

IN THE MATTER OF THE CHILDREN ACT 1989

**IN THE MATTER OF THE CHILDREN: CHILD A – A GIRL
CHILD B – A GIRL**

**B E T W E E N:
A LOCAL AUTHORITY**

Applicant

-and-

**(1) Mother
(2) Father
(3-4) Child A and Child B
(By their children’s guardian, BS)**

Respondents

JUDGMENT FOR THE FACT-FINDING

14th to 24th SEPTEMBER, 29th, 30th SEPTEMBER AND 2nd OCTOBER 2020

**JUDGMENT GIVEN ON 6th OCTOBER 2020 AND AFTER CLARIFICATIONS 29th
OCTOBER 2020.**

Appearances

Andrew Bagchi QC and Steven Ashworth appeared for the Local Authority
Paul Storey QC and Stephen Chippeck appeared for the First Respondent mother
Nkumbe Ekaney QC and Marie Crawford appeared for the Second Respondent father
Leslie Samuels QC and Lydia Slee appeared for the Guardian.

1. I am concerned with two children, child A who is now fourteen and child B who is now nine years.
2. This is an application by a Local Authority for findings of fact to be made against both parents. The social worker is WP and the children’s Guardian is BS.
3. I am concerned with historical allegations of sexual abuse as well as current allegations of sexual abuse against Father. There is also an allegation that the mother failed to protect child A by continuing a relationship with Father. This case has a very complicated history and I take the background from the excellent note from Counsel from the local Authority.
4. The father’s parents are DG and AI. He has a younger sister, ZB.
5. Paternal grandmother (DG) was part of a large, close family and had 4 sisters and 2 brothers. One of her sisters was LC. LC’s partner is PD. She has 3 children, 2 girls and a boy. Her eldest daughter, SH, was the daughter of her previous partner. SH was about the same age as Father. After she married PD, LC had 2 more children, SD, a younger sister to SH and a younger son. The family was close and it is said that there were lots of family parties.

6. Father has two previous convictions. On 17th October 2003, he exposed his penis to a female walking her dog. He was sitting in his car. He was masturbating. On the same day he was alleged to have exposed himself to a woman pushing her small child in a buggy. He was alleged to have been masturbating and to have shouted at her to get in the car. He was arrested and charged with one offence of indecent exposure. He pleaded guilty and was given a conditional discharge. This was not the first time he had been arrested in relation to such matters. The police logs record that in July 2002 he had been investigated in relation to 3 similar offences of indecent exposure, all involving him exposing his penis to women walking near his car. He denied those offences (and still does) and was not charged. This was due to a Police Officer inadvertently showing the victims a picture of father before an identity parade which meant that the matter could not be pursued.
7. On 8th July 2003, his then girlfriend, SM (now known as SG), called the police and reported that had kicked the front door to her property in anger and engaged in a scuffle with her when she opened the door. When the police attended it was recorded that father *“had forced her to have sex with him on several occasions over the past 5 weeks. On further questioning it appears these offences have occurred 4 times”*. However, on 2 August 2003 SG was spoken to by DC W and told her that she and father were trying to resolve their differences and no longer wished to support a police prosecution in relation to the rape allegations she had made.
8. Later, in March 2005, father was walking along a road. He approached a woman exposing his penis and holding it in his right hand. He slapped her on her buttock and said, “sexy bitch”. He was arrested and charged with exposure under the Sexual Offences Act 2003. He pleaded guilty and was given a community rehabilitation order for 36 months with conditions.
9. As a result of that conviction, in December 2005, the probation services made a referral to social services in view of the fact that father was in a relationship with mother, and they were expecting their first child. A strategy discussion was convened, and the probation service reported father to be a low risk to his child. The case was closed after an assessment.
10. By 2011 Father had been in a relationship with Mother for about 7 years. Their children, child A had been born in 2006 and child B in 2011. Father was working at the time.
11. On 10th September 2011 SD went to the police station and told officers that from the age of 6 father had been inappropriately touching her and had raped her. Arrangements were made for her to be video interviewed on 15 September 2011.
12. After the interview father was charged with 7 counts of rape and sexual assault of SD.
13. During the investigation into SD’s allegations the police spoke to Father’s former partner SG, and during those enquiries she reported that she too had been the victim of sexual assault and rape by Father during their relationship. This matter was not proceeded with.
14. On 25 November 2011, both parents signed a working agreement with social services to the effect that the Mother would not permit the Father to have unsupervised contact to child A and child B until the conclusion of the police investigation/criminal proceedings.
15. Father stood trial at a Crown Court in relation to the allegations made by SD. On 2nd March 2012 following a trial Father was found not guilty on 7 counts of rape and sexual assault against SD.

