



Neutral Citation Number: [2019] EWFC 75

Case No: WV19C00108

**IN THE FAMILY COURT**

Birmingham Civil Justice Centre

Date: 06/12/2019

**Before :**

**MR JUSTICE KEEHAN**

**Between :**

**A LOCAL AUTHORITY**

**Applicant**

**- and -**

**AB**

**1<sup>st</sup> Respondent**

**-and-**

**CD**

**2<sup>nd</sup> Respondent**

**-and-**

**EF, GH**

**3<sup>rd</sup> – 5<sup>th</sup>**

**AND IJ**

**Respondents**

**-and-**

**KL**

**1<sup>st</sup> Intervener**

**-and-**

**MN**

**2<sup>nd</sup> Intervener**

**-and-**

**OP**

**3<sup>rd</sup> Intervener**

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**Mr R Hadley** (instructed by **The Local Authority**) for the **Applicant**

**Mr P Pressdee QC and Miss K Brown** (instructed by **Talbots Law**) for the **1<sup>st</sup> Respondent**

**Mr S Momtaz QC and Ms V Clifford** (instructed by **Harrison Clark Rickerby Solicitors**)

for the **2<sup>nd</sup> Respondent**

**Mr J Vater QC and Ms K Taylor** (instructed by **Anthony Collins Solicitors**) for the **3<sup>rd</sup>**

**Respondent**

**Ms J Lattimer and Mr M Cooper** (instructed by **McDonald Kerrigan Solicitors**) for the **4<sup>th</sup>**

**Respondent**

**Ms L Meyer QC and Ms L Higgins** (instructed by **Rees Page Solicitors**) for the **5<sup>th</sup>**

**Respondent**

**Ms K Gallacher** (instructed by **Sharratts Solicitors**) for the **1<sup>st</sup> and 2<sup>nd</sup> Intervener**

**Ms A Giz** (instructed through Direct Access) for the **3<sup>rd</sup> Intervener**

Hearing dates: 19th November - 6th December  
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**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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MR JUSTICE KEEHAN

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

**The Hon. Mr Justice Keehan :**

Introduction

1. In these public law care proceedings, I am concerned with three brothers, EF who is 17, GH who is 14 and IJ who is 12. Their mother is the First Respondent, AB and their father is the Second Respondent, CD. All three young people were joined as parties to these proceedings and are separately represented one from the other.
2. In light of allegations made by each of the young people, the paternal grandparents KL and MN, and the paternal uncle OP, were joined as respectively the First, Second and Third Interveners.
3. These care proceedings were issued by the local authority on 4<sup>th</sup> March 2019 in light of the serious allegations made by EF, GH and IJ of physical and sexual abuse by their father and paternal family members.
4. This matter is listed before me for a fact-finding hearing. The father and the interveners each vehemently deny the allegations made against them.

The Law

5. The burden of proof rests with the party who seeks to invite the court to make findings of fact against another party. In respect of whether the threshold criteria of s31(2) Children Act 1989 are satisfied and upon what factual basis, the burden rests with the local authority. In so far as any other party, including EF, GH and IJ, seeks findings of fact against another party, the burden of proof lies with them.
6. The standard of proof is the balance of probabilities: *Re B* (2008) UKHL 35.
7. I was helpfully referred to a number of authorities by Mr Momtaz QC and Ms Clifford on behalf of the father. These included the case of *Re E (Child Abuse: Evidence)* [1991] 1 FLR 420, where at 447H Scott Baker J, as he then was, said:

“It is disappointing that, despite the passage of time since the Cleveland report, several witnesses had either not read the report at all or, if they had, they ignored its conclusions in many respects. Permeating the whole case is the underlying theme of ‘the child must be believed’. Of course what any child says must be listened to and taken seriously, but the professionals must be very careful not to prejudge the issue. Listening to the child is the subject of ch 12 of the Cleveland report. It contains important advice and information, much of which was overlooked.”
8. In the case of *Re A and Ors (Minors) (Child Abuse: Guidelines)* [1992] 1 FLR 439, Hollings J highlighted the following faults in the child interviews:
  - “a) use of untrained and inexperienced interviewers;
  - b) failure to approach the interview with an open mind;
  - c) use of leading questions;

- d) over-interviewing of the children;
- e) interviews conducted at the pace of the adults, rather than the child;
- f) grossly inadequate video- and audio-recording;
- g) lack of background information in the possession of the interviewers;
- h) use of too many interviewers, either together or in sequence;
- i) telling the child what another child has said;
- j) pressure and anxiety to obtain results.”

9. In *AS v TH and Ors* [2016] EWHC 532 (Fam) MacDonald J set out a comprehensive analysis of the law in paragraphs 22-52 of his judgment. Counsel for the father accurately summarised the key observations in the following terms:

“a) In principle the approach to fact finding in private family proceedings between parents should be the same as the approach in care proceedings. However, as Baroness Hale cautioned in *Re B* at [29]:

“...there are specific risks to which the court must be alive. Allegations of abuse are not being made by a neutral and expert Local Authority which has nothing to gain by making them, but by a parent who is seeking to gain an advantage in the battle against the other parent. This does not mean that they are false but it does increase the risk of misinterpretation, exaggeration or downright fabrication.” [paragraph 28]

b) The ABE guidelines state that [paragraphs 37-38]:

Any initial questioning 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 takes place. Such a brief account should include where and when the alleged incident took place and who was involved or otherwise present.

A person engaged in early discussion with an alleged victim or witness should, as far as possible, (a) listen, (b) not stop a free recall of events and (c) where it is necessary to ask questions, ask open-ended or specific closed questions rather than forced-choice, leading or multiple questions and ask no more questions than are necessary to take immediate action.

c) The requirement that all professionals responsible for child protection make a clear and comprehensive record of what the child says as soon as possible after it has been said and in the

terms used by the child has been well established good practice for many years. [paragraph 41]

d) The need for professionals working with children to record, as contemporaneously as possible, what the child has said has been recognised and endorsed by the courts as vital in circumstances where, in determining allegations of sexual abuse, it is necessary for the court to examine in detail and with particular care what the child has said (sometimes on a number of different occasions) and the circumstances in which they said it (*D v B and Others (Flawed Sexual Abuse Enquiry)* [2007] 1 FLR 1295). Within this context, it will also be important that, when recording an allegation, the child's own words are used and that those speaking with the child should avoid summarising the account in the interests of neatness or comprehensibility or recording their interpretation of the account. [paragraph 44]

e) The courts have further endorsed a number of the general principles set out in the ABE Guidelines. It is desirable that interviews with young children should be conducted as soon as possible after any allegations are made (*Re M (Minors)(Sexual Abuse: Evidence)* [1993] 1 FLR 822). Where a child has been interviewed on a number of occasions the court may attach diminishing weight to what is said in the later interviews (*Re D (Child Abuse: Interviews)* [1998] 2 FLR 10). The court will wish to see responses from the child which are neither forced nor led (*Re X (A Minor)(Child Abuse: Evidence)* [1989] 1 FLR 30). It is normally undesirable for a parent to be present during an interview with the child (*Re N (Child Abuse: Evidence)* 1996 2 FLR 214 and see the Cleveland Report para 12.35). In *Re S (A Child)* [2013] EWCA Civ 1254 Ryder LJ confirmed that the guidance set out in the Cleveland Report at paragraph 12.34 with respect to interviewing children remain good practice. [paragraph 50]

f) Where there has . . . been a failure to follow the interviewing guidelines, the court is not compelled to disregard altogether the evidence obtained in interview but may rely on it together with other independent material to form a conclusion (*Re B (Allegations of Sexual Abuse: Child's Evidence)* [2006] 2 FLR 1071). However, where the court finds that no evidential weight can be attached to the interviews the court may only come to a conclusion that relies on the content of those interviews where it has comprehensively reviewed all of the other evidence (*TW v A City Council* [2011] 1 FLR 1597). [paragraph 52]"

10. I have had regard to the observations of the Court of Appeal on the impact and consequences of a flawed ABE process in the case of *TW v A City Council* [2011] EWCA Civ 17; *Re W, Re F* [2015] EWCA Civ 1300 and *Re E (A Child)* [2016] EWCA Civ 473. Further, I have taken account of the decision of the Court of Appeal in *Re Y and E (Children) (Sexual Abuse Allegations)* [2019] EWCA 206 and the observations

of Butler-Sloss J on the keeping of a “bad book” in *Re D (Child Abuse: Interviews)* [1998] 2 FLR 10.

11. In *Re B (Allegation of Sexual Abuse: Child’s evidence)* [2006] EWCA Civ 773 [2006] 2FLR 1071 para 34 it was noted,

“...Painful past experience has taught that the greatest care needs to be taken if the risk of obtaining unreliable evidence is to be minimised. Children are often poor historians. They are likely to view interviewers as authority figures. Many are suggestible. Many more wish to please. They do not express themselves clearly or in adult terms, so that what they say can easily be misinterpreted if the listeners are not scrupulous to avoid jumping to conclusions. They may not have understood what was said or done to them or in their presence.”

12. In *Re B* [2006] the court held that failures to follow the guidelines reduced but by no means eliminated the value of the evidence.

“In a family case evidence of this kind fell to be assessed by the judge no matter how unsatisfactory its origin: to hold otherwise would be to invest the guidelines with the status of the law of evidence. In every case the judge had the unavoidable task of weighing up the evidence, warts and all, and deciding whether it had any value or none. The judge had been entitled to take the flawed evidence into account having recognised its deficiencies and had evaluated it carefully in the context of other independent evidence; the judge, however had to assess the evidence as a whole. Clearly some failures to follow the guidelines will reduce, but by no means eliminate, the value of the evidence. Some may be purely technical and have no impact at all on value. Others may reduce the value to almost vanishing point. The question for us in this case is whether the judge was compelled to the conclusion that he must disregard this evidence all together... &...the purpose of the ABE guidelines is not disciplinary; it is to present the court and for that matter the parents with the most reliable evidence which can be obtained. In every case the judge cannot avoid the task of weighing up the evidence, warts and all, and deciding whether it has any value or none. Everything will depend on the facts of the case. The exercise has perhaps something in common with the one which judges are used to carrying out when confronted with hearsay evidence, often in a family case third or fourth hand hearsay.”

13. I respectfully agree.

#### The Background

14. The mother and father were married on 8<sup>th</sup> July 2000. They are both ordained ministers in the Church of England.

