

**IN THE FAMILY COURT AT EAST LONDON**

East London Family Court  
6th and 7th Floor, 11 Westferry Circus  
(Entrance in Columbus Courtyard)  
London  
E14 4HD

BEFORE:

**HER HONOUR JUDGE SUH**

BETWEEN:

**THE FATHER**

**APPLICANT**

**- and -**

**THE MOTHER  
CHILDREN (VIA THE GUARDIAN)**

**(1) RESPONDENT  
(2) RESPONDENT**

**Legal Representation**

Miss Georgina Rushworth (Counsel) on behalf of the Applicant  
The mother (First Respondent), Litigant in Person  
Miss Elena MacLeod (Counsel) on behalf of the Second Respondent

**Other Parties Present and their status**

None known

**Judgment**

Judgment date: 22 September 2023  
Transcribed from 12:12:42 until 13:18:19  
from 14:03:42 until 15:09:47

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**Her Honour Judge Suh:**

1. This is a Factfinding Hearing in which the father is represented by Miss Rushworth, the mother represents herself, and Miss MacLeod represents the children, through their NYAS caseworker, Ms Scott. I want to say at the start of my judgment how grateful I am for the NYAS team who have compiled my bundle and for the assistance of both counsel, whose calm, clear and courteous presentation has assisted me immensely. I also particularly want to thank Miss Rushworth for the composite schedule, which is an incredibly helpful document and one on which she must have spent a considerable amount of time.

**Procedural history**

2. The reason we are in court for a Factfinding Hearing is because the father made an application, on 19 February 2021, to see the children. The mother then made a C2 application, on 26 March, to live with the children in [redacted country]. The matter came before Recorder Stevens on 11 August 2021, when he ordered that the father should see the children alternate weekends and Thursdays after school. He ordered a Section 7 report and a [redacted country] law expert.
3. Judge Sawetz saw the matter in January 2022. By that time, A had spoken to Cafcass and made allegations of sexual impropriety against her father. There were concerns at that time for A's mental health and the girls' emotional wellbeing. The allegations that the father physically harmed the children are recorded on the face of that order. The judge on that occasion agreed the urgent assessment of a child psychiatrist to see A, a Section 37 report, and the police were asked to set out their investigation. The order of August 2021 remained in force insofar as child arrangements were concerned. The matter came before Judge Sawetz in May 2022, when she repeated her directions about the psychiatrist and the police.
4. HHJ Probyn saw the parties on 10 August 2022, where the police were asked to provide an update about the status of their investigation. Recorder Genn saw the case on 13 October 2022, when the police sent an email that said that the investigation was still ongoing. Still no psychiatrist had been found or agreed between the parties.
5. On 2 December, Judge Sawetz saw the matter on papers, appointed a guardian and re-allocated the case to myself, vacating 7 December 2022 hearing. I first saw the matter on 21 February 2023, when I ordered the appointment of a guardian. I ordered disclosure and I discharged the direction for a psychiatrist.
6. The first Pre-Trial Review was on 4 May 2023 and I provided for letters and birthday cards to be given to the girls from their father no more than monthly.
7. On 27 June, I made directions for a *Re W* assessment for the participation directions and for questions to come through me if the parties remained unrepresented.
8. On 7 September, I heard a *Re W* assessment. No party sought for the children to give evidence and I made it clear that each party had the right to challenge the children's evidence by asking them questions, if they disagreed with it. I ordered that there

should be no further GP disclosure. I made arrangements for police disclosure and for witness attendance. When it became clear the Cafcass officer, could not attend as we had hoped, I made an order that said any further witnesses would require a C2 application by the parties.

9. That is the procedural background but, of course, underlying all of that procedural technicality are B and A, whose welfare is my number one concern.

### **Procedure in court**

10. I have tried my best throughout these hearing days to be fair, very mindful of the provisions of Family Procedure Rules Part 3A and PD3AA. We have had screens in court, separate waiting areas, an interpreter on hand for the mother. Parties were sworn in at the beginning of the proceedings so whatever they told me could be treated as evidence. This is a case that predates the qualified legal representation provisions, and so questions from the mother came through me to be put to the father. No one during the course of the hearing has alerted me to any unfairness or told me that I need to stop and do things differently.
11. I may, and I will just explain at this point, refer to [redacted] and [redacted] throughout the judgment as the mother and father. I do not mean any discourtesy in that. It is a shorthand that I deploy for speed.
12. I am going to caution myself at the beginning of this judgment against gender stereotypes. Both men and women can be victims of domestic abuse.

### **Law**

13. I remind myself now of the law. The burden of proof is on the person who alleges something happened, and the standard of proof, the balance of probabilities. In accordance with the case of *Re T* [2004] EWCA Civ 558, I need to consider all the evidence in this case:

“evidence cannot be evaluated and assessed in separate compartments.”

I have to have regard to the relevance of each piece of evidence in relation to the other and exercise an overview of the totality of the evidence to come to a conclusion. Findings of fact must be based on evidence and inferences that may properly be drawn, and not on suspicion or speculation.

14. A number of the statements in the bundle are hearsay. That means they have not been tested in cross-examination. I remind myself of the limitations of that type of evidence, and the weight to be given to hearsay evidence is a matter for me to decide.
15. I remind myself of Section 3 of the Domestic Abuse Act. That says that children themselves are the victims of domestic abuse if they have seen, heard or been affected by it.
16. I remind myself of Practice Direction 12J and the definitions, in particular, of coercive and controlling behaviour:

“‘coercive behaviour’ means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

‘controlling behaviour’ means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour ...”

I remind myself of the broad definition of domestic abuse in both the Domestic Abuse Act 2021 and Practice Direction 12J.

17. I have helpfully been taken by counsel to the case of *Re H-N and Others (Children) (Domestic Abuse: Finding of Fact Hearings)* [2021] EWCA Civ 448. I remind myself of the totality of the dicta in that case but particularly highlight for my own guidance [32]. That reminds me that:

“not all directive, assertive, stubborn or selfish behaviour [is] ‘abuse’ ...”

18. I remind myself of [51] and [56] of that judgment and the importance of judges looking at the overall picture to see if there is a pattern that emerges from the evidence.

19. Miss Rushworth reminds me of the case of *Re S (Parental Alienation: Cult)* [2020] EWCA Civ 568:

“in a situation of parental alienation ... the court [has] to respond with exceptional diligence ...”

20. I remind myself of the case of *Re C (Parental Alienation: Instruction of Expert)* [2023] EWHC 345 (Fam), in which the President of the Family Division observed that the disruption or undermining of a parent/child relationship is often encapsulated in the term parental alienation or alienating behaviours. A court would need to be satisfied there are three elements to be established before it can conclude that alienating behaviour has occurred:

a) the child is refusing, resisting, or reluctant to engage in, a relationship with a parent or carer;

b) the refusal, resistance or reluctance is not consequent on the actions of the non-resident parent towards the child or the resident parent; and

c) the resident parent has engaged in behaviours that have directly or indirectly impacted on the child, leading to the child’s refusal, resistance, or reluctance to engage in a relationship with the other parent.”

21. I have read the draft guidance on alienating behaviours. They must be evidenced, just like any other act of abuse, and I need a nuanced and holistic approach. That guidance is just that, guidance, and it is in draft.

22. The fact that a child is resistant to spending time with a parent does not automatically mean that they have been exposed to alienating behaviours. I need to be mindful that a child can withdraw from a relationship with a parent for a variety of reasons. So I first have to consider what the parents may have done, or not done in this case, before I can case manage further.
23. I said at the Pre-Trial Review I look at the big picture and patterns of behaviour when I look at alienation and domestic abuse. What I propose to do is structure this judgment by reference to each of the individual allegations and then take a step back and look at the whole picture and state my findings, when I have looked at each piece of evidence in relation to the other. This means that sometimes when I have compartmentalised evidence under a certain heading, it is somewhat artificial. It all needs to be looked at together.
24. I remind myself of the caution that Baroness Hale expressed in *Re B* [2008] UKHL 35 that this is a private law set of proceedings, although in many ways it shares similarity with public law issues. But Baroness Hale says:

“there are specific risks to which [I] must be alive [in this type of proceedings]. Allegations of abuse are not being made by a neutral and expert local authority [that] has nothing to gain by making them, but by a parent who is seeking to gain an advantage [potentially] in the battle against the other parent. [That] does not mean [allegations] are false but it does increase the risk of misinterpretation, exaggeration or downright fabrication.”

25. No party has asked me to give myself a Lucas Direction, but I do remind myself that when people lie, just because they have lied about one thing does not mean they have lied about everything, and that people have different reasons for lying.
26. I look at the parents’ oral evidence and I remind myself that they must have the fullest opportunity to take part in the hearing and that I am likely to place considerable weight on the impression I form of both of them. Macur LJ, in the case of *Re M (Children)* [2013] EWCA Civ 1147, says it is:

“advisable [for] any judge appraising [a witness] in the emotionally charged atmosphere of a contested family dispute [to] warn themselves to guard against [the] assessment solely by virtue of [the] behaviour in the witness box and ... expressly indicate that they have done so.”

So I warn myself accordingly.

### **Evidence**

27. We have had an interpreter, to help the mother, whose first language is not English, and she has asked them to dive in at certain points, where she needs matters translated.
28. Both parents could speak at length in the witness box and, at times, both had to be guided back to the focus of the question asked. Both parents can use rather florid and dramatic language at times. Both are highly intelligent and very focused. They both struck me as quite strong characters who hold very strong views.

29. The father was emotional, at times, and he described himself distraught to hear the allegations the children make against him. He accepted he was a strict parent and he was the bad cop, whereas Mum was more lenient, in his view. He said there was nothing wrong with his relationship with the girls prior to the allegations. He said that all allegations had been taken out of context and twisted but seemed to accept in the witness box there was some truth to some of the things the children said.
30. Miss MacLeod tried, in her questions, to ascertain exactly what he said was untrue about the children's ABE interviews. For example, he says he accepts he would lie on A's bed on top of the duvet and wait for her to sleep and he would hug her, but he denied he touched her breast area, saying, as a loving parent, all contact was purely affectionate. His overall position was that the mother had coached the children in order to achieve an objective, namely being able to relocate to [redacted country]. A strong theme of his evidence was that he did not like to feel undermined or humiliated.
31. What struck me about his evidence is how he often spoke in general terms and that his oral and written evidence frequently lacked detail. For example, he spoke vividly about:

“The emotional suffering of me and the children.”

But when asked to give details about what he meant, he was less precise and I was left unclear about exactly what he meant by this phrase. It struck me that he often spoke in assertion, rather than giving granular examples.