16. On 3rd March 2012 the local authority was notified that Father had been acquitted and on 9th March 2012 there was a revised working agreement under which mother agreed not to leave the Father alone with the children. The agreement provided that: -

“Although father has been found not guilty of the alleged offence, Social Services hold some concerns due to father's history of sexual offences, which have resulted in him being a registered sex offender up until May 2010. Father is also on bail for another historical allegation of sexual offence, which is currently subject to Police investigations. It is therefore the view of Social Services that caution needs to be exercised to ensure that both child A and child B are safeguarded and protected from potential risk of harm from father”.

18. The social worker involved was RP. There was an initial assessment. The case was then closed to children's services.

19. On 26 April 2018, a referral was made by the NSPCC to children's services based on an anonymous telephone call made to the NSPCC helpline on the previous day concerning child A, who at that time. The terms of the call are set out in the NSPCC record as follows:

“The caller has been informed by a child at child A's school that just before half-term, child A had spoken to three girls at school. Child A had told them that when she was 11 years old, her father had come home drunk and had "sexually abused her". These were the words that the child relayed to the caller. One of the children had asked child A if she had told her mother. Child A had said no, because her father had told her that this was never going to happen again and that she did not want her parents to get a divorce so she will not be saying anything. Child A did not seem to be crying during this conversation, and was talking quite openly”.

20. An investigation began by the police and social services, under s 47 Children Act 1989 in relation to the welfare of the children and what child A was reported to have said.

21. On 26 April 2018 child A was spoken to by the social worker, HC and a police officer, DC M. Child A told them that one evening after a family party whilst staying on a caravan site she and her sister had gone to bed. Her father had been drinking heavily and came and got into her bed when she was asleep which woke her up. He made her touch his penis and when she got out of bed he tried to pull her back and she pushed him away. He then left the room. The next day she told her father what had happened, and he stated that he did not remember but that it was to be their secret because if she told anyone he would go to prison, and he and her mother would get divorced. Her mother had not been present but had been working. She also said that her father had told her that he was sexually abused as a child and that he had been accused of sexually abusing other family members.

22. On the same day Father was arrested and interviewed. In November 2018, child A began counselling sessions with DF of Family Matters and began to speak more about her experiences with her father. On 8 November 2018, she described the following: -

- a. Father was speaking to her about the dangers of getting the bus. He spoke about it in a sexual and weird way. *“He said men could have a big penis, and tried to show me his, it was erect, he showed it to me. He wears sweatpants a lot and pulled the waist down. I was surprised. and I turned away and at the same time I said, I don't want to see it. He said he felt like he done the wrong thing the way he did and that we don't need to say anything”.*

- b. On another occasion he came into her bedroom and “*fiddled*” with his penis in his trousers. She told her mum and she said that men and boys do that all the time.
- c. She recalled going downstairs at night for a glass of water and to say goodnight and he was masturbating in the living room. It had happened quite a few times. One time it was in the morning.
- d. On another occasion he was watching the computer and she heard sex sounds. There was pornography on the screen, and he asked her about it and what the people having sex were doing. It happened twice.
- e. She said there were other things she had not yet said.

