



Neutral Citation Number: [2024] EWFC 429

Case No: PE23C50067

**IN THE FAMILY COURT SITTING
AT CAMBRIDGE FAMILY COURT**

Date: 26th July 2024

Before :

MRS JUSTICE ARBUTHNOT

Between :

**CAMBRIDGESHIRE COUNTY
COUNCIL**

Applicant

- and -

A MOTHER

1st Respondent

- and -

A FATHER

2nd Respondent

- and -

CHILDREN E, D, C, AND A

**3rd - 6th
Respondents**

(Acting by their Children's Guardian)

Debra Gold (instructed by Pathfinders Legal) for the **Applicant**
Alicia Theaker (instructed by Chapple and co) for the **1st Respondent**
Barbara Connolly KC and Justin Slater (instructed by Rudlings LLP) **2nd Respondent**
Andrew Norton KC and Niamh Daly (instructed by Futter Chapman) for the **3rd – 4th
Respondents**
Peter Horrocks (instructed by AdlaMiss LLP) for the **5th - 6th Respondents**

Hearing dates: 9th July – 18^h July 2024,

JUDGMENT

This judgment was handed down on 26th July 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives on 7th March 2025.

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 and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of Court.

Mrs Justice Arbuthnot:

Application

1. This is a composite fact finding and welfare hearing relating to four children, the third to sixth respondents, Child A, Child C and twins Child D and Child E. They are the children of the first respondent mother and the second respondent father. The father does not have parental responsibility for the children. There are three adult children, Child B, Child F and Child G (aged 17).
2. Child A and her adult sister Child B have made allegations of serious sexual abuse including rape against their father. These and other allegations form part of the threshold relied upon by the local authority. The local authority is represented by Miss Gold. The sexual abuse allegations are denied by their father who is represented by Miss Connolly KC and Mr Slater.
3. The Court has been asked first to determine threshold and second if crossed, the Court is to determine where three of the children should live. The local authority's application is for final care orders in relation to all four children. The children's guardians support the local authority.
4. The mother had not participated in these proceedings since before December 2023 but came to give evidence and did not oppose the applications. The mother did not oppose the making of final care orders. The father did not oppose the plans for final care orders when it came to Child C, Child E and Child D. He said that he would eventually like to have the children in his care subject to future assessments, but that final care orders should be made at least until such time as his criminal prosecution has been disposed of. He consented to a final care order being made in relation to Child A as he was not in a position to care for her given her own wishes and feelings.
5. If a final care order is made, then the Court must consider contact. The care plan is for monthly contact between the children and their mother. The local authority proposes Child C to have contact with his father whilst the foster carers are to be trusted to arrange the contact between the siblings on an ad hoc basis. What is clear is that any contact with the father will have to be flexible because the father faces a criminal trial in the autumn for the rape of his daughters. It is currently difficult to have an idea how the children would react and what the shape of contact would be if the father were to be convicted or acquitted.

Background

6. There is a complex background. The children I am concerned with are the youngest four of a large family. The proceedings were issued on 6th April 2023, but the local authority had had a number of concerns since 2016, those concerns were about neglect, substance abuse and domestic abuse.
7. The proceedings concern Child A, Child C, Child D and Child E (“the twins”) born in spring 2014. An older brother Child G who was originally a party to these proceedings but reached the age of 17 in spring 2024 and was discharged as a party on 22nd May 2024.
8. Holly Murdoch was the guardian to Child D and Child E who was represented by Mr Horrocks. Andie Fruin was the guardian for Child A and Child C who was represented by Andrew Norton KC leading Niamh Daly.
9. On 3rd April 2023 in the evening, Child A came to Child B’s home where she lived with her husband AB and her three children aged six and twins aged three. Child A was extremely upset and told her adult sister she had been sexually abused by her father. They decided to call the police. Both women were ABE interviewed. Child A was then cross examined this year using the section 28 procedure.
10. On 8th November 2023, the Respondent father was charged with 15 counts of sexual abuse including vaginal rape of Child B and vaginal rape and anal rape of Child A. He remains on conditional bail and will be tried in October 2024. He denied the offences in his police interviews and has maintained his denials during his evidence in these proceedings. He wants the children to be returned to his care (other than Child A).
11. The threshold alleges not only sexual abuse but also physical and emotional harm and neglect. It is the sexual abuse which is strongly denied.

Evidence

12. I have been provided with a number of bundles and videos including the body worn evidence of the police who were called on 3rd April 2023 and who arrived at about 10pm that night. I have also watched the ABE interviews of Child B and her sister Child A and the section 28 cross examination of Child A. I have the transcripts of the interviews with the father and have read those alongside his statement and his response to threshold. I have watched the body worn video of the state of the house when the police arrived on 4th April 2024 to arrest the father.
13. I heard from Child B, her husband AB, the officer in the case, the mother who had not been participating in the hearing, but in the end arrived at Court on Wednesday 10th July at about 2.45pm and gave evidence on Thursday 11th July 2024. I heard from the

father and so far as the welfare part of the hearing is concerned, I heard from the social worker and the guardians.