32. He refers repeatedly in oral and written evidence to a number of incidents he considered pivotal, for example the mother's reaction to him taking the children to see the grandparents on A's tenth birthday, but what was missing from his evidence was the detailed granularity of day to day actions with a mother who he describes as controlling. If anything, he gave me an impression that she was hardly there and he ran things almost entirely on his own for the children. He said she threatened the move to [redacted country] when he disagreed with her, but this does not sit easily with the father's acceptance in the witness box that there was originally a shared plan to go back to [redacted country] which he resiled from due to financial circumstances.
33. When asked specifically in relation to the mother's questions to identify evidence for the assertions he makes in his written case, he struggled more than once. He often referred to a normal person and what a normal person would do, the implication being that the mother was not normal, and he thought at one point she suffered from some kind of condition.
34. The mother was very clear and focused in her evidence. It is fair to say she comes across as very assertive in her interactions with counsel, but not discourteous. She described the father when they met as nice and kind but unpredictable in decision making. She did not badmouth him in the witness box. She was emotional, at times, but clear. She was adamant that it was important to listen to what the children are saying and that the father was thinking about himself and not the children, in all of this. She repeatedly talked of how the children were now more settled, thanks to Social Services, and was adamant she had not coached or influenced them, and often

tried to close down discussion with counsel when counsel suggested the girls' words were not true in any respects. Her evidence was consistent that she had not discussed her arrest, the divorce or the children's allegations with them.

35. The children's evidence, of course, is recorded in what they say to professionals and, of course, their ABE interviews. I caution myself that neither child has given oral evidence and I remind myself that the Court of Appeal has made it clear that when the evidence of a child stands only as hearsay, the Court in weighing up the evidence must consider the fact that it has not been subject to cross-examination. That is the case of *Re W (A Child)* [2016] EWCA Civ 1140, and I make it very clear that I have done so.
36. I also remind myself that a court considering hearsay evidence of a child must consider not only what the child has said but the circumstances in which it was said. That is *R v B County Council ex parte P* [1991] 1 FLR 470. Again, it has long been recognised that care must be taken not to focus too much attention on statements made by the child at the expense of other evidence.
37. I have reminded myself, in preparing this judgment, of the helpful guidance of MacDonal J in the case of *Re P (Sexual abuse: finding of fact hearing)* [2019] EWFC 27 about the fallibility of memory and the particular care taken when investigating what children say about alleged sexual abuse.
38. I am mindful at all times that I must treat hearsay evidence:

“anxiously and consider carefully the extent to which it can ... be relied upon.”

*(R v B County Council ex parte P)*.

39. I remind myself that when considering the evidence of children, the parties are entitled to challenge that evidence in cross-examination if they wish to submit to the Court that their evidence should not be accepted. I reminded the father of this through counsel and he remained adamant that the children should not give evidence.

### **Background factors**

40. Before I look at the detailed allegations, I am going to look at the background, as it were, to the family circumstances, because Jackson J, in the case of *Re BR (Proof of Facts)* [2015] EWFC 41, says that each case turns on its facts but there are relevant background factors that might increase or decrease the risk of child abuse.
41. Both parents are of [redacted country] origin. They met in the UK and the children were born in [redacted country]. The father works in [redacted profession] and the mother is a [redacted profession] by training. She has historically worked nightshifts, from time to time, with the father at home to care for the girls in the evenings after she left for work. He said he was the main carer in terms of the number of hours spent with the children, although I got the impression the mother was very involved, too. The both of them present as incredibly committed to the children's education.

42. It is agreed that they had planned to move back to [redacted country]. The mother's evidence was:

“This is how the children had been brought up, knowing we would be moving back to [redacted country].”

It was the father, she said, who made the school applications for them back in [redacted country] and he sent the applications to her from his email address. At the end of January or beginning of February 2021, they had virtual meetings with the schools so they could see what the schools were like. The father's evidence was that they did talk about going back to [redacted country] and it had been a plan but he had come to view it as not economically viable. A says, at D137:

**“All four of us wanted to move.”**

43. By late January 2021, the position as I understand it was the mother was wanting to return to [redacted country] but the father had changed his mind. The mother's evidence was that the father never actually told her he did not want to go back to [redacted country] or, indeed, get a divorce, but it became apparent to her, after the police had arrested her, that his views had changed.
44. The events which triggered the police and Social Services' involvement was that the father called the police and spoke to them on 3 February 2021 and reported an event that he said happened on 29 January 2021 when the mother assaulted him. The children were in the house when the police arrived to speak to their father. They were also in the house when their mother was arrested, later that evening, and held overnight in custody. They may not have seen the actual legal point of arrest, but the evidence is clear they were well aware of the police attendance and their mother being taken away. Social Services then became involved, on the father's instigation.
45. There are further police callouts. The mother calls the police and they come on 11 February 2021. Each parent says that the other parent's behaviour is changing and that they are trying to turn their children against them. That is F161 of the bundle. The mother also reports to the front office of [redacted] Police Station, on 24 March 2021, saying that she is reporting emotional abuse because one of the girls was on a dog walk with her father and there was a discussion about which parent she would choose, the reference for that in the bundle F171.
46. It seems to me that the breakdown of this marriage has been incredibly acrimonious. The first thing which the children ask for when they are seen by a social worker in February 2021 is that they want to stop all the arguments.
47. The father moved out of the family home in March 2021 and the children stayed with their mother in the home and spent time with their father. A stopped seeing her father in May 2021 and has not spent time with him since. She made allegations he touched her inappropriately to Cafcass on 22 November 2021 and, following this, B stopped spending time with her father. Both parents agree that A has exhibited behavioural and emotional distress in the form of suicidal ideation and self harm. The parents seem to agree that this started after the mother's arrest.
48. I made it clear I am not going to make a finding of fact about the reasons underpinning her complex behaviour, and both parents had different explanations as



to why she might have behaved this way. In my view, it could be multifaceted, complex and varied. It could be a result of abuse suffered or it could be that the troubled behaviour led to the allegations. There are many explanations for her presentation.

49. But B, too, has shown vivid descriptions of anxiety, which are recorded by the healthcare professionals that deal with her. J477, J497 and J498 are my references. She has also shown difficult and aggressive behaviour at school and outbursts towards her peers which have resulted with friendship difficulties.
50. Both children give an ABE interview on 8 March 2022.
51. Each party accepted in evidence that there were clearly tensions with the paternal family. The mother's case is that she was happy for the father to take the girls to see the paternal family, but they had agreed that the paternal family would not come to the house. The father's recollection is the mother sought to alienate him from his family. Tensions clearly arose around working patterns and money. That was a clear theme of both parents' evidence, and it seemed to be agreed that the father was the stricter parent of the two.
52. The presence or absence of any of these factors proves nothing, but the children of course are to be seen against this backdrop. Each case turns, of course, on its own facts.

#### **Analysis of evidence**

53. What I am going to do now is to look at the evidence. I have read and reread the voluminous bundles with which I have been provided. I have watched the ABE interviews several times at various points during the preparation and the hearing of this case. Unfortunately, there is not a transcript, so I have re-watched them and made my own notes. I have also watched the body worn camera footage more than once, each recording. And I may not mention every piece of evidence in what is already an overlong judgment, but I do bear it will in mind.
54. The approach I intend to take, and counsel and the mother may tell me at the beginning if they disagree with this, is that I will not read extensively from the written evidence, particularly the parents' written evidence, but I will give page numbers. And I will quote more extensively from those pieces of evidence of which there is no written record, such as the ABE and the body worn camera footage.
55. What I am going to say at the outset is a word about the allegations and how they are structured. I am really indebted, from memory, to Miss Elsworth, who was counsel for NYAS and the children on one occasion, who went through all the evidence and came up with a schedule of allegations which was reproduced on the face of the court order.
56. Now, of course, she did that as an independent, neutral advocate and I should say that both of the parents have, at times, represented themselves, which means that sometimes the structure of the evidence is quite disparate. I am incredibly grateful for Miss Elsworth's trying to distil it down, but it means that that is her summary that we have worked from, so to a certain extent it is slightly misleading. When she says some allegations are the mother's allegations, for example, what they actually hinge

on is what the children said, not necessarily what the mother has said. But I am going to use that incredibly helpful structure that Miss Rushworth has picked up in her table to begin to corral the evidence accordingly.

*January 2021*

57. The first thing to look at is the allegation made by the father about 29 January 2021 that the mother physically assaulted him by punching him in the stomach with such force he could not catch his breath, for a few seconds:

“Later that same day, the mother shouted at Father, grabbed his headphones during a work meeting taking place by video call, and disconnected the Wi-Fi. This resulted in the father’s immediate dismissal from his job, and A being disconnected from her Google Classroom lesson.”

58. I think the parents agree that, on this occasion, the mother was trying to fill in her tax return and that she came into B’s room, where the father was working, and asked for help. I think they both agree that, by the end of that day, the father had sadly lost his job.

59. Looking at what they say about this in the various documentation, the first mention of this by the father is in the C100, where he describes the mother punching him in the stomach and, later that day:

“She assaulted me whilst I was in a very important work video call.”

The position statement at C3 of the bundle mirrors his C100.

60. In the body worn camera footage to the police on, from memory, 3 February 2021, he says:

“Last Friday, she literally punched me in the stomach in an argument. I was trying to help her. And she was talking on the phone.”

61. He goes on:

“She carried on terrorising me throughout the day. I wrote it down and sent it to my solicitor. I’ve been seeing her many times over the past years and I was in the process of planning the divorce. I wanted to try to stay together for the family, but, for the sake of the children, we tried.”

62. On that occasion, he does not go so far as to say to the police that the assault led to his dismissal.

63. He makes a statement to the police at F125, on 3 February 2021. In this statement, there is no mention of headphones or meetings. He speaks to the police late, I think, on 4 February 2021, where he says he does not support a prosecution or conviction, he does not want to ruin the mother’s career, and they will most likely get a divorce.

64. The mother was spoken to in custody on 4 February 2021, and the record of that is at F144. She stated that, at no point, had she punched her husband:

“This is completely untrue.”

She says that the children are scared of their father, her eldest daughter has stated her parents’ relationship is toxic, and they do not like being at home with their father.

65. She made a further statement to the police that is at F121. That is in May 2023, where she maintains a consistent account consistent with her first police interview but gives more detail. This record is also highly consistent with her oral evidence. She said:

“We’d have a stop sign on the door that would indicate when we’re in a meeting: ‘Do not enter the room.’ The Father hadn’t put this sign up but I needed help with my tax return, so I entered the room. I pulled one headphone away from his ear to allow him to hear me.”

66. The father gives a written statement in October 2021. This is at C20. It has a reference to verbal and physical assault but it is rather generalised in the way it deals with this allegation. He gives a further, more detailed statement in August 2023. This is broadly consistent with his Non-Molestation Order response statement. In this, he suggests a causal link between the mother’s action and his dismissal from the job.

67. The mother’s response is at November 2021, C57. She says she has been falsely and maliciously accused.

68. The mother, in the witness box, was adamant there had been no punch and she lifted the headphones from the father’s head and, when he said he would not help her with her tax return, she left the room.

69. The father’s accounts vary as to whether they mention headphones or not and phones being thrown in the toilet, the mother recording and whether the mother’s actions were causally linked to his dismissal.

70. The mother’s non-molestation statement, at H2, describes the arrest. She says:

“Earlier that day, [the father] had called my mother, at 4pm European time, saying he was going to do something brutal. My mother got scared and put the phone down. Shortly after, my mother received a call from A.”

71. The father said he did speak to the mother’s mother, the grandmother, before the arrest, but he could not recall saying he would do something brutal.