On 15 November 2018, she described: -

- f. going downstairs to get a drink of water. She thought her dad was in the front room, so she went quickly to get a drink. She could see that he was in the dining room, and he was masturbating. She was surprised and said “Oh”! He said “sorry”. She went to the kitchen, but he came in and she saw that he was still masturbating, and he asked her to do it. He said, “*could you do it again, like last time, it felt good, cause you had done it hard, it was quick, do it again?*” Child A said “*no, that’s not right, I’m going to bed, sorry*”, and he said, “*I wasn’t thinking and put it away*”. Child A was thinking about what he said about the last time – [meaning the incident in the caravan] “*How could he remember the last time if he said he was drunk?*”
- g. what she referred to as “*the major incident*” (which was reported to the police). They had gone to a family gathering and stayed the night. Mum was not there. She went upstairs to get changed and quickly got into bed. She felt in my tummy that something could go wrong. *He got changed, went to the toilet, he got into bed. It was dark. He asked me to wank him, he made me wank him. He pulled me up on the bed. I pushed me off him. I tried to push him off me. Got off the bed. He went into the bathroom. I huddled onto child B. He came out, he was calling my name, could we talk? I said it’s late. I said I will think about it. He eventually said ok. Could we talk about it? He had breakfast. I went down for breakfast. About what happened, keep this to ourselves, or not say anything to anyone.*”

23. On 21 November 2018, HC spoke to child A about her counselling sessions, and she repeated what she had told DF in the counselling sessions.

24. On 24 January 2018, child A was spoken to again by HC and DC S in the presence of her mother, to describe the incidents in chronological order: -

- a. Child A stated that the first incident that occurred was when her father was talking about keeping herself safe as she was due to be starting secondary school after the summer, child A was 11 years old at the time. Child A said that her father was helping her with the bus journey and wanted her to get the bus so that she felt confident in doing so. He spoke about what boys could do and what she would have to prepare herself for. He spoke about men having big penises and that he wanted to show her his so that she knew what one looked like, child A said she didn't want to however he got his erect penis out and made her look at it. Child A turned away and said she didn't want to see it. Following this they went home and watched a film, she said that her dad looked really embarrassed and told her not to tell anyone about what had happened.

- b. Following this incident child A stated that on a number of occasions she would come down stairs and see her father masturbating in the front room while watching pornography. Child A stated that this always happened when her mother was at work, and she feels that he would have known that she would be coming down as she always did come down to get a drink of water and say good night before she went to sleep.
 - c. In describing the 2017 incident again, child A stated that, child A and child B went to a family caravan park that summer to a family party in 2017, her mother couldn't attend as she had to work. Her father was drinking with his family that night, child B went to bed before her and after a while she told her father that she was tired and that she wanted to go to bed. Her father told her that he would be up soon to say goodnight. Child A got ready for bed; she was sleeping on a mattress on the floor which was next to a bed where her father was going to be sleeping. Not long after she had got into bed her father came in the room and got into his bed, he called her name and pulled her into his bed. He got child A's hand and put his over hers forcefully making her masturbate him for around 2-3 minutes. Child A stated that she believes that he didn't ejaculate during this time. He then proceeded to get on top of her to try and have sex with her but she managed to push him off. Her father said nothing to her and went into the bathroom. Child A then got into the bed where her sister was sleeping and fell asleep.
 - d. Child A then stated that the following day her father and child A spoke about what happened and child A stated that she told him exactly what had happened. Child A stated that he had no recollection of what he had done because he was very drunk and told her that he must have thought that she was his wife and that he was very sorry. He asked her not to say anything as it would destroy the family, he and her mother would get a divorce and also spoke about his own childhood experiences where he was sexually abused as a child. Her father also spoke about the fact that he has been accused of sexually abusing a family member and that he went to court for this so if she spoke about what had happened that he would also go to prison.
 - e. Following this incident child A stated that she continued to see her father masturbating downstairs when her mother was at work, when she saw him, and he knew she was there he would ask her if she would like to do this hard and fast like she had done before. Child A stated that she has seen her father masturbating about '13 ish' times in total.
25. Child A also said that since she made the allegations, she felt under pressure from her family to have her father in her life and not to speak of everything that had happened to her until her parents had separated.
26. Child A initially agreed to giving an Achieving Best Evidence interview about these matters but later changed her mind and declined to do so. She was asked about this on 30 January 2019 and indicated that amongst her reasons for not giving an ABE were that she had had a long chat with her mother over the weekend and decided to concentrate on her studies, she was apprehension of being cross-examined, having heard her mother's experience of giving evidence and the impact on her relationship with other members of her family. Because of child A's unwillingness to undertake an ABE interview, father has not been re-interviewed on the allegations which followed on from the 'caravan' incident.