Law

14. I set out below a distillation of the principles which the Court will apply.
15. The burden of proof is on the local authority which makes the allegations in this case which are set out in the threshold. It must prove the allegations which are not agreed.
16. The father does not have to prove that he did not sexually assault and rape the two older daughters. He does not have to prove an alternative case to the one put forward by the local authority.
17. The standard of proof is on the balance of probabilities. If the local authority does not prove on the balance of probabilities that Child B and Child A were abused by the father then the Court will disregard the sexual assault allegations when it comes to consider where the children should live, with the father, the mother or in foster care. These are the only realistic options for these children.
18. Findings must be based on evidence placed in the context of all the evidence. Findings cannot be based on anything less than that. Inferences may be drawn from the evidence, but speculation, suspicion, surmise or assertion are not sufficient to prove the allegations.
19. Findings can be drawn from the account and demeanour of a party or a witness or an assessment of the family circumstances, but the Court should bear in mind that memories fade and change with time, sometimes matters are remembered that were not remembered initially but the Court should be careful that it is not imagination that is becoming more active or memory being affected in this case by strong emotion.
20. Miss Connolly KC on behalf of the father argues forcefully, that there were many opportunities for complaints to have been made before by both Child B and Child A yet they failed to make them.
21. Another factor to consider with caution are the demeanours of Child B, Child A and of the father. I must bear in mind that a witness may come to honestly believe something happened when it bears either no or little relation to the events that occurred at the time.
22. I have reminded myself that in assessing and weighing, the impression which the Court forms of the all the witnesses, the Court must also keep in mind the observations of Macur LJ in *Re M Children* [2013] EWCA Civ 1147 at paragraphs 11 and 12:

“Any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box, and to expressly indicate that they have done so”

23. Child B gave evidence over the video link in a highly emotional manner. I must bear in mind that distress may be false, that she may have given evidence which is wrongly remembered of events which she says started when she was very young.
24. Hearsay evidence is admissible but the weight to be given to that evidence is a matter for the Court. The Court will look to see for example if it is receiving multiple hearsay or whether the evidence is contemporaneous with the events it describes, whether there was a motive for the witness to falsify their evidence or whether from other evidence it is clear that the hearsay is or may be wrong or mistaken.
25. When it comes to the Court’s approach to lies found to have been told, the guidance in *R v Lucas* [1982] QB 720 and *R v Middleton* [2000] TLR 293 is that a conclusion that a person is lying or telling the truth about point (a) does not mean that he is lying about or telling the truth about point (b). The authorities remind the Courts that there are many reasons why a person might lie including (as examples given by Lord Lane in *Lucas*) an attempt to bolster up a just cause; shame or an attempt to conceal disgraceful behaviour from their family.
26. As to the application of the *Lucas* direction in family proceedings, the Court of Appeal has been explicit that the Court must go beyond reminding itself of the principle. McFarlane LJ (as he then was) set out in *Re H -C (Children)* [2016] EWCA Civ 139 in particular at paragraph 100 onwards the way in which the Court must properly apply the principles in *Lucas*.
27. It is clear that a Court should first determine whether a lie has been told then consider why. A lie does not mean that they are culpable of the incident alleged. To put it in plain English, the Court must bear in mind that lies told by a witness can be told for a number of reasons. A witness may lie about one matter and be telling the truth about another.
28. This is a particularly apt direction in this case where it is said that Child B has told lies (and has admitted to these) and where the father has told lies (and admitted to these).

Evidence and discussion

29. The father’s case set out in his evidence and in the helpful submissions of Miss Connolly were that whilst the father did not have to give any reasons why his two daughters had said what they did, the father’s view was that Child A and Child B may have said what they had to get compensation, alternatively, it may have been to split up the mother from the father.

30. The father said that all the way through the Child B and Child A's childhoods the family had been discussing the compensation that a friend who had been raped received. The mother in her evidence gave a slightly different account in that she said that that discussion had happened in the last two years. She said she did not believe her daughters and said that they were doing it for the money.
31. Both parents mentioned that the sisters' brother Child G had frequently said he was going to become a millionaire from the compensation that he was going to receive after being involved in a road accident in August 2021. There was a suggestion that he would wind up the girls when he said this.
32. I bear in mind that the father does not have to prove he did not rape his daughters. It is for the local authority to prove he did. Courts have found in the past that it is impossible sometimes to work out why an untrue complaint was made because there may be scores to settle or anger about matters that are not obvious to anyone looking on. Sometimes false complaints are made for no reason at all. I had to consider carefully the credibility of the various witnesses bearing in mind that the father did not have to prove a thing.
33. In my approach to the evidence, I decided it was appropriate to start with AB, Child B's husband. The significance of his evidence was that he had said that Child B had told him she had been sexually assaulted by her father before their eldest child (now aged six) was born. If he was correct, this was not a new complaint invented by the daughters after an argument that Child A had with the family on 3rd April 2023.
34. Miss Connolly KC argued with some force that if AB had been telling the truth he would have gone to the police or that the maternal grandmother with whom they were living would have been told. I considered Mr Norton KC hit the nail on the head when he said that a victim's reaction of abuse of this type by a trusted adult is nuanced and there is a complicated reaction because of the pre-existing relationship with the abuser which continued after the abuse had finished. I agreed with him that in this case, the fact that Child B and AB had a continuing relationship with the father did not undermine the allegations made.
35. I was struck by the careful way AB gave his evidence. It was clear to me that he felt it was Child B's secret and issue and he did not want to make her do anything she did not want to do. He came over as very supportive of her. He did not know the details of what exactly had happened to her, but she had told him a little bit more every now and again. He described it as pillow talk. That she told him showed that they share a very close relationship.
36. If AB was inventing this account, then he had very quickly put his head together with Child B and Child A because he gave the same account to the police in the early hours of 4th April 2023. He told them that his wife had told him about the father's sexual abuse. She had told him he would touch her "down there"; she had said this around

four and a half years before, she said that she had told her mother, but the latter had refused to believe her. She was very upset when she had told him.