72. The mother says:

“While I was under arrest, he told the girls I got what I deserved.”

73. The father said he had no recollection of that.

74. In oral evidence, the father was asked about the body worn camera footage and he said:

“In that, there’s a lot more in terms of what she’s threatening me with and trying to achieve her plans in the long term.”

He was asked:

“What do you mean by that?”

He said:

“I guess it’s all related to the fact that I already knew she was threatening to move to [redacted country] and take the children with her, and I knew this was coming. I felt that there was no other way to stop any of this happening. I don’t know what I meant. It probably referred to emotional abuse of me and the children.”

75. The father gave details, when pressed in the witness box, of when and where the punch happened:

“It happened in the bedroom around 10am.”

And he demonstrated the mechanism. This detail is missing from previous reports.

76. For the first time, in the witness box he described the mother slapping him when she took the headphones off during the work call. He accepted, however, he had not put the sign on the door and that the family used to use a sign when someone was in a meeting or a call.
77. He gave evidence in the witness box that the reason for his dismissal was unacceptable performance, whereas previous evidence suggests there is a causal link between the dismissal and the mother’s actions.
78. He was asked why he left it a few days before report the assault. He said:
- “I lost my job. I lost everything. I felt my world was collapsing, work was collapsing and she took my job away. I felt helpless.”
79. In the body worn camera footage, he says:
- “I don’t know what the options are and how to control her. And what can we do?”
80. He shows the police an email he sent to his lawyer, and I have now got that email in the bundle.
81. Now I am very mindful, when I analyse this evidence, that a victim of domestic abuse often does not report the first incident and that reports are frequently made, according to research, after numerous events of domestic abuse. There are various ways of interpreting the father’s report to the police. One interpretation, of course, is that what happened is as he said it was and that he has reflected carefully before involving the police. Another is to analyse his approach as being with a degree of planning and calculation to gain a tactical advantage against Mother after consulting a solicitor.

82. I put it to him on behalf of the mother that one interpretation was the mother wanting to leave the UK with the girls, and he disagreed, and that he took legal advice and that the involvement of police and Social Services was a way of preventing her from going. He replied:

“I was blackmailed that she was going to take the children away and remove them from the jurisdiction, so me calling the police and Social Services was in the best interests of the children that they stayed close to both parents and they received the education in this country, as my job would not have enabled me to earn that much money in [redacted country]. I wanted to be everyday with the children, so, to make sure we stayed in this country, I did not want to be controlled [sic] or coercive. I just wanted to make sure. I knew we were going through a divorce and she was going to take the children out of the country, and the children would live in [redacted country] and I would not have access to the children.

83. I look at what the girls say about all of this. At D2, A tells the social worker she has not seen any physical between her parents but was aware of the parents arguing. She was told next day by her dad that her mum had punched him. At CPOMS J118, B does appear to have been very aware of the mother taken away by the police, and emotionally impacted by it. This theme is picked up in the Section 37 report, at D205, where both children describe their experience as traumatic. They have witnessed their mother being arrested by the police following arguments between their parents. A said she cannot forgive her father for this and stopped contact with him.

84. The girls’ perception, A at D41, is:

“Dad was crying on the phone to the police and they came and arrested Mum. Dad’s the abuser, not Mum.”

She is recorded as telling the social workers.

85. The pictures that the girls draw in the days following the arrest, on the iPad, are deeply distressing.
86. The impact on the children, therefore, of all of this, however it came about, seems to have been very significant.

*Allegation of alienation by the mother*

87. The next allegation that the father makes is that the mother has demonstrated alienating behaviours which have increased since the father reported the assault to the police. This is first raised as an issue with Social Services at D1. There have been concerns that the mother is priming the children against the father, the social worker records. The father explains at D11 in his discussions with the social worker, February 2021:

“I feel she’s looking for vengeance and she’s trying to alienate me from my own kids by creating this environment that I don’t belong here.”

88. I have looked for a pattern in the social work reports of the mother badmouthing the father to the social workers, but I cannot find one clearly set out. To give an illustrative example, I look at D42 of the social work reports. B mentions her dad drinking. The mother is recorded as saying that her husband drinks sometimes, which includes beer and whiskey, but he does not get drunk. What was interesting about that record is that if she were trying to undermine him, she might have been expected to say that he drank to excess, but she does not.
89. The father says, at C4, that he fears the mother is distorting events from the past and retelling these in effect to turn the girls against him, which was put to him in the witness box through the mother's questions. He was asked:

“What do you mean by that?”

He referred to the interactions between him and the mother about his family but he did not give any further details of how the mother was trying to turn the girls against him, in oral evidence.

90. It is alleged that the mother denigrated the father directly to or within earshot of the children and discussed adult matters with them. The father first raises this at B11 and in his C100 and also in his first position statement, at page C4. He follows this allegation in C68, in his statement of August 2023. He asserts, at C93, that the mother told the Court that the children were burning Christmas cards that he had sent them. The mother accepted this in oral evidence but says that she was not at home at the time, and returned to the house to the smell of burning. After this, she put the cards in a box if they did not want to see them.
91. I have looked, again, at all the documentary evidence for any, I suppose, indications of the mother denigrating the father. I look at a solicitor's letter of 27 April 2021 which is at C131. B asks to buy a lottery ticket, writes the solicitor:

“so that it would help Mummy pay the bills.”

Of course, that could indicate an awareness on B's part of financial difficulties, but the mother's case is that the children have told her that they do not feel safe and she is advocating for them.

92. In the witness box, the father was asked by mother to identify the evidence that she has discussed adult things with the children. He said he believed the evidence was in the bundles and the ABEs. However, he did not go on to answer in more detail. The impression this gave me was that his case was that because the children were saying things against him, this spoke for itself and means that the mother must be behind it in some way.
93. Quite properly, Miss Rushworth put to the mother examples of words that the children have used that may have come from her. The mother denied that when A talked to the social worker of her dream of relocating to [redacted country], this was the mother's language. The mother uses at H3 the term gaslight, in her Non-Molestation Order statement. A uses this in the ABE. The mother refuted that A was using the mother's voice and pointed out that A was a bright girl and they use such words at school. I note, indeed, the school disclosure does contain evidence that A

attended the Tender project, which I think is about healthy relationships, in February 2022, and the page reference for that J323.

94. The mother denied that B's use of the F word, at C163, was influenced by her negative attitude to the paternal family, and I note at J43 of the bundle B and her friend at school have a disagreement in November 2020 and both are recorded as having used the F word and the B word.
95. The mother asked I put specific matters in the bundle to the father that might suggest he had spoken to the girls about adult matters, so I took him to D41 and F171. He did not deny that the conversations recorded there took place but did seek to place them in context and provide some justification for them.

*Allegation that the mother has placed the girls under emotional pressure*

96. The father tells the social worker at D11, in February 2021:

“I think she's pressurising the children to make the decision as to who they want to be with.”

97. It appears, from the social work records, that the father's clear view is that the mother is pressurising the children. But I cannot find an assessment in the social work evidence of whether they shared that view or, indeed, witnessed it themselves. At J75, the social worker is recorded by the school as saying at a meeting that she had observed the mother encouraging the children to see their father.
98. The father's statement of October 2021 again makes the assertion that Mum is putting the children under pressure, although he gives no examples of specific denigrating comments or incidents. In the witness box, he said:

“All I can say is I see what the children are going through and being in the middle of this, this emotional stress and pressure, and having to give evidence to the police and be involved in the whole divorce process. The emotional stress is [the father] being alienated from them and having to justify the events which are fabricated so they can achieve the ultimate goal. The children are used as shields in the whole divorce proceedings, and the children shouldn't be involved in any way. If it were not for A's statements, they would not be involved.”

99. What I have done in looking at this issue and informing the entirety of my judgment is to look at what the girls say about why they do not want to spend time with their father and their relationship with him over a period of time, as documented in official records. At D61, A is saying to the social worker she does not want to see him, and the thought of having contact with Dad fills her with anxiety. D76, in May 2021, the social work team record that A feels overwhelmed and pressurised to have contact with her father, when she does not really want to see him.
100. A said, apart from having their mother arrested, their father has done certain things that she cannot forgive him for, like borrowing or taking her money without paying her back. A is recorded in an email from the social worker to the school on 6 May 2021 as feeling overwhelmed, and she is saying that having contact with her father fills her with anxiety. The social worker says:

“She really does have strong emotions (negative) about her father.”

The reference of that J54.

101. There is a CPOMS entry, again J54, 10 May 2021, where A and a peer are keeping secrets and talking about suicidal ideation. At the very least, the school observe, there has been the sharing of big secrets that are too big for children their age to be holding.

102. A CPOMS entry at J98, May 2021:

“A says: ‘Stress from my dad on Thursday. I should have gone to see Dad, but I didn’t want to go. I didn’t want to spend time with Dad. I felt very uncomfortable at Dad’s. He’s constantly invading my privacy. He watches me play piano. He watches me all the time. He’s still very manipulative with us. He has unexpected angry outbursts,’ she goes on.”

103. The school explore with her about telling an adult. A says:

“I trust Mum, but she might take things the wrong way. I really don’t like to share my emotions. It’s hard to tell Mum.”

That suggests she has not spoken to her mother about this.

“I tried to suffocate myself.”

She goes on:

“Another time, I tried to strangle myself. I use my tights and wrap them round my neck.”

“When? [asked the teacher.]”

“Thursday evening, 5 May.”

“What was this in response to? Anything? [asked the teacher.]”

“Pure stress and because of my dad. I felt completely overwhelmed.”

104. The conversation moves on:

“Have you spoken to Mum? She’d be upset. Do you think she’d be upset if you did it?”

“Yes.”

105. CPOMS entry J7, 13 May 2021:

“A says she is uncomfortable and adamant she does not want to go and see her father. She says the paternal family and Father ‘don’t let me have any privacy’.”



106. 28 May 2021, J91:

“Whenever I talk to him [says A] I want to throw up. It brings back all the things that have happened, and I feel sick.”

“You mention things that have happened in the past. What sort of things? [asked the teacher.]”

“He grabbed me by the arm [she replies].”

107. The pattern in relation to B is somewhat different. B goes to contact and stays at her father’s house in 2021. There is a time I can chart in the records where she expresses anxiety on contact day, which is Thursday, but this actually seems to subside during the summer of 2021, and I look at D116, for example, of the bundle in this respect.

108. At J89 of the bundle, there are records of, again, B’s views. It records:

“B, some concern re visitations with Dad, and questions asked about Mum and homelife (26 June 2021). She spent Fathers’ Day with Dad, on Sunday, and he was asking lots of questions. Dad is pressurising her about wanting to return to [redacted country].”

This was put to the father in the witness box. He did not recall this.

109. An extract of the social work notes was explored by Miss Rushworth in some detail, so I will refer to it now. The social worker shared the following update. It is recorded in the social work documents:

“The two contacts I observed between B and her father were positive. I saw she was comfortable and relaxed in her father’s care. He was attuned to her needs, set appropriate boundaries.”

110. The social worker visits B at her dad’s when she started her new school, in autumn of 2021. The reference for this is D126. She says:

“I reminded B I’ve seen her three times in her father’s care, and my observation is she’s happy, content, always seems to have fun and enjoy her father’s company. B said she puts on an act for me and she really doesn’t enjoy having contact with her father.”