15. EF was born in 2002.
16. The mother, father and EF, in late 2003 to 2004, moved to live with the paternal grandparents for 6 months arising from a move from Yorkshire to the West Midlands.
17. GH was born in 2005 and IJ was born in 2007.
18. In late 2015, the mother, father and the children all moved to live with the paternal grandparents for three months whilst there was renovation works on the family home.
19. In January 2017, the mother told the father she believed he had raped her in January 2016 and that their relationship was over.
20. The father suffered a depressive episode and made a suicide attempt on 25<sup>th</sup> February 2017. He was discharged from hospital and stayed with the paternal grandparents.
21. On 27<sup>th</sup> February 2017, the father returned to live in the family home.
22. On 1<sup>st</sup> March 2017, a staff nurse made a referral to Children's Services regarding the father's attempted suicide and they commenced an assessment.
23. On 26<sup>th</sup> March 2017, the father moved out of the family home by agreement. The children remained living with the mother but had contact with the father at the paternal grandparents' home.
24. On 27<sup>th</sup> March 2017, a social worker visited the mother and the boys. Ms Bungay spoke to the boys and each of them spoke of their relationship with their father in warm and positive terms.
25. Between 2<sup>nd</sup> and 9<sup>th</sup> April the boys and the mother went on holiday to Wales.
26. A report by Children's Services of 6<sup>th</sup> April noted that the family were shielding the children from the suicide attempt and were receiving support from the paternal grandparents.
27. On the 9<sup>th</sup> of April 2017, the family gathered at the paternal grandparents' home to celebrate the father's birthday. In the late afternoon he went upstairs to his bedroom and took an overdose of tablets in a second suicide attempt. He sent a message to the mother which she did not read until somewhat later in the day. She then immediately contacted the paternal grandparents who summoned the emergency services. The father was taken to hospital for treatment and was then discharged.
28. On 20<sup>th</sup> April 2017, the mother attended her GP surgery to inform her GP that she was concerned the boys were suffering from stress as a result of the father's mental health issues. The parents agreed they should seek a referral for the boys to the local CAMHS.
29. The mother, on 24<sup>th</sup> April 2017, telephoned the police informing them that the father was threatening to kill himself again.
30. On 26<sup>th</sup> April 2017, a letter was received by the father from IJ's form teacher at the children's school stating that the mother had explained that the father had made several

suicide attempts and had texted his three sons to tell them what he was doing and that mother was certain the father will continue his attempts.

31. On 14<sup>th</sup> May 2017, the father informed the mother by text that he would not attempt suicide again and that he wanted to live.
32. During this time the father was having contact, gradually increasing to weekly daytime contact at the home of paternal grandparents' when they were abroad and the mother was working.
33. On 23<sup>rd</sup> May 2017, the first CAMHS appointment was arranged for the mother and children – the father was not informed of this nor invited to attend.
34. On 13<sup>th</sup> June 2017, the mother sent an email to the father confirming her agreement to a holiday to France with the boys.
35. On 14<sup>th</sup> June 2017, the mother petitioned for divorce.
36. In April 2017 to July 2017, the parties underwent a mediation process.
37. On 11<sup>th</sup> July 2017, the paternal grandmother said the mother informed her that she may apply for a restraining order against the father. On the same date, the mother contacted the Emergency Duty Team at Social Services to inform them she did not feel the children were safe having contact with their father. She was advised to telephone MASH, which she did not do.
38. On 19<sup>th</sup> July 2017, EF subsequently alleged that the father pushed him into a bedpost and caused bruising to his ribcage. The father was not informed of this allegation. The mother reported she was not aware of the same.
39. From 20<sup>th</sup> to 22<sup>nd</sup> July 2017 the children, including EF had contact with the father all day. On 26<sup>th</sup> July, the father had his last contact with EF.
40. On 27<sup>th</sup> July 2017, the mother reported she was told about the bedpost incident and took photographs of a bruise on EF's chest.
41. On 28<sup>th</sup> July 2017, the father was informed by phone that EF would not come for contact on 29<sup>th</sup> July or again. No reason was given and this was the last telephone contact between the father and the mother. The father sent a text message to EF which read "EF I am very sad to hear your news. I hope at some point you feel able to change your mind as the only way forward I think is to spend time together. Love dad".
42. On 29<sup>th</sup> July 2017, IJ and GH had daytime contact with the father which also took place until 14<sup>th</sup> August 2017.
43. On 4<sup>th</sup> August 2017, the parents agreed the father could continue to have daytime contact with the children.
44. On 9<sup>th</sup> August 2017, there was an email from the mother to the father saying she was not willing for children to go to France on holiday with paternal family. The reasons stated were:



- i) the boys' views;
  - ii) the trauma of father's second suicide attempt;
  - iii) the difficulties with contact;
  - iv) EF did not wish to see his father;
  - v) two occasions of "real concern"; and
  - vi) the mother wanted to go to court.
45. On 11<sup>th</sup> August 2017, the father made an application for a specific issue order to take the children on holiday and a child arrangements order.
46. On 14<sup>th</sup> August 2017, the mother was served with the father's application.
47. On the same day in the late evening, EF told a family friend, QR, of the physical abuse he said he had suffered at the hands of his father.
48. On 16<sup>th</sup> August 2017, at an urgent court hearing the mother informed the court that social services had advised her not to allow contact between the children and father. The court then ordered:
- i) indirect contact by Skype every other day for 15-30 mins which was agreed;
  - ii) the application for holiday contact was refused.
49. Between 19<sup>th</sup> August 2017 and 2<sup>nd</sup> October 2017, the father had Facetime with GH and IJ, these were recorded by GH.
50. Around September 2017, EF allegedly watched a BBC programme about paedophiles.
51. On 27<sup>th</sup> September 2017, EF called the police and said he had been physically and mentally abused by his father from the age of 6.
52. On 29<sup>th</sup> September 2017, EF underwent, what was termed, a 'non-ABE' interview.
53. The last conversation over text between the mother and the father occurred in October 2017.
54. On 5<sup>th</sup> October 2017, the court ordered indirect contact to continue and direct supervised contact to take place at a contact centre.
55. On 6<sup>th</sup> October 2018, there was an initial meeting between the mother, EF and the counsellor, SC.
56. On 24<sup>th</sup> October 2017, EF had his first ABE interview.
57. On 27<sup>th</sup> October 2017, EF had a further appointment with SC.
58. On 28<sup>th</sup> October 2017, GH and IJ had their first ABE interview.

59. On 3<sup>rd</sup> November 2017, EF had his second appointment with SC.
60. On 11<sup>th</sup> November 2017, there was the last email communication between the mother and the father.
61. On 11<sup>th</sup> and 17<sup>th</sup> November, EF had further appointments with SC.
62. On 19<sup>th</sup> November 2017, the mother arrived at the contact centre with the children and informed staff that the father hadn't arrived for contact because he had been arrested that morning. He had not: he had attended for a voluntary police interview.
63. On 24<sup>th</sup> November 2017 there was a further court hearing at which the mother made it clear to court that she had no intention of sending the children to contact. The court reminded the mother of the warning notice and that contact must continue in accordance with the order of 5<sup>th</sup> October 2017. On this date, EF had another appointment with SC.
64. Directly after the court hearing the mother telephoned the contact centre and cancelled the session booked for 26<sup>th</sup> November 2017.
65. On 2<sup>nd</sup> December 2017, contact took place at the contact centre between the father, IJ and GH. It was reported to be normal, good contact.
66. On 4<sup>th</sup> December 2017, EF had another appointment with SC.
67. On 7<sup>th</sup> December 2017 at the fact-finding hearing, DJ Watson found that the allegation that the father raped the mother was not proved.
68. On 9<sup>th</sup> December 2017, contact was due to take place at the contact centre but IJ and GH both refused to see their father.
69. On 17<sup>th</sup> December 2017, the contact was also due to take place at the contact centre but the children refused to see their father.
70. On 18<sup>th</sup> December, EF again saw SC.
71. On 20<sup>th</sup> December 2017, MN was interviewed by the police.
72. On 22<sup>nd</sup> December 2017, KL was interviewed by the police.
73. On 27<sup>th</sup> and 28<sup>th</sup> December 2017, the mother booked two appointments for EF with SC in which EF made an allegation against father that he had raped him.
74. On 4<sup>th</sup> January 2018, EF had another appointment with SC.
75. On 12<sup>th</sup> January 2018, IJ made allegations to PC Montford and a social worker, Samantha Sheldon.
76. On 20<sup>th</sup> January 2018, EF had his second and third ABE interviews.
77. On 21<sup>st</sup> January 2018 EF had his fourth and fifth ABE interviews.
78. On 26<sup>th</sup> January 2018, GH and IJ each had their second ABE interview.

79. On 31<sup>st</sup> January 2018, EF had his final appointment with SC.
80. On 7<sup>th</sup> February 2018, GH had an appointment with SC.
81. On 10<sup>th</sup> February 2018, IJ had his third and fourth ABE interviews. The mother gave permission to police to obtain GH's and IJ's medical, school, counselling and social services records.
82. On 11<sup>th</sup> February 2018, GH has his third and fourth ABE interviews.
83. On 12<sup>th</sup> February 2018, GH had his fifth ABE interview.
84. On 14<sup>th</sup> February, 20<sup>th</sup> February and 28<sup>th</sup> February, GH had further appointments with SC.
85. On 7<sup>th</sup> March 2018, GH had an appointment with SC. SC reported that before this appointment the mother had texted to say GH had remembered 'some horrific ritual type abuse'.
86. On 18<sup>th</sup> March 2018, GH had his final appointment with SC.
87. On 24<sup>th</sup> March 2018 GH had his sixth ABE interview.
88. On 24<sup>th</sup> March 2018 IJ had his fifth ABE interview.
89. On 14<sup>th</sup> April 2018, in a statement of DC Andrews in support of a police PII application it was stated "The children have not as yet finished disclosing the allegations and to date there are further 9 ABE interviews and rough interview notes worth of disclosures. Once the children have stopped making disclosures these will be reviewed...".
90. On 1<sup>st</sup> May 2018, West Midlands Police made a further application for public interest immunity in respect of police records and the investigation was ongoing.
91. On 22<sup>nd</sup> May 2018, GH made a diary entry, "The professionals have been shit". "I don't think I could live if CD did not go to prison". "They are still winning causing us pain".
92. On 7<sup>th</sup> June 2018, there was a Child in Need meeting which the father was excluded from.
93. On 18<sup>th</sup> June 2018, the mother made a complaint to the police which included "my children are not the only ones who have suffered abuse"... "they have been viciously physically and sexually abused by CD, KL, MN and OP".
94. In July 2018, DC Dan Hopkins became the lead investigator.
95. On 11<sup>th</sup> July 2018 GH had his seventh and eighth ABE interviews.
96. On 11<sup>th</sup> July 2018 IJ had his sixth ABE interview.
97. On 12<sup>th</sup> July 2018 GH had his ninth, tenth and eleventh ABE interviews.

98. On 6<sup>th</sup> August 2018, the mother was informed by DC Hopkins that there will be no further ABE interviews.
99. On 7<sup>th</sup> August 2018, the police received a letter from EF giving details of multiple rapes. The mother emailed DC Hopkins asking if he had received a letter that was dropped off for his attention. The mother informed police GH was also disclosing sexual abuse. DC Hopkins proposed medical examinations for the children. The mother agreed.
100. On 7<sup>th</sup> September 2018, the mother sent an email to DC Hopkins seeking a plan for further interviews of the boys.
101. On 9<sup>th</sup> September 2018, the mother sent a further email to DC Hopkins asking if a Sergeant can meet with the boys. “Just not sure how much longer we can all live in this limbo with the police not being aware of the extent, violence and cruelty of the abuse that the boys have suffered. The police need to hear first-hand from the boys”.
102. On 14<sup>th</sup> September 2018, EF underwent a medical examination by Dr Lakshiminarayna.
103. On 15<sup>th</sup> September 2018, the mother took EF to Dr Nandy and revealed a scar on his back from being stabbed by the father or brother.
104. On 21<sup>st</sup> September 2018, GH and IJ underwent a medical examination by Dr Kumara - physical and genital examination normal.
105. On 10<sup>th</sup> October 2018, the mother called DC Hopkins. She said she feared the children’s safety would be at risk should they interview the paternal family. She believed the house would be burned down or children would be taken from their school and killed.
106. On 20<sup>th</sup> October 2018, DC Hopkins visited the paternal grandparents’ home - no secret rooms or cupboards were found.
107. On 4<sup>th</sup> March 2019, an application was made by the local authority for supervision orders.