37. In AB's statement he said she had given a little more detail over the following years. At times she had said she was scared it might happen to Child A. She said it happened when she was in bed and meant to be asleep. She had said she would try to wear clothes or be with her sister to stop it from happening. She had also said her father had done this in the shed. She said it had started happening when she was about six years old and it went on until her early teens.
38. AB understood that the father used money and gifts to keep Child B quiet and told her to keep it a secret. In AB's judgment, he said it was very difficult for her to talk about it.
39. AB said he did not want to make his wife go to the police and it was a matter for her. He came across as an honest and nice, supportive husband and I could see no reason for him to lie about what Child B had said to him.
40. Miss Connolly KC suggested that if he was telling the truth, it was perhaps the case that Child B had lied to him over the years when she said she had been abused. I considered that was very unlikely. Of all sexual assaults to speak about, there is considerable shame in speaking of a familial sexual assault. Many women have been sexually assaulted on trains, in the street, in nightclubs, possibly by male relations, but some argue that sexual assault by a father is more of a shameful event, a taboo. The father agreed in his evidence that his older daughter was warm, dependable and clever. In the police interview in July 2023, he had said she was an all round nice person. He had paid for her wedding and was along with the mother a co-godparent of one of their children. On his account there was no reason for her to say what she did about him.
41. One option the father put forward was that his daughters may have made up their accounts on the evening of 3rd April 2023. If that were the case, it is hard to see how AB could not have been involved. My strong impression of the witness was that this was not something he would do. There was something very decent about him. Plus, his account was given to the police a few hours after the police arrived on 3rd April 2023. It was hard to imagine AB being a party to his wife and her sister making up a detailed story about their father raping them.
42. Another indication that Child B had an issue with her father before 3rd April 2023 was the TikTok video she uploaded in mid-January 2023. It was part of some trend. In it she recorded herself saying that she would rather see a monster than a father as nothing could be worse than him.
43. Child B was interviewed very quickly after she made her first complaint to the police. Her compelling account was given by way of an ABE interview on 5th April 2023.

44. Suffice it to say she described abuse which got more serious as time went on. [Detail of sexual assaults removed from published judgment].
45. The assaults were usually at night when she was in bed and she was either alone in her bedroom or had a sister with her in bed. Her mother was sometimes out at bingo and the mother in her evidence confirmed that she went to bingo every Tuesday and Thursday night. There were no locks on the bedroom doors. There was the shed incident. The details of what she said had happened were within the outline she had given to AB over the years.
46. The shed incident was mentioned by AB in his police statement of the early hours of 4th April 2024, then it was given more detail by Child B in her interview on 5th April 2024. For it to have been invented, AB would have had to make it up first and then feed his account to his wife. I did not accept that had happened.
47. Child B's account was fluent and in my judgment appropriately detailed. During the interview at times she became upset and tearful. She set out a gradually increasingly serious series of sexual assaults.
48. During the ABE interview, I watched Child B's hands which on occasions were even more eloquent than her descriptions.
49. She said the abuse started aged six. She described what she said was the first of the sexual assaults. She was sleeping downstairs in the living room on the floor on a mattress in front of the television, her father was in the room waiting and her mother was at bingo. The mother confirmed that she went every Tuesday and Thursday night and the father said in evidence that later she used to go to the pub on Friday nights but had stopped going to bingo.
50. Child B said she had been asleep on her back. The lights were on. [Detail of sexual assaults removed from published judgment]. On the video she became very upset when describing this.
51. Child B said the assault in the small shed happened when she was still in primary school. Her father was growing cannabis there and she had been told not to say anything about it. She had never been in the shed before. He said he wanted her help. He showed her his special weed lamp. He switched it off and grabbed her hand [Detail of sexual assaults removed from published judgment].
52. The father had denied to the police in interview that he had a shed or having cannabis growing but he admitted in evidence that he had lied about this. He said the shed was so small a child could not get in as there was a cabinet with the cannabis plant on it which took up all the room. In cross examination he accepted that two children could fit in, but was not happy to accept that an adult and a child could. He maintained that he did not have a special weed lamp there and spoke about bringing one cannabis plant out of the shed at the day and putting it in at night.

53. I reminded myself of the guidance in *Lucas*. It was hard to see why Child B would have lied about the lamp. Whether the father grew cannabis or not, was neither here nor there but I decided that although his lie was open to the interpretation that he was trying to hide this from the police, I found he was trying to disassociate himself from the shed. I found there was a lamp and that he had taken Child B into the shed and behaved the way he did.
54. I noted during Child B's recorded evidence from her body language that she was clearly disgusted by what she was describing. In describing the assaults she remembered her father's breathing and his smell. That was a particularly compelling part of the evidence. She said that although there had been about 15 sexual assaults there was only the one in the shed.
55. Child B described the family moving to a new property (Address B) from their old address (Address A) when she was still in primary school and was in year 5 or 6. Her mother was pregnant with Child A. Her first memory of the abuse there was when she was having a sick day from school. Her mother went shopping, it was daytime. Child B was on the sofa by the window of the living room. Her father closed the curtains. Then he sat next to her on the sofa sexually assaulted her over her clothes. On this occasion she got up and walked away. That was about a week or two after they had moved in. He asked her what was wrong but he knew it was because he was touching her. He was "pissed off" that she had left. She went to her room.
56. The touching also happened when she had her own room. She may have been about 12. Child A and Child C were born but were too young to share. Her father had set up her television when she was arranging her room. He asked her whether she was going to say thank you and he said she would.
57. That night, she was asleep wearing a onesie. There were no locks on the door. He walked in. Child B gave a vivid account that she had jammed the zip with string so he could not undo it. She heard from his breathing that he had become angry. She felt him trying to undo her zip which went down to the gusset. She described him huffing and puffing. [Detail of sexual assaults removed from published judgment]. Her description of hearing him grunting seemed credible. She said she had heard him do this before and that it was a sexualised grunt.
58. [Detail of sexual assaults removed from published judgment].
59. [Detail of sexual assaults removed from published judgment].
60. The last time before she left, was when she was in a bunk bed with Child A. She would sleep with her on the bottom bed and block her in. She would put her to bed. Her father came in. [Detail of sexual assaults removed from published judgment]. Nothing was said and she was pretending to be asleep. She was 14 or 15 and she left the next day as she was scared. She went to her maternal grandmother.