111. The social work reflection of this at D126 is:

“I do not believe that B’s presentation was an act as she stated.”

The mother’s evidence in response to this is that the children did not have such a good relationship with this particular social worker.

112. But B’s exploration of her relationship with her dad, according to the social work records, continues. On 28 September 2021, B tells the social worker that she recalled:

“The father did very bad things and it really affected my life.”

The reference for that D139.

113. 27 October 2021, again D139:

“I don’t want to talk about my dad. That makes me uncomfortable because I don’t trust him.”

B was unable to explain why she does not trust her father but said:

“I don’t want to live with him. I don’t mind visiting him.”

114. Later that visit, she said:

“I need help to talk to my dad, because I’m scared he’s going to tell his whole family and he’s going to twist my words around and they’re going to think of me in a bad way and be angry at me.”

115. The social worker writes:

“B retracted when I asked her how she would feel if her father was aware she didn’t often want to spend time with him.”

116. B’s own voice is captured for the child protection meeting in November 2021, at D154:

“Sometimes I worried about dad. When I’m with him, he gets mad. He might do what he did to me when I was little.”

117. I quote those passages as illustrative of the complexity of the girls’ emotions around seeing their father as expressed by them on their own with professionals and over a period of time. I note that, at Child Protection Conferences, they appear to have been provided with an opportunity, I think through an advocate, to express their wishes and feelings, prior to those meetings. Now, of course, it is possible that they have aligned themselves with their mother and that she has influenced them in expressing these opinions, but, looking at those extracts, what the children say alone about their father is different between each other. B and A use different language to each other and give different reasons to each other in the extracts I have just responded to.

118. Their responses appear to be spontaneous, in this context, rather than rehearsed, and they clearly engage in reciprocal conversation with numerous professionals about their views of their father, and their views as they are recorded appear to be by reference to their own specific experiences. Their reservations about their father are a consistent theme of their reporting to school and Social Services.

*The allegation that the mother has physically chastised the children.*

119. At the core group meeting in March 2021, the father said that A and B, in the past, had been subjected to physical abuse by their mother, and he is worried if this happens again, he would not be there to protect them. That is D53.

120. This somewhat contradicts his first statement in these proceedings, C19, October 2021:

“[the mother] has always been a good and caring mother. She is warm and passionate towards the children.”

His statement of October 2021, however, goes on to say:

“During our marriage, this could escalate into physical punishment (slaps) on the girls.”

This is repeated in identical terms in his August 2023 statement, at C66.

121. He also ensures that his concerns are recorded for the first time on the face of the order of Judge Sawetz on 18 January 2022, and his position statement, at C3, says she is emotionally and physically abusive to both him and the children.

122. A tells the social worker, at D3, they have not been smacked but she recalls a time in year 3 when she was struggling with maths, and her mum pushed her head to get her to focus.

123. The father said for the first time, in the witness box, that the mother had slapped A in the face when she was having suicidal thoughts. Nowhere can I see that this was reported to anyone before now.

124. The mother was asked about A’s comment at page D3, the maths and the face incident. She showed how she placed her hand with the flat palm on the side of A’s cheek and moved her face gently around. She denies strenuously that she used force on this occasion or in her interactions with the father.

125. B, at D4, does not recall being smacked at all, and says, at D50, for the Child Protection Conference in March 2021:

“Mum is kind.”

126. Both children, at D92, have told professionals they safe with living with Mum. That is the Child Protection Conference of June 2021. This is also a consistent theme of the CPOMS records, as well.

127. The next subheading is:

“Mum has made false allegations against the father during these proceedings, to various professionals, including the police, children’s schools, the Local Authority. She has, at times, acted in an aggressive way towards professionals and manipulated them.”

128. Much was made of a record of the mother becoming involved in an online maths class during lockdown. It is recorded in some of the social worker records using the word:

“aggressive ...”

but the word:

“assertive ...”

is found, from memory, in the primary school records. There is a solicitor’s letter that suggests that the school were asked about this and retracted what they had said.

129. It seems to me, from reading the contemporaneous notes that the school take and the emails, that the mother’s behaviour may be described as assertive, but I do not think that this incident provides the Court with a great deal of assistance when I look in more granular detail at the evidence as a whole.
130. Let us look at the evidence and put that in context of the evidence as a whole. The father’s first position statement is that he is deeply concerned the mother is continuing to mislead and manipulate those around her. This assertion is repeated through his position statement and his evidence. The mother, in questions put by me and written by her, asked the father to identify any false statements that she has made. He paused for a long time, in the witness box, and then said he would need to look at his notes. He was given a copy of the schedule of the allegations that Miss Rushworth had prepared to assist him. There was another long pause and he said he would need to come back to this.
131. In re-examination, Miss Rushworth quite properly took the father to examples of statements that could be construed as misleading. However, I found his responses to this line of re-examination unconvincing.
132. It was put to the mother that she had misled the police and overreacted when the father attended on 5 May. Having watched several times now the body camera footage, the mother is on the phone to the police, and the phone is passed between the police and her mother. It is not clear to me exactly what the mother has said to the police. You cannot hear what she is saying at the end of the phone. When the police first arrive, they ask if there is some kind of agreement that the father does not come to the property, so it seems more likely than not that that is what the mother had told them, which is broadly accurate when I look at the correspondence between solicitors that was going backwards and forwards about when he should pick up his belongings.
133. It was put to the mother that she was misleading the police in December 2021 by saying that he, the father, has breached the undertaking by sending his father and:
- “He is breaching the undertaking on many levels.”
134. What is very clear, in my view, from this interaction on the body worn camera footage is that the mother is not a lawyer and she does not fully understand what an undertaking is. She refers to having an undertaking for a Non-Molestation Order and an Occupation Order. Whether there is a breach of the undertaking, and there has

been no application for committal, I think is debatable, but what is clear is that the mother is calling the police because she takes the view that the attendance of the paternal family at the house on very little notice is upsetting the children. Although one can debate the legal accuracy of what she says about the undertaking, having watched the body worn camera footage, I do not think she is knowingly making a false statement or seeking to deliberately mislead. Her reason for contacting the police is that she wants the father and the family to stop coming over.

135. Looking more generally along this theme that the mother has made false allegations, what I have done is looked across the evidence for evidence of, I suppose, her influencing or manipulating the information that is being shared. At D29, information received from the children has been very critical of their father, say the social work team in spring 2021. There does not seem to be a balance, from what they have said. The reference for that is D29. The mother instigates the referral to the police, I suppose, on behalf of A, she would say, after A's allegations in November 2021.

136. She, the mother, is contacted again by the police, according to the police records, F81, on 1 March 2022. They record:

“She is very supportive of police investigation into these allegations against the father.”

Of course, that is a statement that can be interpreted a number of ways, either that she is supporting the child's voice or that, actually, she has her own agenda.

137. The mother put to the father that she has not coached the children to make false allegations. He responded that the way they spoke in the ABE sounded as if there was a conversation they had a number of times. He pointed to when B says:

“My sister said she forgot to tell you this.”

which suggests they might have had a conversation outside the ABE room. But the mother's evidence is she has not coached the children and she thought the father was undermining the children's voices by saying that she had. She took the view that everything that was said by the children to professionals was said without her present and behind closed doors.

138. Miss Rushworth submitted that the mother returned from her arrest, harboured the children in her room and, effectively, at this point began to wage war against the father and coached the children from these very early days to make allegations against him.

139. Miss MacLeod helpfully reminded me to be sure to look at the chronology. The social work assessment starts on 5 February. It concludes on 10 March. The father was living at home all this time, and during this time his evidence was he got on well with the girls. The police first speak to the children on 11 February 2021 and they report being shut in the bathroom by the father on this occasion.

140. The children were spoken to on 15 and 24 February and 4 March, and when the children are spoken to, their wishes and feelings are very clearly recorded by the social worker:

“Clearly, Dad is capable of anything.”

Here’s one example:

“We want to stop dad from hurting us.”

141. The girls express reservations about their father very early on which then are, broadly speaking, consistent throughout the records and then intensify, as it were, with the allegation of sexual abuse being made.
142. If the mother had a game plan for removing the children from the father and alienating them from him, it is odd, on one analysis, that the totality of the allegations do not come out immediately after the father involved the police and Social Services. What the girls have said about their father is recorded piecemeal over a period of months in conversations with different professionals and without their mother being present, so either the girls are remembering things of their own volition or another interpretation is the mother is trying to raise the stakes by raising more and more things over time to strengthen her case.
143. If the mother were making things up and influencing the girls to repeat them, Miss MacLeod suggested, one might have expected more lurid or striking reports, and the most serious allegations might have arguably been made earlier. And of course, with all reporting, they are reports that to a certain extent are capable of different interpretations.
144. Let me look at what the girls have said about the mother’s involvement in what they say. I have already referred to those extracts from the CPOMS where a teacher asks A:

“Have you told your mum?”

But let us look at other records. The ABE makes it clear that Mum did not know what was going on when she went to work according to A:

“So this never happened in front of Mum. Mum left for nightshifts and completely, he’d go all crazy and hurt us. We were trying to tell Mum. We didn’t exactly say 100%, didn’t say our dad is hurting us. We would say, ‘Dad is toxic. Don’t leave for work,’ showing little signs for her to understand what was going on. But she didn’t really understand, which is not her fault. It’s horrible when Mum left for work.”

145. The mother’s own statement of May 2023 corroborates this to an extent:

“The children were very attached to me and would beg me not to go to work, but they didn’t disclose why they didn’t want to be with their dad.”

That was entirely consistent with what she said in her oral evidence to the Court.

146. A talks in her ABE of regretting telling her parents not to get a divorce:

“I saw my mum was really unhappy. Well, she wasn’t unhappy and she didn’t show it when we were around, but I could obviously tell something was going on.”

This suggests that she was attuned to her mother’s emotional state but does not suggest her mother had told her that the marriage was unhappy or complained about her dad.

147. When A, in her ABE, describes a time when Dad got into bed and touched her in a way she did not like, she describes not being able to tell her mum about it:

“The next day, I was really like out of my skin and I was like really quiet. And my mum asked me what was going on and I didn’t know what to say.”

148. In relation to the allegation that the father touched her breast in the ABE interview, she says:

“I didn’t tell Mum. I didn’t know what to say. The first few times it happened, I thought it was normal. I later told Mum, and she told me I need to tell somebody.”

(luncheon adjournment)

*Allegation of inappropriate touching by the Father*

149. I will continue by reminding myself of the law about the guidelines around Achieving Best Evidence interviews, because both B and A have taken part in one. I have to analyse the weaknesses and inconsistencies in the evidence in accordance with *Re W and F (Children)* [2015] EWCA Civ 1300.

150. The Court of Appeal, in *Re E (A Child) (Family Proceedings: Evidence)* [2016] EWCA Civ 473, guide me that:

“[Any] departures from the ABE guidance [require me] to engage with a thorough analysis of the process in order to evaluate whether ... the allegations ... the children [make] to the police [can] be relied upon.”

