J and did not accept the allegations made by V or U. She told me that V "had it in for J" and she was "very controlling"; and J and U were only "play fighting" and "there was nothing in it". She argued that it was J who had called the Police in relation to the latter incident";
 - 367.2. "30. I was struck by G's demeanour and approach in her interview with myself and found her true position difficult to discern. It has been characterised by a stark and unquestioning belief in J's assertion of his innocence. There was little evidence of an open mind or scepticism; certainly, no apparent abhorrence of the generic or case specific risks relating to sexual abuse that I would expect from a parent when confronted with the volume of serious allegations filed in these proceedings. Especially when one considers the alleged victims are the same age as her two eldest daughters. There was scant regard and understanding of the risks the children potentially faced."

368. By August 2020, Ms James described G in these terms [C683e]: -

- 368.1. “13. I spoke with G over the phone on 11 th August 2020. G left me with no doubt that she did not perceive J posed a risk in any way to her children. She did not wish to discuss the allegations of coercive control she had made against J during the course of the interview and said she would address this with the Judge, “if and when he asks me”.
- 368.2. “14. G has presented a very confused picture to the Court of her acknowledgement and understanding of the risks posed by J. Her position has shifted from glimmers of recognising potential risks to one where she is now firmly aligned with J and his assertion of innocence. From my discussions with G, I have no confidence that she could prioritise the children’s safety above her relationship, emotional or otherwise, with J.
- 368.3. “15. There is cogent evidence filed in these proceedings that G has not taken appropriate steps to distance herself from J. G visits the family home daily and allows J’s cousins, to walk her dogs. It has also come to light that G and J are employed at the same hotel. The potential for their lives to overlap and G’s actions are incongruous to her assertion that she seeks to distance herself from a man whom she claims she needs protecting; and who she has described as a “sexually orientated” and “manipulative” man who is “nasty and hostile if [she] said no to having sex” with him.”

369. The context of the visits (venue, means of communication and timing of them) may not have been helpful in capturing the extent of G’s insight (as suggested by her counsel in their written submissions) especially if the underpinning groundwork of examining domestic abuse had not been done sufficiently by the Local Authority.

370. Thus, I find it likely that G was the victim of domestic abuse, controlling and coercive conduct by J. I find that she has been dishonest and that she has been enmeshed in a relationship with J. Understanding and assessing the impact of the abuse she has suffered within her relationships and her dishonesty and level of insight within the context of her parenting which is of an excellent standard is precisely what the welfare stage is intended to achieve. I have considered the careful submissions of Mr Stonor QC and Mrs Porter-Phillips. They begin by reminding me of what is the high-water mark of G’s evidence regarding the development of her insight into the risks posed by J (cross-examination by Mr Ekaney QC): -

Q: Do you accept that the LA was justified in being concerned about your children?

A: I do now.

Q: Do you accept that in not working openly and not being truthful you exposed your children to a risk of harm?

A: I do - I do now

Q: Do you accept that in lying about your relationship with J, how often saw him, if you let him in the house that you exposed the children to an unacceptable risk of harm?

A: Yes

Q: Can you see how difficult it is for anyone to believe anything you say about your relationship with J if you have lied in past?

A: I can see how it is difficult but I have come over last few days to prove otherwise and show where I was at that point in time. I admitted I have made

mistakes, I've admitted it, and I've done everything over last year and 2 months to put things right.

Q: What risk do you think you exposed the children to in lying about your relationship with J?

A: Putting them at harm without anyone knowing he's around them

Q: What sort?

A: Sexual harm and physical harm

...

Q: Looking back now, you have exposed your children to serious harm haven't you?

A: Looking back at it now, yes – which I deeply regret.