61. In terms of his violence she spoke of him blaming her if he did not get a drink. He hit and kicked her and tried to strangle her. She had bruising and scratches and cuts. In cross examination she said that he did not hit her face.
62. On an occasion she had asked for her pocket money, but he needed it for drugs. She described him getting her by the neck and holding her against the door. She was about 12 or 13 at the time. The father had always been violent to the children and their mother. He had hit Child A but not the twins. He would be triggered by not getting his way. He got mad, put the mother down as he could not get beers. She said he had hit the mother a few times but it appeared she knew this via a friend of her grandmother's.
63. Child B came over as very protective of her siblings. She was protecting Child A by sleeping in the bed next to her and putting her on the inside so their father would get to the older sister first.
64. Child B said she had told her husband and had also said to him that she was concerned about Child A. The protective side of her character came over in the ABE interview but also in evidence.
65. She had told her mother that her father was a "paedo". Her father had looked at her and said "nothing happened did it". Child B did not blame her mother for not believing her although it was hard, but she had been very naughty and did lie as a child. She said her mother was manipulated by the father. He stopped her from going out with friends. Even though the father had gone now, she said the mother was traumatised by what had happened but blames it on the children.
66. Child B called herself a "dick" when she was young. But when she was asked about her dishonesty, it was in relation to minor teenage misbehaviour. Child B said she had tried to say her father was a nonce and liked children in the front room of Address B. This was a few months before she left. She said he liked "touching kids" but her mother told her to stop lying. She thought it had stopped when she had left the family home and moved in with her grandmother. Her father in his evidence accepted that the family were saying he was a paedophile like his brother.
67. In cross examination, she was asked why it was that she had allowed her father to walk her down the aisle and contribute towards their wedding if she was telling the truth. He was also a godfather to one of the children. She said she had not spoken to him privately since she had left the family home. When she was in the same room as him, she had to be civil. She had blocked him for a year or two. He used to text her and ask her whether she had seen the kids. She had never discussed with him what had happened.
68. Part of Child B's upset was the guilt she felt about what happened to Child A. Child B had been a protective factor for her siblings in the home. Her mother told me in

evidence that she was a drunk who used to black out on occasions. She went out on Tuesdays and Thursdays to bingo and later she went to the pub on Fridays and left the children with the father. He would never do anything with the mother there. Child B said she had thought that when she left the abuse would have stopped.

69. I accepted Child B's evidence that she had told her mother at least once. The mother had no recollection of this. Rather charitably perhaps but I found that her drink problem had led to this lack of memory, but it may possibly be that she remembered what she had been told and feels now so guilty about not doing anything about this that she cannot accept she was told.
70. Child A was interviewed twice after she made her complaint first to her sister, then to the police when they arrived on 3rd April 2023. She then took part in the section 28 procedure by which she was videoed as she was cross examined by counsel for the father. This was in preparation for the criminal trial which is due to take place in 2024.
71. An overview of her manner in the police interviews was that of a monosyllabic teenager. She was closed off and nearly inaudible at times. She was difficult to engage with but the officer who interviewed managed to get her to give an account. On the whole she did not look at the camera, had her hood up and kept very still when describing what she said happened to her.
72. Miss Connolly KC criticised the police interviews and the conduct of the first account shown in the body worn. I did not accept her criticism. There were no leading questions of any note. There were differences in the account with perhaps the most significant one being the oral rape alleged to have happened on a very few occasions in the body worn that was not then repeated in the police interviews. The anal rape was repeated in both.
73. On 22nd May 2023 she had an intermediary. She said her father raped her. There were long gaps when she was unable to answer. The officer reminded her that the police had arrived after she had spoken to her sister. She said that things had happened to her after her sister Child B had left home at age 15 or 16.
74. Child A said it was hard to remember it all. At the beginning she said she would write it down as she could not say it. She did not want to read it aloud. She said that she shared a room with her very young sister Child D. Child A said she was about seven or eight. [Detail of sexual assaults removed from published judgment].
75. [Detail of sexual assaults removed from published judgment]. In the morning she had a bath because she could not have one in the middle of the night. She said she did not want to feel his touch on her skin. She thought this was the first time that it happened. Her sister had left home about four months before.

76. The next morning she went to see a friend but she did not tell anyone about what had happened.
77. Child A also recounted her most recent memory of being sexually assaulted. It was about two weeks before 3rd April 2023. She was sharing a bed with her younger sister and put a cover over her head so he would not see her. She asked him why he was there and he left. She pretended to go back to sleep and he came back five minutes later. He rubbed her leg under her clothes and she asked him what he was doing. She could hear his breathing. And had heard him coughing when he came up the stairs. The bedroom door squeaked. It was nighttime after 10pm. There were two single beds in the bedroom but Child D was in with her. Her father would not have known this. She had said what are you doing to make sure he would not touch her sister when Child D had spoken in her sleep.
78. [Detail of sexual assaults removed from published judgment]. She said she had been raped and gave an account of when it happened the year before when she was 13 years of age. [Detail of sexual assaults removed from published judgment]. She had been woken up by the door creaking. She saw his shadow on the wall. When he left she cried. She could not remember if he wore a condom but thought he had not ejaculated. That was not the first time it had happened but it was the last.
79. She said the vaginal rapes started when she was probably about ten. She could not say how often it happened but it happened lots of times and always in her room at night. It was probably on a weekday and once a week. It happened when Child D her sister was there.
80. At the end of the interview, it became clear to the officer that she was becoming tired. She was asked if her father had put his penis anywhere else on her body and asked about her bottom. She looked horrified. The interview was ended.
81. The second interview took place on 8th June 2023. She repeated the account about being aged ten when first penetrated and other details she gave remained the same. It happened about once a week always in the bedroom and always at night. The last time it had happened she was 14. That last time, she was in her bedroom. The last time it had happened was in November or December 2022.
82. [Detail of sexual assaults removed from published judgment].
83. The abuse stopped because she had shoved drawers against the door. She was still awake when he was trying to get in so she pushed back. The last time he tried to get in was probably just after Christmas.
84. She said that she had been sexually active once when she was aged 13. She said that Child B thinks she was touched by her father. She had never spoken to her father about what he had done and did not try and tell her mother.