27. In January 2019, the mother asked the social worker for permission to go on a holiday to Centre Parcs. The local Authority were concerned that the mother had not prioritised her relationship with the children over her relationship with father, by staying with the children up to three nights a week at the paternal grandmother's home, where the father was residing. Later that month the parents separated.
28. This case has taken a very long time to get to trial. The focus of the case for many months was disclosure of the police material and whether child A would give an Achieving Best Evidence interview or give evidence directly. It was confirmed at the hearing on 28 October 2019 that no party sought to require the court to direct child A to give oral evidence to the court. At the final hearing listed in November 2019, the case had to be adjourned because of lack of disclosure from Kent police. This was adjourned until April 2020, when the father objected to it taking place remotely. I adjourned this case so that the father had an opportunity to attend court in October 2020.
29. The parties' positions are that the Local Authority seek findings against the father in relation to child A's allegations, SD's allegations and SG's allegations. The Local Authority supports the children remaining in the care of their mother although seeks a finding that she failed to protect child A by breaching the working together agreement not to leave the children alone with their father.
30. Father broadly accepts all the allegations child A has made save that he says at the caravan park he was drunk and couldn't remember the incident, he also says that in respect of the masturbation incidents he doesn't remember it was so many times but he says that he was often drunk and or high on cannabis. He vehemently denies the allegations made by SD and SG.
31. The Mother believes child A's allegations are true. She also believes SD and SG. She does not accept that she failed to safeguard the girls by maintaining her relationship with the father or by breaching the working together agreement when she went to work and left the father looking after their daughters.
32. The Guardian supported child A's decision not to give evidence and simply seeks that I determine the truth of what happened in this case.
33. I have read the 8 bundles which included the transcripts of the entire trial from 2011. I have heard evidence from SD, SG, SH, PD, TM, HC (former social worker), WP (current social worker), RP (former social worker), paternal aunt ZB, paternal grandfather (AI), paternal grandmother (DG), father and mother. The evidence of the Police Officers and SD's friend TM was not challenged by father. It was said on his behalf that he accepted these calls were made but he did not accept the truth of the allegations.
34. I heard this case from 14th to 24th September 29th, 30th September 2nd October giving judgment on 6th October 2020. I was asked by the father for clarification of 19 points of this judgment with a further 13 corrections on 23rd October. As I am in the middle of another long trial it has taken me until today 29th October to deal with these matters. Most of the clarifications sought seemed to me to be wholly inappropriate and excessive in length and I have considered the guidance in I (Children) [2019]EWCA Civ 898 and I have dealt with them accordingly.
23. This was a hybrid case with the father and his legal team attending on most days and the Local Authority legal team also attending most days. The other parties attended by Zoom after CVP failed to work. I had the benefit of seeing SD, SG, TM, PD, the father,

paternal grandmother, paternal grandfather, the mother and SH give live evidence as they appeared before me. ZB and the other witnesses appeared by CVP.