#### The Evidence of EF, GH and IJ

108. EF was interviewed or spoken to by the police on 29<sup>th</sup> September 2017 but, for reasons which I do not understand, this was not treated by the police as an ABE interview. Moreover, there is no DVD recording of this session nor a transcript of what was said by EF nor of any questions he was asked.
109. Thereafter EF underwent 5 separate ABE interviews. The dates and duration of the interviews were 24.10.17 (1 hour 50 minutes), 20.01.18 (2 hours 36 minutes), 20.01.18 (2 hours 50 minutes), 21.01.18 (3 hours 26 minutes) and 21.01.18 (1 hour 27 minutes).
110. GH was ABE interviewed on 11 occasions. The dates and duration of these interviews were 28.10.17 (1 hour 20 minutes), 26.01.18 (2 hours 54 minutes), 11.02.18 (2 hours 44 minutes), 11.02.18 (1 hour 14 minutes), 12.02.18 (1 hour 18 minutes), 24.03.18 (1 hour 18 minutes), 11.07.18 (1 hour 29 minutes), 11.07.18 (49 minutes), 12.07.18 (2 hours), 12.07.18 (10 minutes) and 12.07.18 (55 minutes).

111. IJ underwent 6 ABE interviews. These dates and duration of each interview were 28.10.17 (1 hour 20 minutes), 26.01.18 (1 hour 49 minutes), 11.02.18 (1 hour 53 minutes), 11.02.18 (1 hour 47 minutes), 24.03.19 (30 minutes but there was a failure in the recording equipment) and 11.07.18 (1 hour 44 minutes).
112. Thus, over a period of 3 months EF was interviewed by the police for a total of 12 hours. GH was interviewed over a period of 9 months for a total of 16 hours. IJ was interviewed over a period of 9 months for a total of 9 hours. A combined total of 37 hours of ABE interviews plus the unknown amount of time EF was involved in the non-ABE interview of 29.09.17.
113. The clinical psychologist, Dr David Glasgow, was instructed in these proceedings to advise on the Re W exercise. In the course of his analysis he gave an opinion on the conduct by the police of these multiple interviews with EF, GH and IJ. In his report, based on his viewing of the DVDs and on his reading of the transcripts of the interviews, he offered a number of firm and clear opinions. The fundamental conclusions of his report dated 16<sup>th</sup> October 2019 are as follows:

- i) “The investigating officers have adopted a rather unusual strategy, and an obvious question which arises is why that might be. They have conducted ‘batches’ of extremely long interviews with the brothers, sometimes several hours in one day with a single child. For the purposes of this report this is significant for two reasons:

It may reflect information about the circumstances of the allegations or characteristics of the children which emerged during the preinterview assessment and planning process. This in turn may be informative in relation to predicting the response of the children to giving evidence, and to being either believed or disbelieved.

Much more negatively, the strategy adopted by the investigating officers may have contributed to the extremely unusual escalation of allegations between September 2017 and July 2018.”

- ii) “Whilst I must allow the possibility that the investigative and interview strategies were rational, and based on a thorough assessment, I have to say that this is not evidence on the face of the interviews themselves.”

- iii) “The concerns I have in relation to the conduct of the interviews are as follows:

This is a case in which the possibility of coaching and cross-contamination between witnesses should have been seriously considered and accommodated within the overall strategy from the outset. There is very little evidence of either. Very occasionally the issue of one child talking to another comes up, but why very lengthy 'batches' of interviews are conducted does not appear to be addressed.

It is a particular concern that there is no video or transcript of the first interview with EF, conducted on 29<sup>th</sup> of September 2017. I have been advised that this is because it was 'not treated as an ABE interview'. That is not supported by the evidence. The interview notes are recorded on an

ABE form and what content is revealed is consistent with an ABE interview. Further, at the beginning of the second interview with EF conducted a month later, the interview says "*You have been interviewed before in regard to some items. You have been through this process before*"

As a result of the missing records we do not have the benefit of considering EF's presentation during the very first interview, the manner in which he makes his first allegations, or indeed the scope of those allegations.

I have already referred to lengthy interviews been undertaken in batches. These are sometimes many weeks apart, with no obvious rationale for the conduct of each batch. The interviews are also far too long in duration. This is not appropriate for children. It also makes life very difficult for an interviewer, and can generate significant problems with respect to the evidence.

Aside from the issues of interviewee fatigue and implied pressure to comply with expectations, overlong interviews is far too demanding on the interviewer to sustain good interview skills. It also generates too much information to consider and strategically analyse in an appropriate timescale. This is even more so in situations where an interviewer conducts interviews alone, as seems to have happened here at least sometimes, and probably most of the time."

- iv) "DC Andrews does mention the issue of lengthy interviews as a couple of points, but the only rationale I can see recorded was "*...I'm a great believer in letting a child to talk if they want to talk*". I am afraid that whilst that sentiment is a consideration, it really cannot not be the justification for almost all interviews being way over one-hour duration. Nor can it justify the fact that it seems 5 or more hours interviewing of a single child over consecutive days was not unusual."
- v) "Had I been asked to advise this investigation, I would have strongly recommended notes were not used in this way. The interviews would have been better if actively structured by the interviewer, and possible corroboration then sought regarding apparently shared critical experiences. Ironically, in such circumstances, batches of (much shorter) interviews may have facilitated this strategy, by limiting the opportunity for cross contamination or coaching."
- vi) "I was also struck by EF's unusual emotional presentation when he was reporting some of the most serious allegations. He appeared to switch rapidly between being relaxed, agitated and distressed, and smiling and laughing. It is true that trauma can profoundly affect how emotions are experienced and displayed. It may be that mental health records could shed light on this, but in the absence of these I would suggest that this presentation should have been regarded at the time of the interview as a possible indicator of false allegation. (Because it was not addressed at the time, unfortunately it must remain a concern)"

- vii) “Within the interview itself EF reports a memory ostensibly recovered during interview (12:30:20). He states that he has 'only just remembered' an incident, and proceeds to give an extremely detailed account. If he meant that the incident had just occurred to him, that might not be unusual. However, if he meant that he previously had no memory of the incident, then his account gives serious cause for concern.”
- viii) “IJ also deals with the issue of remembering when he states (in his last interview at 17:03:30) that he had woken up after being beaten unconscious, and not knowing what had happened. The interviewer sensibly asks him how he knows now knows, to which he responded, *"Because I've kind of accepted that it's happened"*. From the psychological perspective, such a combination of vivid, detailed recollection and claimed amnesia is extremely unlikely.”
- ix) “Normally, having seen ABE interviews, I feel I have a good general sense of the children being interviewed. Unfortunately, that is not so in this case. The children are articulate and intelligent. However, within the investigative interviews they have been allowed, perhaps even encouraged, to disclose disjointed and escalating allegations. The change in their presentations between early and late interviews is striking, and somewhat disturbing.”; and
- x) “If any consideration was given by the investigating team to what might lie behind this unusual patterns and presentation, I have seen no direct evidence of this. Nor is there evidence in the form of informed interview strategy.

It is a serious concern that these children have been interviewed as they have, and apparently without the assessment and planning required by the guidance.

On the basis of what I have seen, I would regard these interviews as a disservice to the children, their family and to the family court.

As far as I can see the primary effect of the ABE interviews is to elevate concerns regarding the evidence of the children, and place an increased burden on the family court.

ABE interviews should be conducted with the potential needs of the family court in mind. It is extremely concerning that these children were subjected to so many hours of interviewing for so little benefit.”

- 114. An intermediary was appointed to assist each of the boys giving their oral evidence. The intermediary was provided with the list of written questions to be asked of EF, GH and IJ and she advised on the appropriateness or the phrasing of the same.
- 115. On 18<sup>th</sup> November 2019, I met separately with each of the brothers who had expressed a wish to meet with me and to see the courtroom in which the case would be heard. They were to give their evidence from a remote location from the court building by video link. During the course of the oral evidence of each of them, the court and video camera had been arranged so that they could only see me when I was talking to them or their counsel or the counsel who was to cross examine them. They had no wish to see their father or paternal family members when they each gave oral evidence. It had

been agreed that they would be given a break of 10 minutes after every 30 minutes of giving evidence unless they requested an earlier break in their evidence.

116. IJ was the first of the brothers to give evidence on the second day of this hearing. He was plainly nervous at the prospect of giving oral evidence to the court and told me that he was nervous. I have made all due allowance for IJ's young age, his vulnerability and his obvious concern about giving evidence to the court in front of his parents, his paternal family members and all of the lawyers in court. There were, however, a number of aspects of IJ's oral evidence that struck me as significant. Before setting out the details of these matters I should note that I had reassured IJ that his evidence would be completed in one day - in fact his evidence lasted no more than 2 hours with appropriate breaks - and that he should let me know if he wished to have a break earlier than one which was scheduled and he did so.
117. When asked if he had been telling the police the truth or was telling the court the truth, IJ replied instantly that he was. The only exception was when IJ was asked about the truthfulness of his first police interview on 28<sup>th</sup> October 2017. In that interview IJ had said his father had never physically or sexually abused him. When asked whether this account was true, IJ paused for the first time for a considerable period of time and then said, 'I did not believe it had happened at the time but then it all came back to me'.
118. Thereafter when asked if his account to the police in his various interviews was correct, IJ readily answered that it was. What was strikingly different however, was when IJ was asked probing supplementary questions, his demeanour changed markedly and there were invariably long pauses before he gave an answer. I am satisfied that the long pauses were not the result of emotional distress or upset caused to IJ by the nature of the questions, which have been put in a perfectly fair, calm and child friendly manner by Mr Hadley, counsel for the local authority.
119. When asked for how long the various bruises he had allegedly sustained were visible he paused for a period of time and then said he did not know. When asked if his mother had seen any of these bruises he first said he did not know and then said that if his mother asked him how he had sustained the bruises he lied to her about the causes of the same.
120. IJ was asked whether he and GH and/or EF had spoken about matters before they were serially interviewed by the police. He said they had not and that he was sure they had not done so.
121. IJ was then asked about an alleged assault by the father on a family walks in Shropshire. IJ had told the police that his father had banged his head on a rock and he, IJ, sustained a bruise. When asked how he had explained the bruise to his mother who went on the walk with them, he said he did not know.
122. He was asked why he had not mentioned the allegations of being raped by his father and paternal family members during his six police interviews. He replied that he had remembered lots of things later on after his last police interview. The allegations of rape were first made by IJ during the course of a medical examination, undertaken at the request of the police on 21<sup>st</sup> September 2018, to Dr Kumara and DC Hopkins. When asked if he had told his mother about the rape allegations before the medical examination, IJ replied that he did not know.



123. IJ had alleged his father had poured hot coffee over his hand which resulted in him suffering red blisters. When asked how long the blisters persisted, he said he did not know. When asked whether his mother had seen the blisters IJ again said he did not know.
124. IJ was asked when he first remembered being physically abused and he replied around the time of his second police interview on 26<sup>th</sup> January 2018 when "all of it came back". The sexual abuse came back to him around the time of his third in police interview on 10<sup>th</sup> February 2018. He said he remembered matters in his sleep. When asked how that happened he said he did not know how to explain it. 'Things were real not just dreams but how I dreamt of matters must be how it had happened'.
125. He denied that his mother or EF or anyone else had told him what to say or to make things up. He asserted he had not made up any of his allegations.
126. At the start of his oral evidence GH confirmed that all of the allegations set out in his schedule of abuse by his father, his paternal grandparents and his paternal uncle were true.
127. In his first police interview on 28<sup>th</sup> October 2017, GH had denied he had suffered physical abuse at the hands of his father or anyone else. When asked whether he had told the police the truth he said that he had because at that time he had not remembered everything. He then added that since then he had remembered things.
128. In his schedule of allegations dated 11<sup>th</sup> October 2019, GH explained the process by which he had recalled past events in the following terms:

"Sometime after March 2017 I started to remember things. At first it was just snippets and fragments of memory and nightmares which I put down to my imagination. I think I was in denial. In August 2017, there was an incident where EF got upset about going on holiday and showed us a mark on his chest. After that I began to remember more and more things and I realised they were true and had really happened.