85. It was not clear when Child A realised that something had happened to her sister but it was before 3rd April 2023, and was before the TikTok video uploaded by Child B.
86. Child A said that she found out because whenever Child B picked her up she would never go inside if he was there. She said she “just figured it out”. Child B never told her and they never spoke about it. Miss Connolly KC said that there was a contradiction between accounts because on the one hand at one point, Child A suggested she had been told by her sister when she was very small but did not understand what she meant (or at least that was the implication) whilst Child B said she had never told her sister.
87. There was nothing about the section 28 evidence recorded for the Crown Court which undermined her account. Possibly because the cross examination was within the guidance given by the Advocates’ Gateway, the answers given by Child A were mostly monosyllabic. There was one time where she gave a longer and more affirmative answer which was right at the end of the recording. She was asked whether she had made these things up to get her father into trouble. She said firmly and clearly, and it seemed to me, honestly, that she would not do that to anyone.
88. The account Child B and Child A gave of the way the police became involved was considered carefully by counsel for the father. Child B was asked about how the complaint came to light on 3rd April 2024. She was watching TV with her husband when they heard banging on the door, it was Child A crying. She said she needed to talk to her and told her that her father had touched her and raped her. Child A said she had a feeling he had done it to Child B.
89. Much was made of the differences in recollection of what was said on 3rd April 2024. Child A, Child B and indeed AB had slightly different recollections. I did not find any substantial difference and certainly not any difference which would not be explained by the trauma of what had come to light that late evening. Child A said she left the home at Address B at about 9pm. She walked around to Child B’s house. Police were called at 9:52pm and arrived shortly later. In that time, Child A spoke about what had happened to her and Child B made it clear that she had been abused too. These two women were very upset.
90. Child A explained in her interview on 8th June 2023 that she had had an argument at about 9pm with all the family. She was getting stressed and walked to Child B’s home crying all the way. Her sister and AB were there, and she asked to speak to her sister on her own. She told her what she had been going through with her father but not much detail. [Detail of sexual assaults removed from published judgment]. Child B reacted by crying. Then they called the police. Child A said she was stressed as she did not want anything to happen to the siblings. She elaborated that she did not want what had happened to them now, i.e., being taken into care.

91. The accounts of the way the complaints came to light given by Child B and her husband AB were not dissimilar to that given by Child A.
92. I found the body worn footage taken by the officers on their arrival at Child B's home very helpful. I could not see Child B's face as the body worn was aimed downwards but I heard Child B's voice. She said that her father had told her to keep what was happening to her secret. He said that if she told anyone he would get hurt. He also said that if she told anyone, no one would believe her he would buy her stuff. It happened only when their mother was out.
93. Child B said she had told her mother. He had penetrated her but as she said "he did not burst anything". She said this was first time she had heard Child A say anything. She mentioned the weed shed sexual assault and the ripped onesie. She said it started when she was young when she was eight or nine years old, and it happened when her mother went to bingo.
94. In terms of physical assaults, she told the police that her father punched her and strangled her, the latter happened when she was 13 or 14. He would hurt her, and she was left with bruises but never had to go to hospital.
95. She said on the body worn that she had told her grandmother that evening and had told her husband at the start of their relationship. There was a poignant moment on the body worn when she was crying whilst saying she did not think it would have happened to Child A. The police told her not to blame herself, but she said she was scared he would come for her.
96. She had seen him a few months before when he was asking for help with mattress. He had "kicked off" with neighbours. She said that he made the mother depressed and she could not function with him there.
97. Child B said that Child A had broken down and told her everything and that he had been doing it for a long time since she was little.
98. Child A in the body worn was upset and said how she had been raped from about the age of nine. The last time had been about two weeks before. It had happened every two weeks from when her sister left home at 16. She was now 22. [Detail of sexual assaults removed from published judgment]. She had tried to tell her mother, but she had pretended she had not heard. She said she did not feel safe anymore and wanted to tell someone and told her sister. She had seen her sister's TikTok and remembered that Child B had something to her when she was younger.
99. The father gave his evidence. As I have set out above, he denied the sexual assaults and said that his daughters would have known that one of his brothers had committed suicide after being accused of sexual assaults on children. His other brother too was being investigated for sexual assaults on their sister although she did not pursue her complaint. He was not clear about whether his daughters would have known about

this. The father told the Court that he had often been accused in the family home of being a paedophile. His family also knew that a friend of the family who had been raped had received compensation. He suspected that the girls were making their complaints to get compensation or to separate him from the mother.

100. In his cross examination he admitted to two lies he told in his interviews with the police. He had denied growing cannabis in the shed. I bear in mind that he may have lied about this to disassociate himself with a cannabis offence although I noted that he admitted smoking cannabis in the same interview. Having considered his evidence carefully, I have concluded that he told this lie to put clear blue water between what Child B said happened in the shed and what he says. He told the Court that the shed was so small that although two children could fit in it, one adult and one child could not. I rejected that evidence as it did not sound to me as true.
101. Another lie he admitted telling the police was in relation to the violence in the home. He ended up admitting kicking all the children “up the bum”, he admitted that Child G was correct when he had said that a few years ago he had kicked Child A. He also admitted to punching Child A on 3rd April 2023. I considered he told the police lies because he thought he might be prosecuted.