24. SD gave evidence and she confirmed the allegations summarised in her Achieving Best Evidence interview, which took place on 15 September 2011, SD alleged that

- (1) When she was about 6 (and the father was about 11) she was at his house, a bungalow. His bedroom was in the basement. It was damp and smelt damp. He made her get in the bed and groped her by touching her 'minny'. (By which she meant her vagina.)
- (2) Although she could specifically recall 4 occasions it happened, she had the impression that it would happen regularly when the family would visit at weekends. He would find the opportunity to get her on her own and put his fingers down the front of her trousers and insert them into her vagina. He would engage in 'dirty talk' and tell her not to tell anyone and that it was her fault and no one would believe her.
- (3) When she was older she recalls the father coming to her house in the morning and waking her up. He was a teenager and in the 6th form (so about 2000). Her mum and dad had left for work. She did not realise he was there until he was on top of her. She told him not to because she was on her first period, but he said he did not care. She struggled and he threw her to the floor, pinned her down and raped her while she was lying on her front. He ejaculated inside her. She remembers biting him. She said that she was bruised badly on her leg. She remembers that later a friend reported concern about the bruising to social services and that her mother was unhappy about that.
- (4) Later she was raped by him in his car. She recalls him giving her a lift and describes that it was spring and how he drove under an underpass, over a train bridge and pulled into an area set back from the road designed to allow tractors to enter a field by a gate. He told her to get in the back seat, but she refused and got out of the car. He said he would pay her £1,000. He had recently inherited money. He got out and threw her in the car, reversed it and then raped her facing down. He ejaculated. She got out of the car and ran home. Father was driving.
- (5) She recalled an incident at DG (paternal grandmother)'s property after DG had split from AI. She thinks he was in his last year at school (about 2002). It was the morning. ZB was asleep and father called her into his bedroom to smoke a cigarette. After that he pulled her into the bed and penetrated her with his fingers and penis. He ejaculated inside her. He was on top. She had tried to fight him off and scratched his back. His breath smelled bad.
- (6) Later when she was aged 19 and pregnant (in about 2008) she recalled being at his mum's house and he came into the kitchen, tried to kiss her and put his hands down her trousers.
- (7) She had not told her parents before 2011 because she did not want it to cause a rift in the family. She had been motivated to come forward in 2011 because she saw father in March 2011 at her niece's birthday party and it was being said that father was going to be her niece's godparent. SD said she could not bear the thought of that and his involvement with other children.
SD participated in a second Achieving Best Evidence interview on 22nd December 2011 as she had remembered further things. She alleged that:

- (8) She had been on sleeping tablets as she was not sleeping properly. Once she started sleeping properly, things began coming back to her.
- (9) She remembered an occasion when she would have been about 14. Father sent her a text message saying that everyone was at his house, and she should come too. Her dad dropped her off there. Father was living with his cousin (MI), his partner having moved out of that property by then. (It is understood that father rented a property from July 2003 to February 2004.
- (10) When she arrived at the father's house, nobody else was there and father locked the back door behind her. Father put on an Adam Sandler film. After watching the film, he dragged her upstairs and raped her on the floor. He pinned her down and pulled her trousers down. SD was trying to stop him and screaming at him to leave her alone, but he did not take no for an answer.
- (11) Father stopped as his cousin he shared a house with, was banging on the door, trying to get into the house. Father told MI that he and SD had just been "playing about". SD said that felt too ashamed to tell the cousin what had really happened.

25. Prior to approaching the Police SD had spoken of the abuse to: -

- a. Her friend TC (now known as TM) quite regularly from about August 2011 onwards.
- b. Her father, PD in September 2011.
- c. Her sister, SH in September 2011.
- d. Her mother, LC in September 2011.

26. SD accepted that she had been to three secondary schools and had been expelled from one because of her behaviour and aggression but that she had ADHD and after she had medication it had calmed her down. She told me that she had been a typical teenager and her mother had a breast cancer scare after finding a lump and her mother had also had mental health issues. She said that girls had spoken about her mother because they had known she was in a mental hospital and said horrible things and she had reacted. She said she was aware she was not 'a perfect child'. She said that she had been a little girl when she was first abused by father who was her cousin. She was aged about six years old. SD told me that she was an angry child because of the abuse.