In each police interview I told the police the things I had remembered up to the point of that interview. I was truthful to the police, but after each interview I would remember more things and so sometimes I appear to contradict myself. At first, I remembered only the minor things that happened but, as time went on, I remember the more serious things.

I can't remember when I first started remembering sexual things as they started coming in little snippets, which I put down to my imagination at first. The incidents became clearer in my mind around the middle of July 2018 but has not come into total focus. By the time of the final ABE interview in July 2018 I had a clearer recollection of events, however there was not enough time in the interview to go through these and Cat, the police officer conducting the interview wanted to finish off talking about allegations of physical abuse concerning CD. The police

decided not to arrange anymore ABE interviews after that and so I could not tell the police about the sexual things. Instead, I told the doctor and police officer who were present for my medical examination in September 2018.

I have found it hard to remember things clearly, because there are so many memories and some incidents are very similar to each other. It takes time for me to process them. Sometimes I get muddled and confused. Sometimes, when I first remember an event, details that are not true can get mixed up in the memory, but the more I picture things the easier it is for me to distinguish the parts that have really happened. For example, I told Dr Kumara that there are secret rooms at KL and MN's house. When I said that, I believed it to be true. I was trying to make sense of my memories which were not completely clear and in those memories I did not recognise the rooms. Since then I have had longer to picture things and I think I was a bit muddled.

I understand that it may be suggested that I am not being truthful. I realise that the social workers believe that I am lying and that my mother has influenced me to make the allegations. I am not lying. No one has made me make the allegations. They are what I remember. I do discuss my memories with my mum and my brothers sometimes. My brothers have also told me about things that have happened to them. Sometimes, when I have mentioned particular things to them, they have encouraged me to talk to professionals about it, but no more than that.”

129. It is in this context that when a social worker, Ms Bungay, visited GH and his brothers at home in March 2017, GH spoke of his father and his family in positive terms. When he was asked why he had not told the social worker of his abuse, he replied “there was nothing really to tell her at that time”. He said he didn’t think he had spoken with his brothers about the social worker’s pending visit. When asked was it just a coincidence that all three had been positive about their father and family life, GH said he could not then remember anything bad about his father and added that he had not done anything then.
130. Like IJ, when GH was asked how long his bruises or scars had lasted after the various physical assaults he said he had suffered, he invariably replied, after a pause, that he did not know. When asked whether anyone had seen the bruises, marks or scars he said no one had asked him about them. In relation to his mother he said that if she asked him about a bruise on him, he would lie and say it happened when he was playing rugby or an accident of some kind.
131. At one-point GH said that he or one of his brothers was hurt by their father every week and sustained bruises. He then said he had a lot of bruises but he didn’t know where they had come from. GH had told the police that his father had cut him with a key. When asked was this true, GH replied that at the time he could have done, he didn’t remember now.

132. He told that me did not know the abuse by his father was not right until he began to be interviewed by the police and his mother had told him it was not right. He denied being told to make the allegations against his father by anyone and said he had not seen his brothers' lists of allegations. In this context, however, he said that EF had encouraged him to know that the abuse was not normal.
133. After GH had been giving evidence for about two hours, with 5 or 10-minute breaks every 30 minutes, he was asked about his allegation that he had seen his grandfather sexually abuse his grandmother. He confirmed he had. He confirmed he had been raped by his grandparents. When then asked whether he had been raped by anyone else, GH paused for a very long time, minutes passed, and he looked increasingly uncomfortable. When I then asked him if he wanted the question to be repeated, he said no and that he wanted to move on to other questions. I asked if he wanted a break, he said no. When Ms Lattimer asked him the next agreed question of whether anyone else had sexually abused him, he paused and then asked to move on to another question. Ms Lattimer asked me to rise. I did so.
134. I had a message sent to counsel via my clerk that I was concerned about GH's emotional wellbeing. When I returned to court in the absence of GH, Ms Lattimer told me that she and Mr Cooper, who represented GH, had themselves some concern. It was agreed that it was neither appropriate nor necessary to require GH to answer any further questions. To have done so would have caused GH emotional harm and would have been contrary to his welfare best interests.
135. GH and his intermediary then returned to the video suite when I told him he would be pleased to hear he did not have to answer any further questions. I thanked him for coming to give evidence.
136. EF began his evidence in a seemingly relaxed and confident manner. When, however, he was asked a question in cross examination his demeanour changed dramatically. He would look down at the desk at which he was sitting or would look to his right out of the windows and there would be a long pause before he gave an answer. The only exception was when EF was asked any question which touched upon the issues of:
- i) whether the brothers had discussed their respective abuse allegations;
  - ii) whether he had been told what to say; or
  - iii) he had told his brothers what to say.
- To these questions he gave an immediate and emphatic response of 'no!'.
137. I note in a statement made by EF after his oral evidence, which I refer to later in this judgment, he accepted that he and his brothers had discussed their allegations and that he had lied to the court in this aspect of his evidence.
138. In his oral evidence he said that he had not told his mother about the physical and sexual abuse he has alleged he had suffered because he thought she knew about it.

139. When asked why he had been so positive about his father when seen by a social worker in March 2017, he said that at that time he had not thought what he has endured at the hands of his father was abuse.
140. In respect of his feelings about his parents' separation, he paused for a long time and then replied that he had has a mixture of emotions. He was then asked about his father's suicide attempts. EF said he was initially relieved when he heard because there would be one less person to abuse him. When he discovered it was unsuccessful he assumed his father would be more angry than before (I note the father was extremely distressed by this answer and appeared to be devastated by EF's response).
141. EF denied his mother had ever told him that she alleged the father raped her: nor, said EF, did anyone else.
142. In relation to him telling QR on 14<sup>th</sup> August 2017 of the physical abuse he alleged he had suffered, he said that he had not remembered the sexual abuse at that time. Having told QR, he could not remember what she said to him.
143. In similar vein, having allegedly told ST and then UV of abuse he had allegedly suffered at the hands of his father and of the paternal family, EF could not remember what either ST or UV had said to him.
144. EF claimed he had only remembered the sexual abuse he had suffered after he watched a TV programme in mid/late 2017 about paedophiles.
145. When asked when he had seen this TV programme, EF could not remember. When asked whether it was before or after his first interview with the police on 29<sup>th</sup> September 2017, he could not remember but thought he had watched it some 5 months before in or around September 2017.
146. A family photograph was produced of EF happily celebrating his 13<sup>th</sup> birthday in France at his grandparents' home in August 2015. He claimed that two days before his birthday his father had punched him causing him to have a split lip. EF had, in his oral evidence, pointed to the part of his lip which had been split. On being provided with a high resolution electronic version of the photograph I could not discern any evidence of a split lip. In his witness statement, EF retracted the allegation that the photograph showed him with a split lip or that his father had in fact caused him to have a split lip.
147. The morning after the boys have been told about the contents of the mother's oral evidence, Mr Vater QC invited me to adjourn the hearing for a short period because EF had telephoned his solicitor that morning to request a meeting with his legal team. I allowed the application. Later in the day a statement signed by EF was circulated and permission was sought to file and serve the same. I granted permission. In this statement EF retracted 9 allegations, asserted that some of allegations were essentially true but exaggerated and that the remaining allegations were true.
148. I could not discern any pattern or theme which explained why EF had chosen to retract some of the allegations, say some were exaggerated but maintain the others.
149. Counsel for GH and for IJ asked for time to take their instructions on EF's statement: time was granted.

150. GH's position was that he was struggling with his memories which he thinks are true but he is open to the possibility that they are not true. He told his counsel that 'I need to be neutral'.
151. IJ, I was told, believes what is set out in the schedule of allegations is what happened to him. He accepted, however, that it was a matter for the court to decide.
152. What most troubled IJ was that the court might decide to remove him from his mother's care. It was his foremost concern.
153. EF was very frightened, Mr Vater QC told me, about what would happen to him for having lied to the police and to the court.
154. There are certain passages in EF statement which I consider to be illuminating and instructive, namely:

“I think I have confused this incident with a book I was reading about a hostage being tortured by the Taliban. When I was being interviewed by the police, my mind was a wreck. I was just searching for things to tell the police, it seemed to be what they wanted to hear. The police seemed to want more and more incidents; to me it felt like if I didn't say something they wouldn't take me seriously;”

“I didn't know why I said it did. I felt like the police officer was convinced that something had happened in the shower and I convinced myself that it had too. I believed it when I said it but now realise it is not true.”

“I said punch to the police to make it sound worse as at the time I wanted him to be in trouble. At the time, I spent time searching on the internet to find out how to make it sound worse. For example, instead of saying “push”, I would say “shove”. Instead of “slap”, I would say “hit” or “punch”.”

“At the time I made the allegation, I did believe it to be true but I have reflected on it and I now know that that is not the case.”

“I realise that I have told the court that I did not discuss the allegations with my brothers. On reflection, it is true that if and when any allegations were mentioned on car journeys we did talk about them.”

“I now know that OP has not caused me any direct physical or sexual harm. Due to this, I now do not believe that he is a threat to me or my brothers.”

“I know that I have not told the truth to the police and the Court about some of the allegations I originally made. I realise that is a very serious matter. In some instances I do not really know why I told lies. Sometimes I felt under pressure from the police to say

what I thought they wanted to hear. Sometimes, and because of the things I still say happened to me, I wanted to be taken seriously and I exaggerated because of that.”

“I am very sorry that some of the allegations I have made are not accurate. I am not completely sure myself why I have made them. Sometimes, I honestly believed them to be true. Sometimes, I was saying what I thought the police wanted me to say. Sometimes, I was confusing things I had read about and seen with things I thought had happened to me.”

#### The Evidence

155. The paternal aunt, WX, spoke in warm and positive terms of her childhood and life within the paternal family. She said that she and her brothers, the father and paternal uncle, had had a loving, stable and secure life with their parents, the paternal grandparents. She accepted they were a relatively high achieving family who wanted everyone to achieve their best.
156. It was put to her by Mr Pressdee QC, leading counsel for the mother, that she, her parents and her brothers were very competitive and, as EF had alleged, had put him down and undermined his confidence. She did not accept any of these propositions. She denied that she had ever heard any of her family make derogatory comments about the mother or about the maternal grandparents.
157. She confirmed in her evidence, however, that she strongly suspected the mother had had a role in the children making what she considered to be false allegations against her brothers and her parents. She said, ‘I know these things to be false’.
158. WX described the regular contact she had had with EF, GH and IJ and their parents, especially before she was married and before she had her own children.
159. She told me that EF had had a strong relationship with his father: they were both very sporty. Even so, both the mother and the father found EF challenging at times, particularly from the age of 12. He had the usual teenage strops and tantrums. She said EF put pressure on himself to achieve the best he could in life.
160. WX told me about GH’s very close relationship with his father and described IJ as a ‘most happy little chappy’.
161. GH had alleged in his manuscript notes that WX had witnessed, on multiple occasions:
  - i) his father throttle him and yell at him; and
  - ii) the father and paternal grandfather push him.She said she had never seen any such events.
162. In similar terms EF had alleged that his aunt had witnessed the paternal grandfather throttle him and the father shove and kick him. In response WX said ‘absolutely not. I have not seen that’. She continued she had, of course, seen the father be annoyed with EF but had never seen him to be physically abusive to EF. If she had seen anything like

this she would have intervened, she said. She had never seen any of her nephews with unusual or concerning marks or bruises.