So I have to consider any flaws in the interview process and whether they are so fundamental as to render that evidence unreliable.

151. Numerous cases have stressed the importance of complying with ABE guidance, so MacDonald’s case *AS v TH (False Allegations of Abuse)* [2016] EWHC 532 Fam, a further case, *Re P (Sexual abuse: finding of fact hearing)* [2019] EWFC 27, and more recently *Re JB (A Child) (Sexual Abuse Allegations)* [2021] EWCA Civ 46.

152. The Court of Appeal in *Re B And Y* [2020] EWCA Civ 767 highlight that:

“Even in cases where the interview has been conducted largely in accordance with the guidance, it is almost [invariable] ... that the interviewer [could have] occasionally [asked] a question that, ideally, would have been phrased differently.”

The question is whether:

“[any] mistakes in the conduct of the interview [are of sufficient scale] to call into question the reliability of the process.”

153. The caseworker, through Miss MacLeod, submitted that the way in which the ABE interviews were conducted was not of concern. Miss Rushworth raises points of detail of A’s ABE which I will deal with later in the judgment, but she did not submit that there were failures in the ABE process that rendered it unreliable. I think that I need to look at the guidance and the guidelines and analyse, notwithstanding that there has not been a challenge to the process, whether these ABEs are evidence that I can put weight on, because these are such serious allegations that I need to approach them with real rigour.
154. The case of *Re Y and E (Children) (Sexual Abuse Allegations)* [2019] EWCA Civ 206 is a Court of Appeal case in which Baker J distils down the main points of the ABE guidance. What I am going to do is structure my analysis by reference to [32] of that judgment, so that I address the main points that are relevant. First, I remind myself to exercise caution, because there is a gap of four months between A making the allegations and B, indeed, stopping contact with her father, and the ABE interviews. During that time, of course, they lived with their mother. I will look at who spoke to them during this time.
155. I look at the girls’ cognitive makeup. A is described by her doctor as highly intelligent and a psychologically aware girl. That is E1. Her solicitors take the view she is competent and her doctor takes the view she is Gillick competent. Both children have attended a selective school and I have not been aware of any cognitive difficulties or communication difficulties that they have.
156. Look then at the principles for evidence gathering:

“A well-conducted interview will only occur if appropriate planning has taken place.”

That is paragraph 2.1 of the guidance. I do not have all the underlying planning documents, if indeed there are any, but I do have a very clear police record of the conversations that they had with the girls prior to the interviews taking place. Neither of the children have an intermediary, but it has not been submitted to me that they should have had one.

157. I look at the principle in paragraph 2.5 of the guidance that:

“Any initial questioning of the child prior to the interview should be intended to elicit a brief account of what is alleged to have taken place; a more detailed account should not be pursued at this stage but should be left until the formal interview [has taken] place ...”

158. Then Baker J goes on to distil down the guidelines for early discussions:

“(a) Listen to the witness.

(b) Do not stop a witness who is freely recalling significant events.



(c) [Only ask where necessary] questions, [and] they should ... be open-ended or specific-closed rather than forced-choice, leading or multiple.

(d) Ask no more questions than are necessary ... to take immediate action.

(e) [Take] a comprehensive note of the discussion ...

(f) Make a note of the demeanour of the witness ...

(g) Fully record any comments ... by the witness or events that might be relevant to the legal process up to the time of the interview ...”

159. The Cafcass record is clear and contemporaneous with her discussions with A. It is fair to say it does not contain A saying to her father:

“What are you doing?”

as A reports in the ABE, but otherwise, it is broadly consistent with the ABE. It would have been better if the Cafcass officer had expressly recorded A’s demeanour, but nobody has raised with me any concerns about Cafcass record taking and it appears to me to be a detailed note taken on the day.

160. At F74, the police arrive, on 11 December 2021 and speak to both A and B. Much of their record actually appears to be a cut and paste from the Cafcass referral letter along with typographical errors, but there are details that do not appear in the Cafcass referral. For example:

“He would ask her to shower with him.”

does not appear in the Cafcass writeup. It is not clear exactly what questions the police asked, to obtain the responses that they recorded, but the note is clear. It contains the main thrust of the children’s allegations about their father.

161. I asked the mother, in evidence, if she had been at this meeting, and took her to the page number. She stared at the police notes for a long time, in silence, before saying she could not recall this and she was never with the children when they were speaking to the police or social workers but was somewhere else in the house. That evidence seem credible to me, given that she struggled to understand what the note was that she was asked to look at.

162. The social workers record what the children say to them in their notes and the Section 37 report. The Section 37 report uses quotation marks to indicate direct speech, and the social worker in the Section 37 report carefully uses the word:

“allegation ...”

They do not, on my reading, ever appear to express a concluded view about what the children say and whether it is true but seem to take the approach that, since the police are investigating and the children are with Mum, they do not need to be further involved in this.

163. Immediately before the ABE, it seems that there was some form of conversation between the children and the police officer, because the officer says:

“I know we briefly went through it.”

by reference to the procedure for recording the interview.

164. When is asked about who she has spoken to in relation to the allegation, she said:

“When I told my mum she needed to tell someone.”

That suggests that there was some kind of communication between A and her mother.

165. The mother’s statement and the police evidence records the [redacted location] incident, which I will return to later, which appears to be the conversation in which the mother says:

“A disclosed: ‘Mummy, you do not know what Daddy did to me.’

I asked what she meant by this.

And she stated: ‘You do not know what Daddy has done. I can’t talk about it.’

I told, then, A that if she felt she couldn’t tell me, she could speak to Cafcass officer on Monday, as we had an upcoming appointment.”

166. The mother’s oral and written evidence is that she has not discussed the allegations in any detail with A, apart from this.

167. The mother called the police about the [redacted location] incident and it seems more likely than not to me that if A had said anything more in detail about her father, that her mother would have made a report of it immediately with the [redacted location] incident.

168. I accept the mother’s evidence that A said to her:

“You do not know what Daddy has done to me.”

And she advised to speak to the Cafcass officer. When A is asked who she spoke to, she said:

“I spoke to the social workers, the Cafcass, the police, and now I’m telling you.”

For completeness, having read all the documents, it is clear she also spoke to her GP.

169. A has had therapeutic support from [redacted organisation] and [redacted organisation]. I do not know the context of those discussions. However, they are not relied upon in evidence as to the truth of any allegation. The focus that they have

done with A, from the documentation before me, appears to be around managing emotions.

170. In relation to B, she does say she wants to add something that her sister forgot to say. It appears there was a conversation between A and B between the ABEs but, given this, I have looked at signs for the girls colluding in their preparation of their ABEs. I note that they use their own words and actually recount different events. They do not mirror what each other says. Neither can I detect any similar patterns of speech between them or, indeed, them and their mother. Their words are different and distinctive.
171. I mention here that, of course, the mother is fluent in English but not a native speaker. At times, she uses quite an unusual turn of phrase. Her voice, both orally and in writing, is different from her daughters'. She can use quite vivid language, as I have said, at times. By contrast, the girls' report is actually quite mundane and pedestrian in the way that they express themselves.

172. The next principle I look at, and this is paragraph 2.161 to 2.163 of the guidance, is that:

“During the ... investigation it may be necessary to ask a witness to explain a significant evidential inconsistency ...”

This did not happen in either of the interviews. It is not clear to me to what extent the police had any of the social work records. But in any event, the reports given by A and B to the police as recorded in the police disclosure and given to Cafcass, and the police have the Cafcass record, are consistent in material respects.

173. The next principle is:

“A full written record should be kept of the decisions made during the planning process ... of the information and rationale underpinning [the interview] (paragraph 2.222 [of the guidance]).”

I do not have any more information on this than is contained in the police disclosure.

174. The next important principle is:

“For all witnesses, interviews should normally consist of the following four main phases: establishing rapport; initiating and supporting a free narrative account; questioning; and closure ...”

It is fair to say that the interviews do follow this structure. A is given the basic understanding of what the process is and then she gives a lengthy, detailed free narrative account for about 15 minutes, no interruptions from the officer and with no prompting.

175. She is able to correct the police when they get it wrong. The officer confuses the maternal and the paternal grandmother towards the end of the interview and A corrects her.

176. It is fair to note that, in opening the discussions, the officer says:

“We’re going to talk today about what happened with your dad. There may be some rude words or words you do not use at home.”

This is arguably leading and suggestive that rude words will be necessary. However, later, questions tend to be open and there is not a pattern of leading questions, for example:

“Tell me in much detail as what happened.”

177. The clarifying questions generally are open. Those that are not are less problematic in the context of the interview itself. For example, the question:

“Was there anyone else in the room?”

although technically not fully open, is not problematic in the context in which it is asked.

178. There is good reflecting back:

“So you said you were on the couch with the blanket. You said about the next morning.”

179. In relation to B’s interview, the officer introduced the topic of home:

“I want to have a chat to you today about family life and home.”

Again, the officer says:

“There might be some rude words and it’s OK to say those words.”

I do not think it is good practice to introduce to the child that they might need to repeat rude words, but in any event B does not use any.

180. She uses very clear non-leading questions with B:

“I want to have a chat about home. Tell me the best thing about where you live. Tell me about Mummy.”

181. The next principle is that:

“The rapport [stage] explaining ... the ‘ground rules’ for the interview ... and advising the child to give a truthful ... account and ... [understanding] the difference between truth and lies ... [is important.] The rapport [stage] must be [recorded as part of the] interview ...”

182. A and B have both given a good explanation of the recording and the cameras. A is able to identify the difference between truth and lies. The importance of telling the truth in this context is not explained, so it would have been better if the officer explained that the truth should be told in this room and you will not get in trouble for doing so, particularly because A says:

“Someone would lie if they don’t want to get into trouble.”

183. The officer also does not explain that it is OK to say don’t know to a question, till around 22 minutes in. But otherwise, the structure of the interview is quite clear.

184. Again, B has an explanation of the cameras and the microphones. She is told:

“We want to record this today, so if anybody wanted to hear back, they can play the disk.”

185. The officer does say to B:

“Tell me if you don’t understand.”

186. B can identify the difference between truth and lies and there is a good rapport building talking about pets and home. The officer does say to B:

“The main thing about this room is we tell the truth. Say if you don’t know or you don’t remember.”

187. This next principle is:

“Underpinning the guidance is [the] recognition ‘... the interviewer [must] keep an open mind and that the object of the exercise is not [to simply] get the child to repeat on camera what [they have] said earlier to [someone] else’ ...”

This is also reiterated in the case of *TW v A City Council* [2011] EWCA Civ 17, by Sir Nicholas Wall P, at [53].

188. I have gone back to look over all the documents to see if I can discern a pattern of thinking by professionals that suggests a closed mind. It is fair to say that the social work documents, and the GP at times, used the word:

“disclosure ...”

That is a word that caselaw is clear is best avoided, because it suggests that the hearer believes what is said. Allegation is a better word to use.

189. I have looked very carefully for signs that either the police or professionals were starting from the presumption that what the child says is true, or a fixed view. I do not have evidence that suggests this is the case, so whilst the mother says in the witness box:

“Children never lie.”