371. However, this is the first stage of my determination. Having established these facts, the Court will need to satisfy itself that the assessments of G are fair and robust⁴ to inform the judicial evaluation of the children's welfare in the context of the realistic placement options. The Court will need to be equipped with expert assessment to inform its evaluation of her ability in light of the findings made (a) to work openly and honestly with the Local Authority; (b) to understand the question of risk; (c) to make and sustain changes in her functioning within interpersonal relationships; (d) to avoid exposing the children to a risk of significant harm through failing to act responsibly and (d) to do so within a timescale compatible with the needs of each individual child.
372. It is important that the Local Authority demonstrate that they have properly considered the issue of domestic abuse within the context of the parenting assessments already completed. They will no doubt consider the points made on behalf of G in determining whether they seek to oppose the application for further expert assessment.

Propensity

373. There are accounts from R, T and U of J exposing his penis to them. There is a degree of risk-taking or exhibitionism in the display. This is consistent with the behaviour described by Q.
374. Using the neck to grip a victim or hold a victim features in accounts by a number of the women (Q, U and V).
375. The alleged incidents involving Q and R involve them at a similar age. The attacks were relatively brazen, whether within the home or in an area of the back field where they could have been discovered.
376. There is an element of impulsivity linked to the allegations made against J. They are high risk in terms of the potential for discovery but either he is so arrogant that he regards the risk is limited or so impulsive but he makes no realistic assessment of that risk.
377. There is a level of acceptance by J of aspects of his behaviour which are common to Y and G.

⁴ Mr Stonor QC and Mrs Porter-Phillips referred me to the recent Guidance prepared by the British Association of Social Workers, titled "Domestic Abuse Practice Guidance" (https://www.basw.co.uk/system/files/resources/181181_basw_england_domestic_abuse_guidance_v5.pdf.)

378. I do not accept that there is evidence of collusion in the accounts of these witnesses.
379. I remind myself of the exposition of Peter Jackson, LJ in R v. P (Children: Similar Fact Evidence) [2020] EWCA Civ 1088: --

“25. Where the similar fact evidence comprises an alleged pattern of behaviour, the assertion is that the core allegation is more likely to be true because of the character of the person accused, as shown by conduct on other occasions. To what extent do the facts relating to the other occasions have to be proved for propensity to be established? That question was considered by the Supreme Court in the criminal case of *R v Mitchell* [2016] UKSC 55 [2017] AC 571, . . .

“26. Again, this analysis is applicable to civil and family cases, with appropriate adjustment to the standard of proof. In summary, the court must be satisfied on the basis of proven facts that propensity has been proven, in each case to the civil standard. The proven facts must form a sufficient basis to sustain a finding of propensity but each individual item of evidence does not have to be proved.

380. However, seeking to identify propensity in particular respects adds little to the exercise I have undertaken given the evidential picture which emerged. I accept that the facts as found do suggest something about the character of J which makes it more likely he acted in the manner alleged but there are independently of that, perfectly good reasons for concluding that he did so. I accept the similarity between the behaviour asserted against J by Y and G.

CONCLUSION: FACT FINDING

381. Standing back from the body of evidence placed before me, I make the following determinations: -
- 381.1. J as an adult lacks empathy; he is sexually impulsive, emotionally manipulative with an inflated or grandiose sense of himself; he seeks control within his relationships (intimate or otherwise) and is highly manipulative in gaining it; he is overbearing, aggressive and may appear frightening;
- 381.2. J has acted in an impulsive and predatory way in raping and sexually assaulting Q and R;
- 381.3. There are aspects of domestic abuse, including coercive and controlling behaviour which can be seen within his relationship with G;
- 381.4. His desire to control and at times intimidate those he regards as acting contrary to his interests is evident in his treatment of social workers, Sue Capper and Leanne Thorpe. His actions go beyond a reasonable range of response by parents in such a situation;
- 381.5. The allegations made against him by T, U and V are true.
- 381.6. J and G have been deceptive about the nature or the existence of their relationship over a substantial period. There is evidence that G has begun to recognise the risk he poses but it is as yet an open question as to whether that is based upon her developing insight as opposed to a forensic desire to achieve the welfare outcome that she seeks.