27. SD told me that father had threatened her that if she told anyone that no one would believe her and she had not known when she was younger that this was wrong. SD denied lying about the allegations she had made and confirmed that the reason she came forward was that she was worried about father abusing another child and he was godfather to her niece. She said that if she was a fantasist as has been suggested by the father then why was father in court again now accused of abusing child A? SD told me that she felt that father needs to own up to what he did to her.

28. SD told me that she had put herself in a situation where father could abuse her, but she was very young, and it was not her fault. She described when she woke up and found father on top of her and she said that he had been seen by a neighbour climbing through a window to get in. She was not attending school and her parents were both working. She had known what he was trying to do and she said that she had told him she had her first period and he had pulled her onto the floor and raped her from behind. She described him biting her and said that this was on the arm or shoulder, and he was spiteful and rough. He also he held her arms and caused bruising by pushing her legs apart. She said that she was in pain and sore after this.

29. SD also described staying over at DG (paternal grandmother)'s house and staying the night with ZB. She said that ZB was still asleep, and father had asked her to have a cigarette with him. She told me that she was stupid to go into his room but that it didn't give him the right to assault her. She told me that DG was never around as she had ME and she worked late in bars. She said that father had pulled her down as she was sitting on his bed and had bitten her, and she remembered his warm breath on her. He raped her by holding her down. She said she was crying and then ZB came into the room, and she left and walked home.
30. SD said there were no boundaries within this large extended family and cousins had had relationships with each other.
31. SD also described the rape after father had given her a lift home from a family barbeque when he had driven into a field by a railway bridge and had dragged her over the seats to the back of the car and she described getting out of the door and walking off. Father had then driven next to her and told her to get back in the car and said that he wouldn't hurt her. She was some away from home and said she stupidly got back into the car. Father then reversed the car back and there was a struggle, and he ripped her t shirt and she said that she had scratched his face. He dragged her to the backseat and raped her.
32. SD said that Father had offered her money and said he had mentioned £1,000 as he had inherited money from a family friend who had lived opposite him and who he alleges had sexually abused him.
33. SD said that she had bruising to her legs caused by Father, and it had been reported to Social Services and her siblings were angry with her because they thought she had blamed her parents for it.
34. In respect of the incident when Father phoned her and asked her to come around to his house she said that he had said that everyone else (meaning all her cousins) were there.) SD said that her father had given her a lift and she had discovered when she got there that father was on his own. He shared the house with his cousin.
35. SD said that father locked the door and told her to watch a film with him. He then carried her upstairs and SD said that she was trying to stop him and she thought that he raped her on the floor. She said that she was fighting him off her and she was shouting but he pinned her down and he raped her. The cousin (MI), who father lived with at the time, had been banging on the door as he was surprised the door was locked but father had said that they were playing around.
36. SD said that she had continued to attend birthday parties and family events although on a trip to Centre Parks she felt very uncomfortable being around father that she asked her father to take her home after a couple of days. She described at her niece's christening when she was pregnant and father put his hands down her trousers and she threatened to scream as she said that she had had enough of being abused.
37. SD said that her mother's older sister had offered her money to drop the case against father. SD thought that she had been charged by the Police with respect to this and arrested and convicted of witness intimidation.
38. PD (SD's father) gave evidence. He confirmed his statement and told me that 'the world and his wife's children' stayed over at father's parents' house. He said that everyone wanted to stay there because the children could do exactly what they liked. He said he wasn't aware of any bruising to SD's leg. He said that he had worked for AI (paternal grandfather) and he had his own transport and couldn't remember if he

had a lift to any jobs he did with father or AI. He said that the split between the family was a 'major divide'. He couldn't recall seeing any bloody clothes in the bathroom.