That is a fixed view that the children are telling the truth. She is not the one who has investigated these issues, and the evidence as a whole does not suggest to me that she has discussed them with the children.

190. The child protection meeting that took place on 24 November, after A had told Cafcass, actually does not deal with the allegation. There is a note of a concern that

comes to the social worker's attention on 23 November but, regardless, the matter was stepped down to child in need. The Child in Need Meeting, on 11 January the next year, 2022, does not seem to deal with the issue at all. It simply says:

“The children were always seen individually and alone, and no concerns were reported.”

D179 is the minutes of that, and they note that the police are investigating.

191. I cannot find any note of a strategy discussion of 24 November 2021, and the child in need minutes refer to the police and Social Services having such a meeting. But it seems to me, from the police disclosure, that the first time the police are aware of it is on 7 December, when the mother makes a report. They do not have a record of being, unless I have missed it, invited to attend any meeting prior to this.
192. The approach of the social work team thereafter seems to be that this is a matter for the Family Court and the police. See, for example, the notes of the Child in Need Meeting, at D184, and those are on 8 February 2022. The Section 7 report reproduces what the children have said, and the report writer does not seem to reach a concluded view on the veracity of it. Actually, what is striking about the whole of the social work disclosure is the lack of professional curiosity from them about the allegations, which is in my view rather troubling.
193. Having looked at the legal structure underpinning ABE interviews and the extent to which these interviews comply with it, I will go on to look at what the children say within them. I would characterise any departures from good practice in the analysis I have just given as towards the more minimal end of the scale and certainly not of fundamental concern in relation to the way that the interviews were conducted.
194. So, the allegation that A has made of sexually inappropriate touching by the father touching her round the stomach and the waist, putting his hand under her clothing, touching her breasts, touching her inner thigh, holding on, hugging her from behind, lying beside her in the bed, watching her sleep, deliberately walking in when she was getting changed, trying to get in the shower with her, walking in when she was showering and asking inappropriate questions about her sex life and sexuality of her friends.
195. The first mention that A makes of Dad coming into her room and her not wanting him to is actually right back at the beginning of the social work involvement, at D2 of the bundle. She does not mention allegations of an overtly sexual nature. Of course, this could be because they did not happen or it could be that it took her time to build trust with professionals and for allegations to come out piecemeal as she processed things over a period of time.
196. The social workers conducted direct work with the children in May 2021. This is not raised as an issue when A is seen alone, for example on D75. She does share other things, like being hit with a vacuum cleaner, at D92. That is the June child protection minutes.
197. The first Child Protection Conference minutes, of 17 March 2021, record the school as saying:

“At a recent Live Lesson that took place during lockdown, A said she felt uncomfortable talking about the topic of trust. She said it was related to what’s been going on at home. Today A disclosed to her form tutor that she’s uncomfortable with her dad and he’s too personal, especially in the bedroom.”

This is actually a narrative that is consistent with her ABE, over a year later.

198. The first mention of Dad doing anything inappropriate in this context is after a trip that A took to [redacted] with her mother on 20 November 2021. The police referral for that date is at F39, and at F45 A gives an account of being catcalled and touched:

“I could feel his hand [this young man] just above my backside.”

199. Miss Rushworth quite rightly points out that there is an inconsistency in reporting in the [redacted] records, if I can call them that, so F75:

“about to touch ...”

is used, as also appears at F51. F75 also has:

“slapping her bum ...”

D149:

“touching her ...”

200. The CCTV enquiries were made, but the camera was instructed where the incident happened. That is F54.
201. The mother gives a statement to the police, actually, in May 2023, which I have already quoted from, and that is at F121 of the bundle. Counsel submits that I should treat this trigger event, this event that is said to trigger A’s allegation, with caution. The [redacted] incident may have been fabricated or there may be so many inconsistencies in the report that make it unreliable. It is fair to say the police could not take it forward for evidential reasons. But it is right to say although there are inconsistencies in reporting the event, that is not always uncommon with a distressing incident.
202. It is the [redacted] incident that is referred to by A as something that has triggered her to make this allegation, both in discussion with Cafcass and her ABE. It seems unlikely to me that the mother would fabricate this relatively minor incident with unknown boys in [redacted] as a precursor to a much more serious allegation coming from A. If this was part of a plan by the mother acting in concert or influencing A, I fail to see why they would fabricate an incident of this sort, rather than making a substantive allegation. I am not a psychologist. I have no expertise in this field, but it seems to me common sense that ordinary events may trigger different memories.
203. I am going to look even in more detail now and very carefully at the extent to which the mother has discussed this with A. I have already made some reference to this evidence, when I analysed the ABE structure. The Cafcass officer is recorded at F122 by the mother as saying this:

“The Cafcass officer asked me, once the interviews had finished, if I was aware that A had disclosed during their interview. A disclosed her dad was touching her. When I asked A later on, she didn’t want to tell me anything else.”

204. This is actually entirely consistent with the evidence that the mother has given in writing and in the witness box that A did not discuss the allegations with her. It is also consistent with what A says in her own ABE evidence about not telling her mum, particularly at the time.
205. The Child Protection Conferences, as I have already said, that took place on 24 November did not have any information from Cafcass in time to discuss it, and it is not raised by the mother in that context, either. The Child Protection Conference on 24 November is taking place without knowledge of these allegations. It could be, as that conference suggests, that things were stabilising at home, that was certainly the professional view, and that A felt able to share what troubled her, after a period of non-contact with her father. It could be that she is making piecemeal allegations as she is processing things.
206. On one analysis, with greatest stability she was prompted to make a further complaint. However, there is an alternative explanation that, with things settling down, if the mother was fabricating or instigating things, she might be raising the stakes, as it were. The reason, however, A gives is that this [redacted] incident caused her unpleasant feelings that she connected with things that had happened with her father.
207. I have looked, and I have already touched on it briefly, at the police disclosure about the mother’s referral on 7 December 2021. Again, what is very interesting about this police referral is that the mother clearly provides to them the Cafcass letter, or if she does not provide it to them, they have got it somehow, because the first couple of paragraphs of the police report are a verbatim cut and paste of the Cafcass letter, complete with the spelling mistake of the word role L, O, L, E. The mother does not add any more details, save for B seeing naked people on Dad’s phone. Actually, B has already mentioned this herself to the social worker, in September 2021 (see page D139). So, in other words, when I look at this closely the mother has reported to the police what the girls have already told other people and does not appear to elaborate on what A has already told Cafcass, as you might expect her to do if she was the instigator of all of this.
208. As I have said, when I took the mother to the notes of the police attendance on 11 December and asked her in the witness box about it, she struggled to recall it and said that the children were spoken to alone.
209. The mother’s police statement of May 2023 is at F120. This is consistent with A’s recall of the February 2021 occasion when the father was in her room, as recorded in the ABE.
210. The mother asked me to put to the father, in the witness box, that he stayed in A’s room in February 2021 despite being asked to leave. He said that he felt his character was undermined and that the mother had had the children in her bedroom for several days after the arrest and he wanted to spend time with A. He was worried she had



expressed suicidal thoughts. The father's statement to the police, however, suggests that it is parental alienation and that the mother is using all of this to build up a case against him. That is at F2.

211. The father accepted, in cross-examination, he had used A's shower room and the en suite, even though there were other bathrooms in the house. He explained that A's bathroom is the only one with a standalone shower.

212. The Section 37 report is consistent with other accounts given. We have got the Dr's letter of 3 August, at E3. In December 2021, she, A, described her father asking to shower with her and also lie next to her on the bed and putting his hand inside her blouse.

213. Then we have got A's own ABE interview. I have watched it several times. I am not going to rehearse it all, but the main points, H9:

"Dad tried to get into the shower. One time, I was showering and he tried to get into the shower with me."

"First time he assaulted you? [she is asked.]"

"I was in bed. I was watching a movie. He came in, laid next to me. He started trying to touch my breasts and my waist. He'd lift up my shirt and try to touch me in places I don't like. I was maybe eight, nine, ten. It's quite a long time ago [she says]."

214. The recording shows her going on to demonstrate visually where she was, where her father's hands were. She goes on to say:

"He barges in when I'm changing. He would always try to walk in on me when I'm showering, saying, 'It's really urgent.' He would look at me, grab whatever he wanted to grab, something random, look at me again, eye me down."

"How old were you then?"

"Ten, a bit older, but yeah."

215. Looking at her ABE, one interpretation, listening to her turn of phrase, is that she is trying to make sense of what has happened, for example:

"I don't really know why he did that. I thought it was normal. Oh, it was messed up. I thought he was doing it because there was something wrong with me."

216. Her account is detailed. She gives very specific details of her dad's pyjamas, bagels for breakfast the next morning.

217. Miss Rushworth was absolutely right there is a contradiction in what she says about blankets. At one point, she says:

“There was always a blanket, always had a blanket on the couch or the bed.”

Later, she says:

“There was no blanket on the couch.”

218. Broadly speaking, she appears quite focused and composed and calm throughout. She fiddles slightly with her fingers, but she is responsive and engages well.
219. The father’s view is she is not responding to questions but giving a story which she has been coached to tell. In this respect, I note her narrative is different from her sister’s, and she perceives or she starts off the interview by perceiving she is badly treated because she is the oldest. She says:

“B doesn’t know about the bird.”

And she does not intend to tell her about it, so again a distinctive narrative from her sister’s. The examples that both girls give of their dad’s behaviour is also different.

220. Both use the word:

“aggressive ...”

But otherwise, there is not a great overlap of their use of language. Her age appropriate language can be seen in the use of:

“crazy ... like ... weird ... weirded out ... messed up ... out of my skin ...”

221. Her response to her dad’s touching appears credible. She was frozen on the first occasion, she says.
222. Miss Rushworth submits that A’s account becomes strained and difficult when A speaks of how her father touches her, and questioned whether it was physically possible. I disagree. I could follow step by step what A describes. She demonstrates clearly where she was in relation to her father, the details of what she wore and his pyjamas. She describes in detail the layout of her room and she describes different and distinct occasions.
223. There are inconsistencies in relation to when the touch happened. This could, of course, be because she is lying or because it is difficult for most people, particularly children, to give a clear sense of time and chronology. At D194, she says to the social worker:

“Several years ago.”

but was unable to be specific. To Cafcass:

“Since six years old.”

That is D150. Then in ABE:

“It’s eight or nine, maybe ten.”

She tells her Dr:

“From the age of seven.”

224. The father was asked by me a question from me whether he might have inadvertently touched A somewhere she did not want to be touched. He said:

“If there was a moment, I might have hugged A in a way she felt uncomfortable. Accidental different hugs or touches would happen. If she felt uncomfortable, I am sure she would have told me.”

225. A’s report to the police suggests she did say:

“What are you doing?”

to him on one occasion.

226. I look at the B shower allegation and I will just turn up the general wording which encapsulates this:

“The father has also demonstrates sexually inappropriate behaviour towards B, including watching B in the shower, insisting on washing B himself, despite her being old enough to wash herself.”

227. This is first raised at the police visit, at F76:

“B has been coming home from her father’s unwashed, due to her stating she feels uncomfortable to shower in front of her father. I asked her if there was a reason why, and she just stated she didn’t want him there watching her and feels uncomfortable. She stated sometimes when she’s upset she hides under the bed and her father drags her out by the stomach, which can hurt.”