Conclusion – fact finding

102. The local authority’s case that there had been sexual abuse depended on the credibility of Child B and of Child A. There was no independent evidence. My view of AB’s evidence was significant as it could be said to be some support for Child B’s account in that she said, and he confirmed that it was the case, that she had told her husband that she had been sexually abused by her father before their now six year old child was born. She had given a little more detail to her husband when the subject came up every eight months to a year.
103. AB’s evidence was clearly honest. I had no doubt having watched him give evidence that he had been told by his wife that this had happened to her. His police statement stating that she had told him this was made in the early hours of the morning of 4th April 2023. I accept there was not much detail given to him, but he knew that she had been abused.
104. Having watched Child B tell the police what had happened to her given on their arrival on 3rd April 2023 followed by her longer statement and finally her evidence to this court, I had no doubt that she had been sexually abused by her father as she alleged. I did not accept that she would have made this story up to her husband, starting a number of years ago. She said she had told lies and not been honest as a teenager and she her behaviour came to the attention of the police after she left home, but I did not consider that if she had told lies then that this meant she was not telling the truth to the court.

105. I accepted therefore that the father had abused Child B. In my judgment her evidence was strong. If a father is willing to overstep family boundaries with one child, then it makes it the more likely that he would do the same with the second. Child A had said that the abuse started soon after Child B left home. I accepted this was the case. Nothing that I heard undermined Child A's account of what happened to her. Certain details were different such as the lack of complaint in the video interviews of oral rape but bearing in mind what she had to tell the police about, it is hardly surprising that she did not repeat word for word what she said in the body worn.

Threshold

106. The relevant date for the threshold was 6th April 2023, when the proceedings were issued and the Child E and Child D removed from the care of their parents. For Child A and Child C the relevant date was 6th April 2023.

107. The threshold alleged that the children had suffered significant harm in the form of emotional harm and neglect. There were no predictable routines, no visits to the dentist and a failure to keep on top of hair nits.

108. The father admitted the emotional harm and neglect whilst the mother has responded accepting the allegations very late just before she turned up to give evidence to this court. It was clear from the totality of the evidence that the children had suffered the significant neglect and emotional harm alleged by the local authority.

109. The father denied sexual abuse allegations against Child A in paragraphs 3 i to v and against Child B in paragraphs 4 i to iv of the threshold. The father denied allegation 5 i. and ii. in the threshold that "all the children" were at risk of direct sexual harm and that they were or were likely to be exposed to the sexual abuse of Child A. I have found above that Child A and Child B had been abused sexually. I could not find that all the children were at risk of sexual abuse, but Child D certainly is. The father's proclivities included anal rape, so Child E might have been at risk had he remained at home. I do not find that Child C was at risk of sexual abuse. The type of sexual abuse perpetrated by the father was usually at night and in secret so it was unlikely that the boys would stumble on what was going on.

110. The father also denied that the mother knew or ought to have known that Child B and Child A were being sexually abused and took no steps to protect them from the abuse. The mother in her evidence said she had not been told by either Child B or Child A that their father was abusing them. Child B's evidence in particular was that she had told her mother and she had told her daughter not to lie. I accepted Child B's evidence on the point.

111. Allegations 6 iii and iv were aimed at the mother. 6 iii was that the mother had refused to allow Child A and the other children to be medically examined on 4th April

2023. I have not found allegation 6 iii made out as it was not clear whether there was any supporting evidence of that.

112. Allegation 6 iv was that the mother initially said to the police she would support the children in April 2023 but by December 2023 she said she did not believe them. That was clearly the case.
113. Allegations 7 i, ii and iii were in relation to physical abuse. All the children were suffering or were likely to suffer significant harm either from being assaulted or from exposure to assaults on the mother and siblings. This was denied by the father although he accepted hitting the children on the back of the legs to maintain discipline.
114. The father denied allegation 7 i in relation to assaulting Child B by strangling her and punching and kicking her. Her evidence was clear on the point. The father accepted that he would lose control and that he punished his children including kicking them up the backside. The father would lose his temper with the guardian. I have no reason to doubt that Child B was telling the truth about this as she has about much else. The father was lying.
115. The father denied allegation 7 ii in relation to his violence towards the mother and all the siblings except the twins. As Mr Norton reminded me in his submissions, the father accepted that he kicked all the children up the backside. In my view, this was not an appropriate way to discipline the children and amounted to abuse.
116. The father denied 7 iii that he hit and kicked Child A regularly. This arose out of Child A telling the social worker on 23rd December 2022 that he kicked and hit her all the time. Child G said that Child A was kicked, and the father admitted this was true. Furthermore, the father admitted to punching Child A on 3rd April 2023. I find this proved.
117. The father accepted allegations 8 and 9 in relation to the neglect of the children. He accepted that the home conditions were extremely poor, and the children had no routine and often slept downstairs on the sofa rather than in bed which meant they were tired and had trouble getting up to go to school. Linked to allegation 8 was 9 which he also accepted, that the children's education was neglected. Child A and Child C were not in school very much and the twins' attendance was 80%.
118. Allegation 10 was that the children's health needs were neglected. 10 i. after his car accident Child G had missed vital medical appointments but the father said that was because Child G refused to go. 10 ii was that Child D had a heavy and visible infestation of head lice and none of the children had ever been to the dentist. The father accepted the head lice and said that Child A had gone once to the dentist when she had toothache. I accepted that both allegations reflected what was happening in the home.