163. Around this time in her evidence WX lost her composure and began to cry. I rose for a few minutes to allow her time to compose herself.
164. She described her older brother, the father, as the serious one of the family and the organiser. Her younger brother was the big kid of the family who bought his nephews great Christmas presents and told stupid jokes. The boys loved him.
165. In her view both parents clearly loved the boys although the mother was the more demonstrative and emotional of the two. WX described one occasion on one of the regular family holidays to the paternal grandparents' home in France when the boys were briefly lost on a walk. WX said that when the boys were found the mother just lost it and was furious with them for a prolonged period of time.
166. QR was due to give evidence at this hearing on 28<sup>th</sup> November 2019. She asserted in her police witness statement that on 14<sup>th</sup> August 2017 EF spoke to her at his mother's home of the physical abuse he said he had suffered by his father. QR was the first person to whom EF had spoken about these matters.
167. It was revealed by the mother, for the first time, on 27<sup>th</sup> November 2019 that QR was an inpatient at a psychiatric hospital. After enquiries were made of her treating clinicians, it was clear that she was a voluntary patient receiving treatment for certain conditions. In light of QR's circumstances and the opinions of her clinicians, no party required her to attend to give evidence although, quite properly, counsel representing the father, the paternal grandparents and the paternal uncle reserved the right to make submissions on the evidence of and role played by QR in this case.
168. DC Hopkins took over the role of the officer in charge of this case in July 2018 upon the retirement of DC Andrews. He undertook a review of the investigation to date. He reached the clear and firm view that none of the boys would be the subject any further ABE interviews.
169. The officer told me that he would normally only undertake one or, possibly, two ABE interviews with a child or young person. If exceptionally, it was thought that a third ABE interview was required or thought necessary, he would not do so unless and until he had received authority from a senior officer. As DC Hopkins said to the father in his second police interview he was not going to conduct this investigation in the way it had been conducted to date and he would undertake the same in the way he thought fit and proper.
170. DC Hopkins told me that:
  - i) he would have investigated this case differently and not in the way that have been dealt with by DC Andrews;
  - ii) he had refused to meet with UV, a friend of the mother's, and told him that he was not prepared to discuss the case with him;

- iii) there was no way he would have asked the children to write notes or timelines of the abuse they alleged they had suffered at their home or outside the confines of an ABE interview. He would only use timelines which had been prepared and made in the course of an ABE interview because to do so otherwise might undermine the integrity of the case;
  - iv) when he told the mother that there would be no more ABE interviews of the boys, she said they have much more to disclose;
  - v) they did so when they underwent their medical examinations on 14<sup>th</sup> September 2018 (EF) and the 21<sup>st</sup> September 2018 (GH and IJ) at which DC Hopkins was present; and
  - vi) at his medical examination on 21<sup>st</sup> September 2018 GH told DC Hopkins that the brothers had spoken with each other about the abuse and had written their notes together. This is contrary to what the boys said to me in their evidence.
171. I was dismayed to learn from DC Hopkins that this case had yet to be referred to the CPS some two years after the father and members of the paternal family had been interviewed by the police. I was told that DS Wilson of the Protected Persons Unit had been charged by DI Wilkes, the senior investigating officer of the PPU, to undertake a review of this case, in consequence it would appear, of my indication that I was likely to be critical of the role played by West Midlands Police in this case. I was told his review will be completed by 29<sup>th</sup> November 2019 after which DI Wilkes would undertake his own review of the investigation before deciding whether the matter should be referred to the CPS for a charging decision.
172. Whatever the rights and wrongs of the actions of the father and of the members of the paternal family, I consider this to be an inexcusable delay in referring or not, as the case may be, to the Crown Prosecution Service for a charging decision.
173. At the conclusion of DC Hopkins' evidence I invited him to leave the court for a few moments whilst I addressed an issue with counsel. I indicated that on the evidence I had read and heard from DC Hopkins that it was extremely unlikely that I would be critical of his conduct and role in this case. Further I indicated that if no counsel took a contrary view I would communicate this view to DC Hopkins. No counsel expressed a contrary view and Mr Vater QC for EF positively endorsed the course I proposed to take. Accordingly, I invited DC Hopkins to return to the witness box and I told him that, whatever view I ultimately come to in respect to the West Midlands Police in this case, he would not be subject of any criticism. I thanked him for his evidence. I considered it to be intolerable that this officer should leave this court concerned that he may be criticised when he laboured under, as he told me, an extremely heavy workload of outstanding cases: and that expresses the pressure under which he was working in a modest and moderate fashion.
174. PC Morris was not a member of the PPU. She just happened to be on duty at the local police station when EF, his mother and QR attended on 29<sup>th</sup> September 2017. She was called to the front office to speak to the mother. She then undertook an interview with EF which lasted 1 hours and 15 minutes. There was no video recording of this interview because the equipment was not available at this police station. She wrote contemporaneous notes of what EF said.



175. When asked why after 10 minutes or so she had not called a halt to the interview so that EF could undertake a proper video recorded ABE interview, PC Morris replied that she was just following instructions. She said that she had a brief conversation with DC Andrews before undertaking the interview with EF in which she had been told to interview EF even though it was known no recording device was available. This evidence does not accord with the evidence given by DC Andrews.
176. PC Morris accepted that EF should have undergone an appropriately arranged ABE interview but asserted that no officer from the PPU was available.
177. When asked whether this was an appropriate manner in which to interview EF and whether it was improper to have done so, PC Morris maintained her previous response that she was following instructions. DC Andrews did not confirm that she had given such instructions.
178. SC is a counsellor whom the mother engaged to undertake counselling with EF and GH after the aftermath of the parents' separation and the father's two suicide attempts. She told me that EF was very negative about his father and the attempted suicides which he described as pathetic.
179. Her principal role is as a bereavement and relationship counsellor and not a counsellor to victims of alleged physical or sexual abuse. She first met with EF on 6<sup>th</sup> October 2017. EF first spoke of his father physically abusing him in her third session with him. The mother asked her to see EF on the 27<sup>th</sup> and 28<sup>th</sup> December 2017. It was on these occasions that EF spoke to her for the first time of the alleged sexual abuse by his father. EF started the session on the 27<sup>th</sup> December by asking would he know if he had been raped. She last saw EF on the 31<sup>st</sup> January 2018.
180. GH spoke to SC about only one allegation of alleged abuse by father and the paternal grandfather. The mother had told her about the allegation and text message prior to this particular session with GH. She told me that GH had calmly told her the father and paternal grandfather had made him carve the words 'I shall not lie' onto EF's back with a knife.
181. GH did not engage with counselling to the degree that EF had done and shortly after starting the sessions, he decided he did not wish to continue.
182. UV is a work colleague of the mother's. Unfortunately, part way through his evidence UV collapsed in the witness box. The paramedics were called to attend to him and he had regained consciousness by the time they had arrived. He was taken to hospital where he remained overnight. In light of his collapse, no party required him to return to court to complete his evidence.
183. He said he had supported the mother and the boys in respect of the allegations the boys had made against their father and paternal family members.
184. He said that fear affected all of the family – the mother and each of the boys. It was a tangible fear of the father and the members of the paternal family. The mother had never said to him that she did not believe the boys' allegations.

185. UV told me that the mother had sort of told him that the father had raped her. When I asked what he meant he replied, less than helpfully, that he would have to leave it at that. The mother had not told him of the outcome of the rape fact finding hearing on 7<sup>th</sup> December 2017.
186. In October 2017, after DC Hopkins had decided not to undertake any further ABE interviews with any of the boys, UV took it upon himself to attempt to have a meeting with DC Hopkins, which the officer refused, and then he wrote a letter to DC Hopkins to which was attached a document which is entitled 'a chronology of events'.
187. UV asserted that he had spoken with the boys separately and together about the abuse they had suffered. He added that he had taken long car journeys with EF and GH when they would be speaking throughout for upwards of 40 minutes about the abuse they had suffered. This is in contradiction of the evidence of each of the boys who had each denied speaking of the abuse they had suffered with each other.
188. UV's evidence in respect of the drafting of this letter and this chronology was at best, very confused and, at worst, false. He was attempting to persuade DC Hopkins to change his decision not to interview the boys any further.
189. In the chronology he had asserted that the father had told the boys that he would kill himself when they returned from a holiday in Wales. When it was put to him by Mr Pressdee QC, leading counsel for the mother, that she did not agree the boys had been told this, he replied he must have been mistaken. When, a little later in his evidence, he was asked how he made this mistake, he said that EF and GH had told him this is what their father had said to them. Why then had he said he had made a mistake? He replied he did not know and could not answer the question.
190. He asserted in the chronology that the boys always came with weapons, of one form or another, when they came to his house to protect themselves from the father and his family. When questioned about this assertion and in particular about the use of the word 'always', UV started to backtrack and he struggled to explain the basis of his use of the word 'always'. When I said to him that unless he could explain the drafting of this chronology to me, I would be likely to conclude that he was falsely 'beefing up' the case against the father, UV paused for a very long time. He started to shake and then he collapsed.
191. Katrine Andrews retired as a police officer in September 2018 although her last working day was 14<sup>th</sup> July 2018. She was the officer in charge of this case from October 2017 to the date of her retirement. Accordingly, for ease of reference in this judgment I shall refer to her as DC Andrews.
192. A recurring theme of her evidence was that:
  - i) she had a very heavy caseload and usually carried 17 to 21 live investigations in addition to this case;
  - ii) all of the other officers in the protection unit were, at that time, similarly overburdened with heavy caseloads;

- iii) she did not approach any of her senior officers to seek additional help and/or support; and
  - iv) she considered she had undertaken her investigation into this case to the best of her skill in light of the heavy burden of work she had had to manage.
193. In her evidence DC Andrews could not recall the Achieving Best Evidence principles. She could not recall the 4 phases of planning and preparation for conducting an ABE interview with a child, namely rapport, free narrative account, open ended questions and closure.
194. She thought the interview conducted by PC Morris with EF on 21<sup>st</sup> September 2017 had been video recorded, even though she must have known there was no such facilities at the police station where she was based.
195. She confirmed she had asked all three of the boys to complete a timeline outside the confines of an ABE interview. She considered it would take too long to undertake this exercise during an ABE interview. She seemingly had given not a moment's thought or consideration of the risk of the boys' accounts being contaminated if they prepared a timeline outside of a formal ABE interview. She told me there were 'no problems' with asking a child to prepare a timeline (outside of the confines of an ABE interview) before interviewing the child because it gives an interview structure.
196. She told me that EF, GH and IJ appeared to be happy to talk, so she just let them talk. She said she was victim-led and she would not stop a child talking if the child wanted to talk.
197. She was asked whether she considered 6 ABE interviews with EF, 11 with GH and 6 with IJ were manifestly excessive? I would not stop interviewing them, she said, until the children wanted to stop talking. I then asked her if she had not retired in June 2018 whether would she have undertaken further ABE interviews with them and, in terms, she said yes. She did not accept that her approach risked encouraging the boys to make allegations but, in a very troubling rider, she added 'They knew what I was looking for'.
198. DC Andrews did not seek the advice nor the approval of her senior officers to undertake this number of interviews with these three boys. Further, I could not discern from the investigation log:
- i) any evidence that a more senior officer had held supervision sessions with DC Andrews; or
  - ii) any senior officer had undertaken any review of the conduct of and the progress of the investigation.
199. She was pressed time and again for why she had not taken any substantive step to investigate the case other than by conducting interviews with the children (e.g. a visit/search of the paternal grandparents' home to discover if there were 'secret rooms' in the property). Every time she responded that she had planned to do so only when she had finished interviewing the boys.