This is consistent with what the mother says to the police about B returning unshowered in May 2023, at F122 of the bundle. I can also see that it is consistent with the Section 46 referral, at D150 of the bundle.

228. B’s ABE has B saying:

“It might sound a bit weird, but when I go to shower, he would come into the room and stay there and, like, shower me. I felt uncomfortable because I didn’t like him touching me. I was seven, six, eight.”

“So could you shower yourself? [she was asked.]”

“Yes, I could shower myself when I was six, and that was when he would start asking: ‘Can I shower you?’ He’d wash me, basically.”

“How often does it happen?”

“Every time I shower. He makes excuses he wanted to stay in the room and tell me riddles.”

229. Before I move on to the father’s account, I will just look in a bit more detail about B’s ABE. B in her ABE seems more tense than A in her interview and she twists, I think, a little toy in her hands. But overall, she gives a fluent and open narrative account, as I have already noted, in response to appropriate open, non-leading questions.

230. The father’s account is first set out at C87:

“I only was in the bathroom with B when she was having the occasional bubble bath. And while she was sitting in the bath, B asked me to read riddles. I was there with B purely for safety reasons, as any other parent would do so when his or her child is sitting in the bath.”

231. When I read the father’s written evidence, it gives me the impression that B’s allegation is spurious, but when explored in the witness box, it became clearer that, even on the father’s case, there is a grain of evidential truth for what B says. The written case the father puts forward is that this is not true, but actually, in cross-examination, he accepted he would wash B’s hair from around the time she was nine. He did not deny that the mother had asked him not to do it. He accepted he washed her body when she was seven or eight, in cross-examination, and later in answer to Miss MacLeod he said he would dry her with a towel. In re-examination, he said:

“I would make sure the water was the right temperature, as I have said on many occasions.”

In fact, I can’t find any occasion when he has referred to the temperature of the water in the documentation, although I will be corrected if I am wrong on that minor point.

232. I understand and appreciate that when a very serious allegation is made against someone of inappropriate behaviour, the instinct might be to be so upset to deny anything of the sort had happened. But what actually the father has done is go further and accuse the mother of coaching the girls. The effect of this on his written case is to discredit what B has said but, hearing his evidence in court, B’s memory in the ABE of her father’s role at bath time does have some evidential foundation.

233. The mother, at C146, says:

“B is washed by her father, despite my repeated requests to stop it. The father had been asked to leave the bathroom when B performed her self care. He stayed in the bathroom, however. I told her it is important to build independency and give her privacy of her daughter at this age, at the age of nine.”

I think the mother’s use of “her” may be a function of her language usage and she may mean “him”. That would make more sense in the context of that sentence.

“Instead of following my request, he stayed in the bathroom (sitting on top of the toilet).”

This is consistent with what the mother told the police in May 2022, at F120.

*Father acting in a controlling manner.*

234. Moving on to the allegation that the father acting in a controlling way towards the mother, in particular returning to the home when he had agreed to leave, on 5 May, with the body worn camera footage, the father comes to the home, and the mother reports this to the police. Now I want to preface this analysis by noting that it was the father that moved out of the home and no doubt it was hard for him to move out and he did not take all his property with him at the time. I have watched the body worn camera footage. He is perfectly calm and courteous.

235. There is a solicitor's letter in the bundle dated 27 April from the father's solicitor to the mother's solicitor and it says:

“Our client intends to visit the family home, 9am, on 5 May”

236. There is then exhibited to the mother's statement a reply from her solicitors that says:

“It was agreed he would return to the house on 7 May to collect his personal belongings. Despite this agreement, he returned on 5 May.”

237. This solicitor's letter is dated 5 May and it states:

“We understand, despite your letter, our client went to the family home today.”

This is C156, and that suggests to me that we are missing a letter in the chain of correspondence and it is more likely than not that there was a response to the father's solicitor's letter of 27 April which appears not to have agreed to the 5 May visit. So it is not clear to me which solicitors' letters were seen by the parents at the time, when the solicitors' letters arrived at each other's offices and what, if any, response was received to the letter of 27 April. It seems to me there may well have been some crossed wires or lack of shared understanding about what was going on.

238. The mother then makes an application for an ex parte Non-Molestation Order/Occupation Order, and I have the terms of DJ Watson's undertakings recorded in the bundle on 21 May 2021.

239. The mother then complains that the father attends with the paternal grandmother in December 2021. The father accepts he attended on this occasion with his mother and stayed on a curb, he says. The mother says:

“We knew he wanted to drop presents, but I didn't know the grandmother would come and engage and I didn't know the dad was coming.”

240. Then there is A's birthday [redacted month] 2022. B mentions this in her ABE:

“He came with his mum. Sister was hiding in the bushes on A's birthday.”

This is reported by the mother and recorded in the police disclosure, at F239.

241. The Section 37 report still picks up this theme:

“On [date redacted] 2022, I visited A and B and they reported to me that the father and the paternal grandmother had visited the home unannounced on A’s birthday.”

242. The mother said:

“The presence of the father and the grandmother had caused A and B to become distressed and B started to cry.”

243. The father gave evidence that he and his mother had attended with presents and flowers for A and he said the mother could have accepted the presents and encouraged the children to see him for one or two minutes.

244. Then we have December 2022. The father sent an email at 17.56 that says:

“I arranged for A and B’s presents to be delivered to the family home today. Please make sure they receive it.”

That is at C159. The motion cameras detect, at 6.11 to 6.14, the grandfather’s, I think, presence on that day. The mother says, at C161, she had not read the father’s email by the time the grandfather attended. At 6.13, B sends a text to her friend L.

245. What is clear is that when the mother reported this incident, she reported the children having a significant emotional reaction to it. She records this in the body worn camera footage of the police attendance on the 13<sup>th</sup>, I think, of the 12<sup>th</sup>, 2022. It is fair to say she uses quite dramatic language on this occasion:

“We are living like a hostage situation. The father in law barged the door with full force.”

246. She reports that B’s class teacher heard a report from B about this the next day and that A lay awake at night after this and found it hard to do well in her test the next day. She is emotional and tearful, at times, in the body worn camera footage but not overwhelmed. She says:

“I feel scared. I’m afraid to be here on my own. I’m the only one to protect the children.”

247. The father accepted that he didn’t give a great deal of notice, but he said in the witness box the mother, if she was a normal person, would accept the gifts and thank them for being brought.

#### *Physical chastisement*

248. I then move on to the allegation of physical chastisement, which is raised in the ABE interviews. The first time that this is recorded is when the mother instigates the police attendance on 11 February 2022 and the police speak to the children alone:

“His behaviour is changing. He acts different. He gets annoyed and scares them by placing them in the bathroom and closing the door when they’ve annoyed him, which upsets him.”

249. The parents’ evidence is set out at F84 of the bundle. That is the father’s and the mother’s, at C148.

250. The social worker is told about this, D2 of the bundle:

“Dad has a short temper and there was a time, A says, when B did not eat anything more and he grabbed her arm, dragged her to the downstairs loo and locked her in there with the light off.”

251. The initial Child Protection Conference was on 17 March 2021. The mother says:

“The girls are afraid of their father when he gets angry. He places them in the bathroom, switches the light off and locks the door.”

The police confirmed this is true, by speaking to the girls separately, the social worker records. The father initially denied this but then said that he does not turn the lights off.

252. The mother said in the witness box she told the social worker she had seen the father grab the children by the top of their arms and be physically abusive. That is not recorded in the social work notes, as far as I can see.

253. The father says this incident happened some years ago, to the Child Protection Conference:

“B was having a tantrum on the morning in question.”

He helped her wash her face, left her in the toilets and then called her to come for breakfast. This was done in broad daylight, so the room was lit, and he was trying to help B get into a calm state.

254. The advocate for the girls reports their voice for the conference:

“The social worker shared that what she said to the mother earlier in the conference that the girls’ voice to the advocate is almost identical to the information given to her.”

The notetaking is not the best grammar, but my understanding of that is that the social worker view was that the voice of the child was consistent with what she herself had been told by the children.

255. What had the social worker been told by the children? The children have disclosed being locked in the bathroom and the father shouting more than the mother.

256. The father responds at D35. The only response he can give to this is the mother came up with a counter story about him locking the children into the bathroom because of him alleging domestic abuse that he has been the victim of. The mother wants to move with the children to [redacted country].

257. But the children's voices, through their own words and the advocate, is at D50. B:

“Sometimes he's really aggressive. He dragged me up the stairs. I can't remember when. He does this to my sister, too, and the dog. He throws the dog into the toilet with us and turns the light off.”

This report is highly consistent with aspects of her later ABE.

258. Their wish was that Dad never did this stuff and:

“You could replace my dad with a kinder, loving person.”

259. The children are still repeating a recollection that the social worker records at D206, in the Section 37 report.

260. A's ABE interview is a vivid, detailed description which is consistent with earlier reports. Counsel submitted in her closing submissions that the fact that the door locked from outside makes the children's narrative unreliable and improbable. However, having re-watched A's ABE, she describes a mechanism whereby the bathroom doors can be locked or unlocked from the outside with a coin, and she says:

“He was strong and could lock the downstairs toilet, even though the lock was stiff.”

261. In her CPOMS entry, for completeness, on 13 May 2023, at J93, A says:

“He starts yelling, grabs us by the arm, takes us to the toilet or to a room.”

“Why the toilet? [she's asked.]”

“Because he locks us in and sometimes turns out the light. Sometimes he locks the dog in the garage. It upsets me and B a lot.”

262. The mother in oral evidence said she had not seen the father lock the children in the toilet and the lock was on the outside, but she said they were verbalising how they felt and they could not get out and they were scared.

263. The allegation B was thrown on the beanbag, Father says this was playing gymnastics. This is consistent with what he said at C84. B herself, at D179, tells this to Cafcass:

“He picked me up and he threw me on a beanbag. He's dragged A out from under her bed when she was hiding there.”

I think actually, as per the earlier reference I made, it might have been B who said this and maybe counsel who put this schedule together has misunderstood.

264. Mother, at C149, says:



“On occasion, B disclosed she was hiding under her bed and that she felt scared and upset and the father tried to drag her out.”

265. The allegation that the father has dragged the children up the stairs. B, in D4 of the bundle, in February 2021, said:

“Dad can get really aggressive. He picked her up by the legs and carried her up the stairs upside down”.

266. Both children were recorded by the social worker in February 2021 saying:

“They do not always feel safe with the father. They do not wish to spend time with him. They’re always worried what he’s going to do, and the negative conversations and manipulation of emotions.”

That is D6.

267. The father, at the Child Protection Conference on 17 March, said this was a game, carrying the children up the stairs, not an aggressive act. That is at D33. That is consistent with what he said in the witness box. It is true he picked her up by the legs and turned her upside down, he said, but false that he carried her up the stairs and banged her head, referring to B.

268. B, at D170, says:

“Another time, he picked me up by the legs and took me up the stairs and I hit my head on the stairs.”

That his to Cafcass, at D170.