119. The father accepted allegation 11 that the children had been exposed to the mother's abuse of alcohol, cannabis and cocaine. I noted that he too accepted drinking and taking cannabis. The mother in her evidence admitted she was still drinking to excess and taking cannabis and cocaine.
120. In relation to allegation 12, that the children were exposed to regular domestic abuse between the parents and drunken behaviour, which was harmful to them, the father accepted that there was some domestic abuse and that it was emotionally harmful but did not accept that the window was smashed during such an incident. I do not make any findings in relation to the window but there is no doubt including from what Child E has said to the police that there was regular domestic abuse which included loud shouting.
121. The final allegation, number 13 was when on 30th January 2023, the mother was drinking and shouting and pushed or hit Child A and Child D during an argument. The father did not witness this, but he accepted there was a commotion. It was clear to me that this had happened.
122. In short the threshold is crossed in respect of the four children on the two dates set out above.

Welfare evidence and the welfare checklist

123. I turn now to what is best for these four children, whose welfare is my paramount consideration.
124. I do not set out the social work evidence in detail. I heard from the social worker Gina Ryan. She had worked on the care plans. She was experienced in her work and had been involved with the family since April 2023. She had written a parenting assessment of the mother completed during the proceedings which was negative. It may have been that which led to the mother disengaging from proceedings. Her initial engagement had dwindled, and it was clear from the mother's evidence to me that she has an on-going drink and drugs problem.
125. The social worker reported that the recent placements for the children were going better than expected. The younger two in particular appeared to have settled in their new home and school. She was fairly upbeat about the future. I accepted her evidence that contact was going to be complicated and very much dependent on the future. She recommended that the foster carers should arrange the contact to take place between the siblings. I supported the plan that the two youngest have contact with Child C and Child A alternately.
126. Miss Murdoch was the guardian for the younger two children, Child E and Child D. Her final analysis dated 31st May 2024 was based on the evidence in the case and interviews with the parents but only an initial interview with the mother because she had then disengaged. She was concerned about the mother's continued use of alcohol

and drugs. The mother had reported some controlling behaviour towards her by the father. The guardian was concerned about the mother's denial that the children had been abused by the father. The mother had said that she believed her children but then changed her mind. She denied that they had told her about what was happening to them.

127. Of particular significance was the way Miss Murdoch said the father had behaved towards her. He had been rude and aggressive to her more than once, swearing and shouting at her. In evidence he told me that it was because he was passionate.
128. Miss Murdoch explained in her evidence that this was not a one issue case. It was about domestic abuse, physical harm, poor home conditions, missed health appointments and the lack of education for the children. Miss Murdoch had obtained the younger children's wishes and feelings. Child D wanted to go home to see the dog. She could not think of anything which was good about her father, but also, she did not respond to what was not so good about her father. She wished for loads of dogs and puppies. She wanted to see her family every day and could not say what she wished for in the future. Child D wrote a letter to the judge provided by her guardian. She said she wanted to live with Child B.
129. Child E for his part, said he wanted to live with his mother but for the house to be tidied up and the garden cleared. He was worried that if he lived with his mother and father "they would shout again". He spoke about them fighting a lot and "moaning". His siblings would fight too. He said he would prefer to live with his parents separately so that there would be less fighting.
130. Mr Horrocks in his submissions reminded the court that the guardian considered the current placements which might be long term but were recent, appeared to be going well although Miss Murdoch accepted it was early days.
131. The social work evidence had made it clear that since the local authority involvement with the family in 2016, there had been no obvious improvement in the living conditions in the home. The changes the parents were required to make had not taken place. It was obvious from the body worn video produced of the father's arrest in the home in the early hours of 4th April 2023, that the home was filthy and chaotic.
132. Miss Murdoch considered the case on the bases that the findings of sexual assault were made or not made. If the findings were made, then Child D would be at risk of sexual abuse. If the findings were not made, then there were the other factors I have set out above that the guardian was concerned about. Whatever the findings of the court Miss Murdoch considered that the children's best interests demanded that final care orders should be made. Her recommendation was for long-term fostering. It was the only realistic choice for the two younger children. She considered the advantages outweighed the disadvantages of that outcome.

133. Miss Fruin was the guardian for Child A and Child C. She and the solicitor had considered very carefully whether the young people should be represented separately by their solicitor. They decided not. Miss Fruin had produced an analysis which came to a similar conclusion to Miss Murdoch's.
134. Miss Fruin set out the breakdown of placements which had occurred. She set out her concerns about neglect, parental substance misuse, physical and emotional harm and parental engagement. She had met both parents and had spoken to them separately about these issues before the mother disengaged. The father accepted that his use of cannabis had got out of hand. He denied the sexual abuse alleged by his daughters.
135. In terms of Child A, her wishes were to go and live with her sister but if she had to remain in foster care, she would prefer to be closer to home and see Child D and Child E. She was aware that Child G did not want to see her, and she had not seen Child C since she had left her sister's home where she stayed for about a year.
136. The guardian noted that both young people had very poor hygiene when they came into care. They were both out of school and Child C smoked cannabis. Child C made it clear that he wanted to go home to his mother. He was angry with his sisters and blamed them for being in foster care.
137. Miss Fruin considered that both young people had been exposed to significant harm in their parents' care. They had witnessed domestic abuse and neglect of their home and their needs.
138. Miss Fruin looked at the options of a return to the care of their parents versus remaining in the care of the local authority. The disadvantages of the former outweighed the disadvantages of the latter. If the young people went home, she pointed out that the parents would have to work with the local authority to keep the children safe but that was not going to happen. A final care order would ensure that the young people's needs would be met although she accepted the downsides to being in care.
139. Both guardians were of the view that if no findings were made of sexual abuse the children and young people could not return to one or both parents' care.
140. The wishes and feelings of the children and young people were in three of the cases to return to the parents' care. Child C in particular is missing his family and blames his sisters for what has happened. Child D was not able to express her wishes and feelings clearly, but I accepted that the two younger children would prefer to go home even if in Child D's case it was to see the dog. In Child A's case she wanted to return to the care of Child B.
141. When I came to consider their physical, emotional and educational needs, it was obvious that their needs had not been met at home. The mother gave evidence to me and I saw immediately her issues, she could not read and had no teeth. The body worn

taken by the police of the conditions in the family home showed chaotic and messy surroundings and a filthy bathroom only the kitchen was acceptable.