200. There is no reference to planning or preparation by the officer in the investigation log. She boldly told me that she never wrote down her planning or preparation whether in the log or elsewhere. Save for asking the boys to each write a timeline and for booking the video suite for their ABE interviews, I could not discern that this officer undertook any planning or preparation. DC Andrews told me she had asked the boys, when writing their timeline to recall the first and last incidents of abuse and then they were to choose the 'worst' ones in between. There is no reference to this conversation in the investigation log which the officer claimed resulted from having a heavy workload.
201. She did accept she should have told the boys about writing the timeline rather than to have delegated the task to the mother.
202. One matter the officer did find time to record in the investigation log was her observation that the boys appeared to find the experience of multiple and extremely lengthy ABE interviews 'cathartic'.
203. The officer asserted that the mother had told her in November 2017 that the boys were making allegations of physical and sexual abuse. This is curious because the evidence of the mother and of EF is that the first of the boys to make an allegation of sexual abuse was EF to SC on 27<sup>th</sup> December 2017. The conversation is not recorded on the investigation log because of work overload.
204. When it was put to her that her investigation had serially breached the ABE Guidance, she denied it. When it was put to her that she had undertaken an incompetent and negligent investigation, she denied it and added 'I got a lot of information out of them'.
205. At the conclusion of DC Andrews' evidence, I gave her fair warning that I would likely to be highly critical of her conduct of this investigation. I told her that if she wished to instruct solicitors or counsel to make submissions as to whether:
- i) I should not be critical of her conduct; and/or
  - ii) I should not name her in the judgment,
- I would be prepared to receive and take account of the same. She chose not to do so.
206. It had been the mother's case throughout almost the entirety of this case that she believed the boys' allegations against the father and the paternal family and that they were true. A glimmer of doubt about the allegations appeared for the first time in her last witness statement dated 12<sup>th</sup> November 2019.
207. Her case underwent a wholesale change during the course of, and especially at the conclusion of, her evidence.
208. During the course of her examination in chief the mother was extremely emotional when recounting the circumstances surrounding the father's first suicide attempt on 25<sup>th</sup> February 2017 and then in relation to the second suicide attempt which took place on his birthday on 9<sup>th</sup> April 2017 when the children were present at the grandparents' home.
209. Early on in her cross-examination by leading counsel on behalf of the father, the mother acknowledged that the boys had had bruises but nothing like they had alleged. The

father, she said, had been heavy-handed but she had never seen him hit the boys. She said she now thought the boys had exaggerated the degree of physical abuse. She has seen nothing that could not be explained by taking part in sport and rough play.

210. At one point the mother asserted that the boys had not told her about the abuse they had suffered because they said that they thought she knew about it. When asked on what basis they could possibly have thought she knew about the abuse, she eventually conceded there is no way they could have done - either on their version of events or on her version of events.
211. The mother then said that she had not read all of the papers until shortly before the start of this hearing. She had, she said, been on a journey and that she now realised that the boys' allegations of physical abuse had been exaggerated.
212. The mother then explained that she felt she had been firefighting and that she had not had the chance to think through or process rationally what the boys had alleged against the father and the paternal family.
213. She told me that she had passed on what she could not cope with to the police and the professionals involved in the case. She said she had not asked the boys if what they were alleging was true but that she has started to ask herself if what they were alleging was or could be true.
214. She accepted that during the time the boys were making their allegations she was not acting rationally. She accepted she was wrong and that she had lost the plot.
215. She later said that rationally the boys had nothing to fear from their father nor the paternal family but she had not challenged the boys about their allegations at any time. She accepted that by not reassuring the boys and thereby reinforcing their fears, would cause further damage to the boys.
216. The mother told me that her fear that the father might again attempt to commit suicide prevented her from providing reassurance to the boys that he would not and that they were safe. She recognised this was her fault which had caused further emotional harm to the boys.
217. During the course of cross-examination on behalf of the father, the mother accepted that the father posed no risk of physical harm to her or to the children and that he posed no risk of sexual harm to her. In relation to the children she said she doubted the father posed a risk of sexual harm to them.
218. A theme emerged in the mother's evidence of her not being able to cope with or process the boys' allegations and of passing responsibility of dealing with these matters to the police and to the other professional involved in the case.
219. Towards the end of her evidence and mother denied telling or encouraging the boys to make false allegations but she accepted had not stopped them from making any allegations nor had she ever challenged them about what she knew they were alleging.
220. At the conclusion of her cross-examination on behalf of the father, she accepted the boys' allegations were incredible.

221. Mr Vater QC, leading counsel for EF, made an application to adjourn his cross-examination until he, his junior and their instructing solicitor had had the opportunity to seek instructions from EF. They wished to inform him of the changes in the mother's case and to seek his instructions on what questions, if any, he wished to be put to his mother.
222. Ms Lattimer, on behalf of GH, and Ms Meyer QC, on behalf of IJ, made like applications. I granted the applications and adjourned from the Friday afternoon to the following Monday morning.
223. When the hearing resumed on the Monday afternoon I was told that none of the boys wished for any questions to be put to the mother. Further I was told by Mr Vater QC and Ms Meyer QC that neither EF nor IJ now made any allegations of physical or sexual abuse against the paternal uncle.
224. The mother told me that the paternal grandparents had always been there to help and support her and that the boys had always been very close to their grandparents.
225. Once again, she said that she had not stopped to think about the allegations the boys had made nor to reflect on the same.
226. The mother confirmed she had known the paternal uncle, OP, from when he was 11 or 12 and that she had had a close relationship with him and that he had had a very close relationship with the boys.
227. She then told me there was no truth in anything the boys alleged against OP. I note this matches and follows EF and IJ withdrawing their allegations with regard to the paternal uncle.
228. The mother said she had told OP about the father's alleged rape of her in August 2017. When asked why she had done so, she said 'it was all part of the trauma I was experiencing' (i.e. all part of the trauma the mother was experiencing in respect of the father's two suicide attempts).
229. At the conclusion of her cross-examination on behalf of the paternal uncle the mother said she wanted "what all four of us have lost'. 'I want them (the boys) to have those (the father and the paternal family) relationships back in their lives'.
230. At the conclusion of her evidence, I said to the mother that I suspected that the catalyst for the cataclysmic events to befall this family was the mother's traumatic response to and inability to deal with the father's two suicide attempts. She said I was probably right.
231. When I asked her why she had not reassured the boys in late 2017 that they were safe or had challenged any allegations, she could not provide any sort of satisfactory answer.
232. When I asked her whether she had anything else to say she said, 'I am grateful to you for you bringing all of this to an end'.
233. Upon the conclusion of the evidence, a document was received along with written submissions on behalf of the mother. In this document she made her position clear in the following terms:

“As she now believes, there is absolutely no truth in the allegations made by the children against their paternal grandfather, paternal grandmother and paternal uncle.

As she now believes, beyond occasional rough-handling of the children (and the mother does not know exactly what happened on 19 July 2017), there is absolutely no truth in the allegations made by the children against their father.”

234. Save for seeing each other at court, the father had not had any contact with the mother since November 2017.
235. On 19<sup>th</sup> July 2017, there was an incident between the father and EF which resulted in the father pushing EF, which he said was in self-defence, which resulted in EF falling to the floor. The father said this episode did not involve EF falling onto a bed post. It arose from EF exhibiting the difficult and challenging behaviour of a teenager.
236. The father saw EF and the other two boys over the succeeding three days. There was no difficulty in their relationship and no mention was made of the foregoing incident.
237. The father accepted his two suicide attempts had had an adverse impact on the boys. He said he accepted responsibility for his actions. He apologised and said he had to accept he had made some terrible choices at this time.
238. When EF's and IJ's allegations were formally put to him by Mr Vater QC and Ms Meyer QC, he denied they were true. He said he had no memory of ever hurting his children.
239. When Mr Vater QC asked the father if he had any message to be passed onto EF, the father replied ‘I want him to know I love him, I will always love him and I always have. If he seeks my forgiveness I will give it but I don't want EF to think he needs to ask for forgiveness. I don't want him to feel any guilt. I want him to be happy.’
240. Ms Lattimer had been instructed by GH not ask any questions of his father or of his uncle and paternal grandparents.
241. OP, the paternal uncle, told me that during a telephone call with the mother on 3<sup>rd</sup> August 2017, she told him that the father had previously raped her. He did not accept, as was put to him by Mr Pressdee QC, that the mother had imparted this information to him when they were on a walk in the spring of 2017.
242. He told me that after listening to the mother's oral evidence he was even more concerned about his nephews. The mother, he said, had sought to persuade the court that she had completely abdicated any rational thought process.
243. When EF's allegation of a failure to protect were put to OP he denied there was any truth in the same.
244. When asked by Mr Vater QC if he had a message for EF, he said ‘EF's, (GH's and IJ's) allegations had been catastrophic but he, EF, was a child. He hoped they could reconcile but EF must not feel guilt.’ He said ‘I love EF and if he wants to see me, I want to see him.’ He felt the same sentiments for GH and IJ.

245. KL, the paternal grandfather, said he loves the boys. He described himself as the one who had 'kept the show on the road'. He and the grandmother were in the background of the boys' lives.
246. When EF's and IJ's allegations were formally put to him he said they were all false.
247. In terms of his message to EF, he said he 'could not condone what EF had done' and that he 'had to accept some responsibility'. He very much wanted the family to be reunited and that reunification must include the mother (I noticed the mother was tearful as the grandfather said this). The best case, as he saw it, was for everyone to be reunited and everyone to be healed. He repeated that the mother must be part of the solution. He spoke of his unconditional love for the boys.
248. MN, the paternal grandmother, said she loved the boys very much. EF, as her first grandchild, held a special place in her heart. She said they were part of the furniture of their grandchildren's lives. MN continued that they felt lucky to have had a daughter-in-law like the mother (I note the mother was crying); 'that's why this is so sad' she said.
249. In response to Mr Vater QC, she said she had not wanted to be an interfering mother-in-law (the mother was smiling at this). I still love AB she said (the mother was crying). She confirmed she wanted to meet with the mother but under the right circumstances.
250. When EF's and IJ's allegations were put to her she said there was no truth in them whatsoever.
251. In relation to her message to EF (and GH and IJ) she said 'I love them and I will love them forever. We want them back in our lives. They can come back to us when they are ready.'