269. A, in her ABE, says:

“He would drag us up the stairs by our hair, by our ears. He would make really weird noises, grab our arms and pull us.”

270. B tells a social worker at a visit in September 2021, when she started her new school, she was worried that her father would start drinking and then do something to hurt her. The social worker asked her if she has ever been hurt before, and B said, yes, he locked her in the toilet and he carried her up the stairs with her head upside down. B fainted but her father did not care and it was A who got her support. The father has said in the witness box, for completeness, that he would physically remove the children from their mother’s bed.

271. The allegation that the father has not fed the children, at C85, the father said:

“This is laughable. Our children have never been force fed. They have eaten as much as they wished.”

272. The mother gave evidence that sometimes when B was dropped back, she had not had her supper on a Sunday evening, when she came back at 8.00 or 8.30. When asked about being force fed, she said:

“I can comment that he had a different parenting style. He said they’d have to eat at 6pm and after that the kitchen was closed.”

273. The allegation that B has been thrown against the wall which caused her to hit her head and faint, the father says, at C85:

“This is a complete lie.”

274. A, in her ABE, gives a recollection of B hitting her head:

“We were at the table. He would grab my sister by the shoulder, yank her off the table on to the floor. It was breakfast time. He picked her up and threw her. She hit her head on the wall and fainted and then hit her head on the floor. I got the icepack.”

275. The ABE B gives does not recall this specific incident, but B says:

“My dad is really aggressive. He picked me up and threw me on to my bed and broke things. I was about six, seven or eight. He held my arms really tight and dragged me into the room.”

And she demonstrates the top of her arms, later in the ABE. This is consistent with the mother’s observation in the witness box of arms being held.

276. Another time she says:

“I didn’t want to do my homework and he held me upside down and pulled me upside down up the stairs. I hit my head multiple times. He hung me by the leg.”

277. The allegation that the father mistreated the dog, this is made initially in broad terms to the social worker in February 2021. A said that Dad exaggerates. A says she worries about the dog as sometimes he is not let out and then he wees in the house. A said:

“Dad will grab him and throw him into the garage or the downstairs loo. And there are no lights on and the garage is cold.”

278. This is denied by the father, at C85 in his evidence. The mother says that she witnessed acts of cruelty, at C149. The body worn camera footage can see, when the father speaks to the police, that the dog is there and he opens the downstairs toilet door and tells the dog to go in. I cannot actually see if the dog goes in, or not. The father shuts the toilet door and, later on in the video, you see the dog is out and about. I do not know who let the dog out or if the dog was in there in the first place. The dog comes up to him, does not appear afraid. The father’s evidence is he would simply put the dog in the garage or the toilet when visitors come, to stop him escaping.

279. The mother tells the police, at F79, that at the visit in December 2021 Father has hit the dog when it has been following him around. The dog got in the way and he slapped it, before locking it away. She stated:

“This is not usual behaviour and they do not ever hit their animals.”

280. She also repeats it to the police on 7 December 2021, when they ask in their screening questions:

“Have they ever mistreated an animal or family pet?”

“Yes, kicked dog.”

281. She makes a similar report to the police on 23 March 2021. That is at F174:

“He’s kicked the dog, hit the dog and put the dog in the garage.”

282. Again, when she has spoken to the police on 15 February 2022:

“He hurt our dog. The children saw this.”

283. It is mentioned to the police on 14 December 2022:

“Yes, he hurt the dog many times. He kicked it, slapped the dog. He threatened the kids that he will harm the dog if they tell what happened.”

284. Of course, the reason this has been asked so many times by the police is it is part of their screening questions. Broadly speaking, this is consistent with what the mother says to the police in May 2023 at F120.

285. Having surveyed the evidence underneath those separate headings, which broadly speaking encapsulate the allegations, I will take a step back and look at the whole picture. Here, I have observed that, in the body worn camera footage and in the witness box, both parties came across as distressed when they have been speaking to the police and when they have been speaking to me. So it is particularly important that I was careful to go through all the evidence and look at the broad picture before I could possibly look at the conclusions.

### **Conclusion**

286. The relationship as a whole, it seems to me that the parents are both two strong personalities and it is clear that there was tension over the paternal family. Things were clearly difficult at home and the girls describe arguments. From the father’s evidence, he seemed to be sensitive to anything that he felt undermined him or humiliated him.

287. It seems to me, on the evidence, that there was a family plan to return to [redacted country] and it was shared by the family for a considerable time.

288. It seems to me, too, and I find that the relationship was strained for a number of years prior to January 2021, that there were tensions over working patterns, which were a strong theme of the parents’ evidence, and money.

289. The mother showed a card that was sent to her on their wedding anniversary, 29 December 2020. That appears to be an affectionate and appreciative card, and so I accept her evidence that, at the time of the arrest, she did not know that he wished to

divorce her. So I find that, in January 2021, the mother and the children were preparing to go back to [redacted country], and Father had changed his mind and wanted to stay in the UK.

290. On 29 January 2021 I find that the mother was trying to fill in tax return forms and forms for [redacted country] schools. The father was working at home that day and it seems to me more likely than not that there was a tension around filling in those forms. To use the father's words, he was pissed off that the mother had left it to the last minute.
291. I am satisfied that the mother entered the room when the father was in a meeting and that there was no sign on the door to alert her. I am satisfied she lifted the headphones away from his head and asked for help, but I am not satisfied that she was physically abusive or punched or slapped him. Her evidence is more persuasive than his, which shifts and lacked detail, until he was pressed, in cross-examination.
292. I do not find that the mother's actions caused the father to lose his job. He was dismissed because of unacceptable performance. In my view, losing his job made the relocation to [redacted country] more economically difficult from his perspective, and it seems to me more likely than not that losing his job was material to his change of mind about [redacted country]. I accept the mother's evidence he did not tell her he had changed his mind and that this became apparent to her after the police was involved.
293. It seems to me more likely than not that the father called the police in an attempt to impose some sort of control over the situation and to prevent the mother leaving the country with the girls. His own evidence strongly suggests this. He was planning a divorce and his calling the police was, to a certain extent, tactical.
294. He rightly accepts that the children should not have been exposed to the police attending and that he did not make other arrangements for them when he knew the police were coming to speak to their mother. It seems to me that the arrest of the mother and her being away from the children overnight with the police had a profound impact on the girls. They may not have seen the point of the arrest itself, but they saw the police car. They knew she was taken. And both parties accept that A's suicidal ideation flowed from this point or started at this point.
295. It seems to me that this incident had a real lasting impact on the girls. A mentions it in her ABE. B raises it when she starts her new school in September 2021. The pictures they drew on the iPad and for the social worker are suggestive of deep distress.
296. When the mother was released from police custody, in my view and I find, the children aligned themselves with their mother and spent time with her on the following days, in her room, to the exclusion of the father. It seems to me that this sense of being excluded or undermined, but I am not satisfied that the mother harboured them in her room or kept them there with the purpose of coaching them.
297. I am not satisfied that the mother physically chastised the children. I do not find the physical touch around the maths incident to be abusive.

298. I am not satisfied that the mother has made false allegations against the father in these proceedings. Her calling of the police on 5 May 2021 and in December 2021 were arguably and in my view not a wise use of scant police resources, when I look at the broad spectrum of police work to be done. However, it does suggest she was highly sensitised to the father's presence and acted out of genuine concern that he and his family were intruding on the home that she viewed as a safe space for her and the children.
299. On 5 May it seems to me there was a communication breakdown prior to the father's visit. He was under the impression that he had communicated to solicitors he would visit that day, but the solicitors' letter from the mother's solicitor of that date does not share this impression. That position was replicated in their oral evidence. So, in my view, it is indicative of a level of distrust that exists between the parties that led to this police callout, illustrated by the fact that we are still talking about it, two years later.
300. It seems to me that, on other occasions, the father and his family attended to mark Christmas and birthdays, which was no doubt well meaning and done because they wanted to pass over presents. But insufficient thought was given by the father to whether this was the best way for the children to receive gifts from him. He did not consider the potential impact on them of the family or him coming around with little notice on a special occasion. It would have been better if he had used a courier or post. The trouble is, with turning up in person, you do not know what you are turning up to.
301. I have watched and re-watched the ABE interviews and, in my view, they are compelling. The accounts that the girls give, particularly A, are detailed and fluent.
302. I am satisfied that the girls find the father aggressive. Some of the descriptions the girls give can be explained as play or gymnastics, for example child F being thrown on the bean bag. However, the girls do not describe being carried or dragged upstairs as playful but as a form of chastisement which hurt. I accept their evidence. I find that the father has been physically rough with them. I am satisfied that he has placed them forcefully in the bathroom by holding their arms with the light off and locked the door.
303. I am satisfied he has treated the dog roughly, which the girls have witnessed and which has upset them.
304. I am satisfied, and the father accepts, that he used A's shower room. The evidence supports a finding that, on occasion, he would come in when A was showering and she did not want him to. I find that he came into her room without knocking, when she was changing, and he accepted that he stayed in her room in February 2021, when he was asked to leave. I find that he did not respect A's personal space.
305. I am satisfied that on more than one occasion the father laid down next to A on her bed, hugged her from behind and put his hand under her top and touched her breast area, waist and stomach area. I am satisfied on one occasion she said "what are you doing?". I am satisfied that this made her uncomfortable and she viewed it as intrusive.

306. I am satisfied and find that he stayed with B when she was bathing after the mother had told him not to, and washed B, despite her being old enough to do that herself and the mother telling him not to. I accept B was uncomfortable about this and did not like him touching her, just as she told the police officer, and that she would, on occasion, come back from her father's having not showered.
307. I am not satisfied that the mother encouraged the children to make false statements to various professionals about the father. I am not satisfied that the mother has denigrated the father or spoken badly of him in earshot with the children or discussed adult issues with him. The father has on occasion done so, as set out at F171, D41 and J89.
308. I am not satisfied that the mother placed the children under increasing emotional pressure and in the middle of a parental conflict. I find that their views are their own when they have expressed in their own words to different people at different times their reservations about seeing their father. The children have expressed a reluctance and a refusal to see their father, and, in my view, that is a result of their experience of his parenting, not because they are alienated by their mother.
309. Looking back at the whole picture, both parents allege controlling, coercive behaviour. Both appear very distressed, at times, in their interactions with me and with the police. But I remind myself of the specific definitions in the Domestic Abuse Act 2021 and PD12J of controlling and coercive behaviour and domestic abuse. Not all bad behaviour fits those definitions. The majority of the mother's allegations which arose in this respect arose post separation and linked closely to travel to [redacted country] and family finances. The father's allegations arise mainly from tensions between the mother, him and the paternal family, and this struck me as an immensely complex dynamic. His case is high on assertion but lacking in granularity and tainted by his motivation for calling the police in February 2021. So I do not find a pattern of abusive or controlling behaviour going either way but, rather, a tense and distrustful end to a long relationship.

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This Transcript has been approved by the Judge.

The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

The Transcription Agency, 24-28 High Street, Hythe, Kent, CT21 5AT  
Tel: 01303 230038  
Email: [court@thetranscriptionagency.com](mailto:court@thetranscriptionagency.com)

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