142. It did not surprise me that the mother had not been able to get her children to go to school, I assumed that she had not been to school herself. The neglect suffered by the children included them not being taken to the dentist. This mother who was aged 44, reminded me of a toothless old woman in Victorian times. Her gums were receding, and her mouth was pursed. The consequences of a lack of dental hygiene that the carers had seen in the children were shown in the mother.
143. The father may have had higher standards than the mother and there was no suggestion that he could not read or write, but he was unable to ensure that the children in their joint care went to school. Although the twins were up to 80% attendance, that was far too low and they were behind their peers. Child A and Child C were not going to school.
144. The children are currently in foster care. A move home would be a return to the conditions they lived in before. They were described as vulnerable by the guardians and I could not see that the mother would work with the professionals were I to make a supervision order. She had not engaged in these proceedings except intermittently and she was still drinking alcohol and taking drugs. Nothing had changed since her negative assessment by the social worker team.
145. In terms of the sexual abuse, I have found to have happened, Child D is particularly at risk. There is no evidence that she has been sexually assaulted already by her father, but she is at an age when if she were at home, I would find a considerable risk that it would start. If she went home to the care of her father, Child A would not be there, and the mother is not a protective factor. Child A's abuse started after her sister left home and there is no reason to think that history would not repeat itself.
146. The harm suffered by the children has been set out in evidence by the social worker and by the guardians. The local authority had been involved since 2016, and there had been no change in the home conditions or in the way the children were being brought up.
147. As well as the neglect I have referred to above in various places, the parents recognised that there were no boundaries in the home. The children on numerous occasions slept on the floor or on the sofa in the living room where the parents would watch horror films which they found frightening. There were not set bedtimes or routines. There was the shouting mentioned by the twins and the domestic violence. They had witnessed both and I had no doubt that the children were physically chastised in an inappropriate manner. There were physical arguments between the parents which were witnessed by the children. It was part of their upbringing. All the children had suffered significant harm of one sort or another (quite apart from the sexual harm I have found).

148. One sad outcome of the sexual abuse by the father is that his denials have torn the family apart. The boys who have not been sexually abused do not accept that the two daughters are telling the truth about what happened to them.
149. Neither parent is capable of looking after the four children or even one of them. The mother because of the neglect I have found and the father because he was unable to improve the home lives of the children.
150. The father explained it in his evidence, he was an old-fashioned father, he went out to work whilst the mother looked after the children. He drank after work, sometimes in the pub and sometimes with the mother. He too had a drugs problem and grew cannabis in the shed where Child B was sexually assaulted. He knew what the state of the home was but did nothing in a concerted way to ensure it was cleaned up and remained clean. Likewise, he did nothing to ensure or was incapable of ensuring the children got to school. His attitude that this was for the mother to do failed to account for her difficulties in enforcing boundaries and a routine. He did next to nothing to assist her.
151. The harm suffered by the children is set out above. I have found the allegations set out in the threshold proved. The father rapes children, there is an element of grooming in his approach to the children, he gives them presents and threatens them to ensure they do not tell anyone. The two daughters tried to tell their mother, but she would not listen. Whether she was too drunk to do so or whether she just could not bring herself to believe it, it is not clear, but she was very far from a protective factor in that home. Her approach to child rearing has ensured that her children have become victims of a prolific familial sex offender. He has sexually assaulted one daughter or another for about 15 years. It was clear to me that having seen that his sexual assaults on his oldest daughter were never reported, he considered it safe to move on to the next. His sexual assaults started small and then increased in seriousness the safer he considered himself to be.
152. In terms of the realistic orders, I could make there are only two, either a supervision order with the return of the children home or final care orders. Unfortunately, the factors against a return home greatly outweigh the factors in favour. If they were returned home the children would be at immediate risk of significant harm, whether physical, emotional or sexual. They would be neglected. They would not go to school. Their dental and other needs would not be accommodated by the parents. The mother will not change, her trajectory is set and her gradual degradation into alcoholism will continue. If the children go home, Child D will be the next child to be raped. A supervision order will not keep these children safe.
153. The only realistic option is a final care order. The downside is the risk of placement breakdowns. Child C is already on his fourth placement although I was told by the social worker that he has committed foster carers currently who say they will be

looking after him in the long term. Whether that turns out to be the case is a different matter. He at his age is at particular risk of placement breakdown. It is suspected he has been in touch with his father and buying drugs from him and whether a placement will cope with that in the longer term is impossible to predict.

154. The twins will be slightly easier to place. They may be developmentally delayed but they appear not to be quite as troubled as their siblings.

155. Child A needs a robust placement and cannot be returned to her parents' care. Child B and her husband who were approved as foster carers, have done so much and tried so hard to care for her but in the end her needs were greater than their experience.

Care plans and Contact

156. I approve the care plans with one proviso, Child C would like to see his father. He is not at risk in supervised contact as long as the father realises what he can and cannot say. A meeting should be held with the father to set out the parameters of the contact. To call it a risk assessment sounds as if it will take too long. Supervised contact in his case should happen before the criminal case later in 2024. As to the twins, contact will need to be considered once the father's future is decided in the criminal courts. So far as the sibling contact is concerned, it is important that this is supported appropriately. The twins will need to see Child A and Child C separately for the time being.

Orders

157. I make final care orders in relation to the two children and the two young people. These are necessary and proportionate to the harm suffered by the children. They are an interference with their Article 8 rights to a family life together with their mother and father but are the only orders which will safeguard these children and ensure they will not suffer any further harm.