## Analysis

### The Context of the Allegations

252. The early part of 2017 was a traumatic and difficult time for EF, GH and IJ. First, their parents had separated and second, their father had made two suicide attempts. Nevertheless, when they were seen by a social worker in March 2017, after their father's first suicide attempt (of which they were unaware at this point), they spoke of him in very warm and positive terms.
253. After his second suicide attempt in April 2017, the mother told the boys of the father's suicide attempts. The boys were later referred to CAMHS for support and counselling.
254. The adverse impact on the mother of the father's two suicide attempts cannot be overstated. She was terrified he would make further attempts on his life, potentially, when he had care of the boys. I note, however, that this all-consuming fear was not ameliorated in any degree at all by the following matters:
- i) in May to July 2017 the boys enjoyed spending time with their father;
  - ii) as the months rolled on the father had not, and did not, make any of further attempts on his life; and



- iii) more often than not, the father spent his time with the boys in the company of the paternal grandparents and/or the paternal uncle.
255. On 19<sup>th</sup> July 2017, there was the incident referred to earlier in this judgment between EF and the father. Over the three successive day contacts all appeared to be well between EF and the father as it appeared to be when the father had contact with him the following week. So, it came as a considerable surprise to the father when EF telephoned him at the end of that week to say he did not wish to see him again: he gave no reason for this decision.
256. This telephone call was made in the midst of the parents discussing the boys joining the father and the paternal family on their annual holiday to the paternal grandparents' home in France. Initially the mother had agreed but then she changed her mind because of the fear that the father might make a further attempt on his life.
257. Initially the boys wanted to go on holiday but then EF changed his mind.
258. The father felt he had no choice but to make an application to the court in respect of the boys going on the French holiday. The court papers were served on the mother on 14<sup>th</sup> August 2017. She claimed that she had returned home with the boys and found the court papers in the letter box. She said she didn't know what they were and just left them on the kitchen table.
259. I regret that I cannot take this account of events: either mother told the boys that their father had made an application to the court or one or more of the boys read some or all of the court papers. I reach this conclusion not least because EF was enraged that the first hearing took place on his birthday, namely 16<sup>th</sup> August 2017. He was convinced that his father had deliberately chosen his birthday for the first court hearing to upset him. He held onto this view notwithstanding the fact that his paternal uncle, a practicing lawyer, had explained to him that his father would have had nothing to do with the fixing of this court date: this was a matter for solely for the court.
260. The service of the court papers on 14<sup>th</sup> August 2017 was not the only significant event to occur. In the evening the mother asked a friend of hers QR, to come around to her house. It is said that EF then made his first 'disclosure' of physical abuse by the father to QR.
261. The first the father knew of these allegations of physical abuse was at the court hearing on 16<sup>th</sup> August 2017.
262. At this hearing the mother relied on EF's allegations as a reason why the boys should not go on holiday to France with the father and the paternal family. Moreover, she told the court that in a telephone call with social worker, Lisa Churchill, the previous day, the mother was advised not to permit any contact with the father.
263. Ms Churchill had kept a case record for this phone call on 15<sup>th</sup> August 2017. She was asked agreed questions by the parties in writing. Her evidence was not challenged on behalf of the mother and she was not called to give evidence. She had a clear recollection of the conversation and asserted:
- i) she did not advise the mother about contact; and

- ii) specifically, did not advise the mother that there should be no contact.

I accept the evidence of Ms Churchill. I regret to conclude that the mother had lied to the court.

264. The boys did not go on holiday to France but they had regular Facetime calls with the father when he was in France with his family. EF chose not to take part. GH decided to record the calls because the father had spoken of EF in the earlier calls and he wanted to relay what the father had said to EF. The recordings of these calls are very informative. They reveal a perfectly normal, relaxed, positive and loving relationship between GH, IJ and the father.
265. It is around this time that EF expresses very strong views about the need he has to protect his younger brothers, most notably from the father.
266. For reasons which are not explained, it was not until 29<sup>th</sup> September 2017 that the mother reported EF's allegations to the police when she took EF, together with QR, to a local police station. His, so called, 'non-ABE' interview was conducted by PC Morris: I have referred to this interview earlier in this judgment. For current purposes four matters are of note and significance in respect of what EF said to the police, namely:
- i) EF spoke of physical abuse by his father;
  - ii) he thought his father had hit GH but GH had said nothing to him;
  - iii) EF did not allege IJ has been abused at all; and
  - iv) he made no allegations of sexual abuse.
267. On 5<sup>th</sup> October 2017 the court ordered supervised contact to take place for 3 hours per week at a contact centre.
268. In his first formal ABE interview on 24<sup>th</sup> October 2017 EF alleged physical abuse by his father. He did not make any allegation that GH or IJ had been abused nor did he make any allegation of sexual abuse.
269. In GH's first ABE interview on 28<sup>th</sup> October 2017 he spoke of his father physically abusing him and EF, but more of EF. He told the police that EF had never had any cuts so knives or the like had not been used. GH said IJ was fairly bruise free. When asked whether anything had happened to IJ he said, 'I'd say he's completely free'. GH made no mention of any sexual abuse.
270. In IJ's first ABE interview on 28<sup>th</sup> October 2017, save for hearing EF scream on 19<sup>th</sup> July 2017 and seeing a bruise on his chest, he did not allege any abuse of him, GH or EF. He made no mention of sexual abuse.
271. The first supervised contact session was fixed to take place on 19<sup>th</sup> November 2017. The mother took the children to the contact centre and, in the presence of the boys, said the father would not be coming because he had been arrested: he had not been arrested, but he had attended the police station for a voluntary interview.

272. At the court hearing on 24<sup>th</sup> November 2017 the mother told the court that she had no intention of sending the children to contact with the father. She was told by the court that contact as ordered must take place. Shortly after the conclusion of the court hearing the mother telephoned the contact centre and cancelled the contact session booked for 26<sup>th</sup> November. This was inexcusable.
273. Contact did take place between the father and GH and IJ on the morning of 2<sup>nd</sup> December. It went well and the boys hugged their father as they left. In the early afternoon the mother telephoned the police. The log records the mother asserting that the father had sexually abused them in the past. This was the first ever reference to sexual abuse in this matter.
274. When asked why she had said this, she said, for the very first time, after two years of police investigations and court proceedings that EF had told her that his father 'liked to touch his willy'. When asked why she had never mentioned this before, her first answer was that she did not want to believe it, followed by it was said by 'EF in jest, a bit of a joke!' I asked the mother whether she was lying to me or whether she had lied to the police. She said she was not lying. When asked why if EF had said this to her in September, she only mentioned it to the police in December, she said she did not know. She said she was hysterical but was not in ear shot of the children when she had telephoned the police. I pressed the mother that if she could not explain why she had made this comment to the police, I may conclude she was playing an active role in escalating the allegations. After a very long pause during which she asked me to repeat the question, her ultimate answer was 'I do not know'.
275. In the lives of the mother and the boys three significant events then occurred, namely:
- i) on 7<sup>th</sup> December 2017 at the fact-finding hearing of the mother's rape allegation against the father in the private law proceedings, the court finds the allegation not proved and found the mother to be an unreliable witness;
  - ii) on 9<sup>th</sup> and 17<sup>th</sup> December 2017 GH and IJ, for the first time, refused to see their father at the contact centre. On the 9<sup>th</sup> December 2017 IJ said he was scared his father was going to hurt him and on 17<sup>th</sup> December 2017 GH said he was frightened of his father and that contact was tense and uncomfortable. This does not accord with the record of contact which took place on 2<sup>nd</sup> December; and
  - iii) the mother asked SC, the counsellor, to see EF on 27<sup>th</sup> and 28<sup>th</sup> December 2017. At this first session EF made his first ever allegation of sexual abuse against his father: he alleged that his father had raped him.
276. In her evidence the mother claimed that the boys first heard of her rape allegation inadvertently at a LAC review earlier this year. I do not accept this claim. Given the chronology set out above I consider it to be inconceivable that EF, at least, did not know of the mother's rape allegation by late 2017.
277. Hence the scene was set for the boys to make a series of allegations which increased in frequency and severity as the police ABE interviews were undertaken from January 2018 through July 2018. Having been denied the opportunity to make even more serious allegations against, first, the father and then the paternal grandparents and paternal

uncle, the boys took the chance to do so in the medical examinations in September 2018 which DC Hopkins attended along with the examining clinician.

### The Police Investigation

278. The role played by DC Andrews in the lives of this family is hugely significant. It was plain from her oral evidence and police investigation log that she had given no consideration to the ABE Guidance at any time during her involvement with EF, GH and IJ. Rather, she breached most aspects of the Guidance and of accepted good practice when interviewing children and young people.

279. I refer to the following principal breaches:

- i) DC Andrews undertook no planning or preparation prior to any interview with the boys;
- ii) the ABE interviews were excessively lengthy and instructed;
- iii) there was little or no use of open questions;
- iv) the boys were asked via their mother, and not by DC Andrews herself, to compile a timeline. She told them to think of the earliest allegation and then of the last and then to choose the ‘worst’ ones in between;
- v) she had decided not construct a timeline with each of the boys during an ABE interview because it would have been too time-consuming;
- vi) because she was victim-led and had to believe the boys’ allegations, she saw nothing wrong or inappropriate in undertaking 6 interviews with EF, then aged 15, 11 with GH, then aged 12, and 6 with IJ, then aged 10;
- vii) there is no evidence of her undertaking the interviews of the boys or of the father with an open mind;
- viii) she inappropriately praised the children during the course of the interviews;
- ix) the ABE interviews of the boys proceeded on the basis of going through the boys’ timelines - in effect a tick box exercise;
- x) there was no consideration of the context in which these allegations came to be made nor for the escalation in the same both in the seriousness of the allegations and expansion in the number of people against whom allegations were made;
- xi) save for the most rudimentary enquiries, no enquiries were made by DC Andrews to indicate or prove whether the boys’ allegations were true or false, in whole or in part;
- xii) DC Andrews gave no consideration to the impact of the therapeutic counselling two of the boys were receiving; and

- xiii) she failed to seek the advice of superior officers and/or their permission to undertake what I consider to be a manifestly excessive number of unjustifiably lengthy ABE interviews.
280. An element of common sense and good practice was only brought to this case when DC Hopkins took over as the officer in charge of the case in July 2018. He put a stop to any further interviews with the boys. For this decision he came under wholly inappropriate pressure from the mother and UV to undertake further interviews with the boys. It is to his credit that he resisted.
281. Perhaps the most concerning aspect of DC Andrews' role and the most egregious aspect of her conduct of this investigation was her comment in her oral evidence that the boys 'knew what I was looking for'.
282. It was submitted on behalf of the father that the police investigation was conducted negligently. I do not agree. It was conducted in an utterly incompetent manner which I find was harmful to the three children. DC Andrews' conduct of the ABE interviews played a very significant role in the boys' allegations increasing in number and severity and to include other paternal family members. One of the reasons EF gave for making false allegations was the role played by DC Andrews.
283. I was advised by the legal department of the West Midlands Police that in 2017 and now, it was not the policy of the force nor the training given to the officers that children must be believed when they make allegations: the advice is to keep an open mind.
284. The West Midlands Police do not, however, escape criticism. There is no evidence of DC Andrews receiving any or any effective supervision during the 11 months in which she was the officer in charge of the case. How she was permitted to conduct this investigation in such an incompetent and harmful manner for such a protracted time is beyond me and, in my view, inexcusable.
285. I am also dismayed to be told that although this police investigation has been ongoing for over 2 years, a decision has yet to be made about whether the matter will be referred to the Crown Prosecution Service for a charging decision. I understand the Detective Sergeant in the PPU was undertaking a review of the case, to be followed by a review by the Detective Inspector in charge of the unit during the currency of this hearing. I do not know the outcome of these reviews.

#### The Allegations

286. I am satisfied that the conduct of the police investigation by DC Andrews was so woeful and her conduct with the ABE interviews so seriously and serially breached the ABE Guidance that I can attach little or no weight to the allegations made by the boys and in those police interviews.
287. I am reinforced in coming to that conclusion when I consider and take into account the following matters:
- i) some of the boys' allegations refer to matters which are simply untrue (e.g. the existence of the secret rooms or cupboards in the paternal grandparents' house which DC Hopkins found did not exist);

- ii) some of the allegations of serious and extensive injuries being sustained by the boys (e.g. bruising, black eyes, split lips or extensive wounds caused by being cut with a knife). The mother never saw any such injuries save for a bruise to EF's chest in July 2017. Various professionals involved with the boys (e.g. school teachers, sports teachers, physiotherapists etc) never saw any unusual or untoward injuries or marks on them. Further, the medical examinations which the boys underwent in September 2018 did not find evidence of any untoward injury (e.g. scarring from being cut with a knife);
- iii) the unexplained inconsistencies between the boys' accounts. I refer to paragraphs 263 and 265-267 above where in their early interviews EF spoke of physical abuse of himself and possibly of GH, GH spoke of abuse of him and EF, mainly EF, and IJ disclosed no abuse at all, save for hearing EF scream in July 2017. None of them mentioned any sexual abuse which in later interviews became the principal theme of the allegations;
- iv) the inherent improbability of some of the allegations (e.g. IJ and GH alleging assaults on family walks which the mother neither witnessed or noticed the consequential inflicted injuries or of assaults taking place in public, in shops, restaurants or cafés);
- v) the advice of Dr Glasgow that psychological therapies involve the rehearsal and processing of traumatic events which "might serve to entrench beliefs about the allegations, making it hard for children to discriminate between what has and has not happened.";
- vi) the boys wanted to give oral evidence. When, however, they were each challenged – for the first time and in a measured and appropriate manner – about their allegations, they struggled to respond. As I have noted above, they invariably paused for a significant period of time before responding;
- vii) GH is struggling with his memories. His comment to his counsel after being made aware of his mother's evidence, that he was open to the possibility that his allegations are not true and that he needs to be neutral on this issue, speaks volumes;
- viii) IJ told me, as he had said before, that he remembers in his sleep. This is a serious cause for me to be very cautious in accepting IJ's allegations;
- ix) in evidence all three boys denied discussing their respective allegations with each other. They had told the police at various times that they had done so. UV told me that they had. Moreover, in his recent statement EF admitted they had done so; and
- x) in relation to this statement, I cannot ignore the timing of it which comes just 24 hours or so of being told his mother had given evidence that she did not believe the boys' allegations of physical abuse was true. Furthermore, EF gives no explanation as to why one allegation is no longer true whereas others are. So, for example in allegations 81 and 82 EF made almost identical allegations of a physical assault by his father followed by sexually inappropriate touching of his

genitals in sexual abuse. In his statement one is accepted now to be false and the other is said to be true but I do not know why and I am not told why.

288. On the basis of the totality of the evidence presented to me, as I have summarised in this judgment, I could not even begin to be satisfied on the balance of probabilities that these allegations of physical and sexual abuse are proved and to make findings accordingly.
289. I have observed the mother, the father, the paternal grandparents and the paternal uncle very carefully and closely during the whole of this hearing. The mother demonstrated no obvious emotion at all during the time that IJ, GH and EF gave their evidence. In very marked contrast she demonstrated a great deal of emotion and distress during the course of her evidence and during the evidence of the paternal grandmother. There were times in the course of the evidence when, given its nature, the father was distraught and devastated – so much so at one point that I enquired as to his wellbeing – and the paternal grandmother was often visibly distressed.
290. I have read the written evidence from the mother, father, paternal grandparents and the paternal uncle. I listened with care to their oral evidence. I am in no doubt that the father, the paternal grandparents and the paternal uncle are good and honest people who love EF, GH and IJ very greatly and without any reservation. I accept their evidence that they always have and always will love the boys. I have no hesitation in accepting the evidence each of them gave. Accordingly, I find that neither the father, the paternal grandmother, the paternal grandfather or the paternal uncle have ever emotionally, physically or sexually abused EF or GH or IJ. Any assertion or allegation to the contrary is false.
291. I have no doubt that from time to time EF presented challenging behaviours to parent – no more and no different than that of many teenagers. I accept the father may not always have reacted as wisely as he would have wished, thus the unpleasant incident, as the father described it, on 19<sup>th</sup> July 2017. This incident does not begin to merit the epithet of abuse.
292. The paternal grandmother’s evidence that they, the grandparents, were lucky to have had the mother as a daughter-in-law and that she still loved her caused the mother to cry copiously.
293. The father, the paternal uncle and the paternal grandparents spoke very movingly in their oral evidence of their deep love for EF, GH and IJ which was unreserved and unconditional. Each of them wanted each of the boys to be happy.

#### The Role of the Mother

294. I do not doubt for one moment, as I have already said, the overwhelming adverse impact the father’s two suicide attempts had on the mother. The first resulting in the mother having to recover the father’s blood splattered car from the scene of the attempt. The second taking place when the boys were downstairs in the grandparents’ home and he was upstairs in his bedroom, albeit with the paternal grandparents having care of the boys.

295. I do not doubt that in the immediate aftermath of each attempt and for some time thereafter she greatly feared for the wellbeing and safety of her boys which led her to take some very unwise decisions.
296. I do not doubt that she found life, in the early days and weeks after the last suicide attempt as a single working parent whose occupation involved caring for and giving pastoral care to terminally ill people, extremely challenging.
297. What greatly troubles me, however, is that as time went on the father made no further suicide attempt, she never re-evaluated the situation in which she and the boys then found themselves. She knew the father, whatever the issues in their marriage, to be a good and loving father. She knew the paternal grandparents were kind, generous, loving and supporting parents-in-law and grandparents. She knew the paternal uncle was just a “big kid” and the most attentive and devoted uncle to the boys. So why did she not challenge or, at least, question the boys’ allegations? Why did she not say, ‘well that cannot be true because I know X, Y or Z?’ Why, on her own admission, did she not reassure the boys that they were safe and had nothing to fear from their father and most certainly not from their paternal grandparents or paternal uncle?
298. The mother’s answer is that she was so overwhelmed by life and all that was happening that she had no time to stand back and think or reflect on matters. She was, in terms, caught up in the cyclone of the boys’ allegations and of their distress and had no time to rationalise events until just before this hearing started. This gave her opportunity to reflect on matters and realise the misjudgements she and the children had made.
299. In many ways I accept the mother’s evidence that she had only realised what had been done by her and the boys just a few weeks ago. This culminated in her at the conclusion of her evidence thanking me for putting these matters to a stop. I am troubled that although the mother readily accepted all of the boys’ allegations of physical abuse were false, she was more equivocal about the allegations of sexual abuse, notwithstanding the fact that these allegations are, in my judgment, by far the most patently untrue.
300. The father and the paternal family invite me to conclude that this is a classic case of parental alienation syndrome. I decline to do so. First, I have no expert evidence to assist me in reaching or in not reaching such a conclusion. Second, because this case does not have the, what may be termed as, ‘typical’ history of a case of parental alienation. Thirdly, and of greater importance, I do not consider the attribution of ‘labels’ to be of any particular relevance or of any assistance in this case.
301. I am entirely satisfied that by her acts of omission alone, by her failure to reassure the boys and by her failure to challenge the boys’ allegations, she has caused them significant emotional and psychological harm. Thus, the threshold of criteria s.31(2) of the Children Act 1989 is met.
302. Did the mother actively encourage the boys to make false allegations against the father and against the members of the paternal family? I am not persuaded that she did.
303. My present view is that, albeit for an unreasonably long period of time, the mother thought she was taking the right course to protect the boys. On any reasonable analysis her view and approach was completely wrong.



304. There were times when her approach moved from passive omissions (e.g. failing to reassure the boys they were safe and had nothing to fear from the father or the paternal family and in failing to challenge the boys' allegations) to taking active steps in support of the boys' allegations in respect of the police investigation or to prevent the father having contact with the children. The principal examples are:
- i) cancelling the contact session for 26<sup>th</sup> November 2017;
  - ii) falsely telling the police on 2<sup>nd</sup> December 2017 that the father had sexually abused the children;
  - iii) seeking to persuade DC Hopkins to undertake further interviews with the boys in mid/late part of 2018; and
  - iv) attending the police station on 21<sup>st</sup> August 2018 alleging the father has taken photographs of her sleeping and had shown them to the children. The children had alleged these photographs would be posted up in their school as a punishment for not doing well at school. The mother did not challenge ever this palpably false and ludicrous allegation.
305. I struggle to accept the mother's evidence that it was not until just before the commencement of this fact finding hearing that she had had the time or had taken the time to stand back and reflect on what had befallen this family over the last two and a half years. I consider, however, that it would be unwise for me to go further and enter into the realms of speculating about her motivation. It is sufficient for the purposes of this case that she had accepted she failed the boys, her actions or inaction was wrong and she caused the boys significant emotional and psychological harm.
306. I reserve any further findings about the mother's motivation to the welfare stage of these proceedings.
307. Did or do the boys believe their, as I have found them to be, false allegations against the father, the paternal grandparents and the paternal uncle? EF has accepted in his recent statement that he did lie to the police and to the court about some of his allegations. As was submitted on his behalf, it would be unwise and imprudent to find that he has lied about all of his allegations and I do not do so.
308. It has to be remembered that these relatively young children were caught up in a maelstrom of events over which they felt they had little or no control. The issue of whether they believed and believe the allegations or had/have false memories, howsoever caused, or they simply told lies is an immensely complex and complicated matter to resolve. I do not yet have the expert evidence or other evidence to enable me to determine this issue. It may be that I am ultimately unable to do so to any beneficial or meaningful extent. These issues have to be addressed individually in respect of EF, GH and IJ rather than collectively because different factors will have been and are in play in respect of each of them.
309. EF fears he will be sent to prison or otherwise punished for his admitted lies to the court. It is essential that he is reassured this will not happen.

310. It is essential that all three boys receive the messages of unconditional love sent by their father, their uncle and their grandparents. I share the view and the hope expressed by the father and the paternal family members that the boys and the mother can, once again be reunited with them.
311. Whether and, if so, how this can be achieved and the need for expert assistance to achieve a reunification are matters I will consider once I have had the benefit of hearing submissions from counsel.

#### Conclusions

312. The mother was overborne and could not cope with the father's suicide attempts, especially the second attempt on 9<sup>th</sup> April 2017, which took place when the boys were in the same house albeit being care for by the paternal grandparents. I am satisfied that the mother convinced herself that the father would make further attempts on his life. This made her fearful for the wellbeing of the boys.
313. This fear which may have been reasonable and understandable in the weeks and early months after the father's second suicide attempt, however, it transmitted into an all-encompassing and all obsessive belief that he would do so when, with the passage of time, it became an increasingly unreasonable and irrational belief system.
314. I am satisfied and find that it led the mother into a mindset where she was incapable of rational thought and analysis. She did not, as she admitted in evidence, take any step to:
- i) reassure the boys that they were safe;
  - ii) reassure the boys that they had nothing to fear from their father, their paternal uncle or from their paternal grandparents;
  - iii) challenge the boys' allegations, especially when she knew some aspects of them (e.g. secrets rooms at the grandparents' house) were palpably false; and
  - iv) prevent their ability to escalate the allegations either via discussions between themselves or with their counsellors or in the interviews with the police.
315. I am satisfied and find that in failing to act as I find that a reasonable parent would have acted, the mother has caused the boys significant emotional and psychological harm.
316. In the premises I am satisfied that the threshold criteria of s31(2) of the 1989 Act is satisfied in respect of each of the boys.