39. SH, SD's half-sister, said that SD had stayed overnight at father's parents' house (DG and AI) with her, although not as often as she had as she was virtually the same age as father and they were very close.
40. SH described father as 'very touchy feely' and when I asked her what she meant she said that he was a 'very hands on as a person'. She said she meant that he groped 'boobs and bums'.
41. SH said that she remembered father's bedroom as it was damp and cold. She said that children used to sleep everywhere when they stayed.
42. SH said that SD was very uncomfortable and grumpy at family parties and she and her sister were very different people and were not close. When they went to Centre Parcs SD had wanted to go home and they had an argument and she felt that SD was ungrateful and there was an argument about the treatment of children and she said that they had made up and 'hugged it out' but SD still wanted to go home.
43. She told me that she had not had any further contact with father and it had split her family.
44. SG gave evidence. During the investigation into SD's allegations in 2011 the police spoke to her as she was father's former partner. During those enquiries she reported that she too had been the victim of sexual assault and rape by father during their relationship. SG was first interviewed by the police on 6 November 2011, she reported that: -
 - (1) she and father had started a relationship when they were at school when she was 14. She then started seeing another boy, who made her pregnant when she was 15, and renewed her relationship with father during her pregnancy. He was about 17.
 - (2) her daughter was born in November 2002. When she was about 3 months old he raped her, at a flat where his nan used to live. He took the baby from her and laid her on the sofa and then raped her. She tried to object but he said he was going to do it no matter what. Afterwards he apologised and said he did not know why he did it and had heart cancer.
 - (3) when her daughter was about 5 months old he came to her flat and put the child in her room. He held her down, raped her and caused bruising to her arms.
 - (4) once she was walking down the road and he drove up to her in a car and was playing with himself. She said he was always playing with himself. Another time he drove up to her in a type of camper van and asked her to get in, drove to a field and made her perform oral sex on him. She struggled with him. He did not ejaculate.
 - (5) he would telephone her nan and her mum and not speak but be playing with himself at the time. He had apologised to her mother for what he had done and said that he had counselling and did not do that anymore.
 - (6) On one occasion he made her have sex with him upstairs when others were in the house and she was screaming out and pressed call on her phone which connected to her nan who called her mother who came to collect her.
 - (7) he would go and see J (family friend) and "*used to do everything for him*". He was devastated when J died.
 - (8) she remembered reporting him to the police in 2003 and withdrawing her allegations because of the abuse she and her parents were getting from SD and SH.

- (9) she thinks that Father forced her to have sex about 15 times, mostly in his nan's flat. He would hold her down.
45. SG participated in a second Achieving Best Evidence interview on 4 May 2012 where she was asked for further detail regarding her allegations against father.
46. In a later statement SG stated that as a result of father's abuse of her she had self-harmed for several years.
47. SG said that she didn't want to be at court giving evidence. She told me that father had been 'obsessed with what he had in his trousers'. She told me that he was always masturbating and this could be at any time whether in his car or not. SG also alleged that he had made offensive dirty phone calls to her mother and grandmother who was 80 years old. SG said that father had told her that he had told her that the reason he did it to her was because of what J had done to him.
48. SG told me that she had been asked to trace SD and she had texted SH after she had found her on Facebook. She told me that she had been very young when she had her daughter and that although Father's name was on the birth certificate everyone had known it wasn't his baby but he had stepped up.
49. SG told me that when she broke up with Father she moved away in 2005/6 and has not had contact with the family since.
50. SG's mother, TM gave evidence. She recalled seeing bruising on her daughter's arms when her granddaughter was a few months old. She said that she had asked her about it but that she had said that she had bumped into something. noticed that her daughter had become quieter and withdrawn in contrast to her previous presentation as an outgoing and happy child. She was prescribed anti-depressants. She accepted that her daughter had been bullied at school and had self-harmed and she had been treated for depression before she met father.
51. She told me that one day when her granddaughter was about a year-old SG had told her that father had taken her in a van and forced her to give him a blow job which choked her. SG also told her mother that father had raped her on a number of occasions when her daughter T had been present. She advised her daughter to stay away from him but she was "*kind of brainwashed*" by him. She herself had received 'heavy breathing' sexually offensive phone calls from him. She said that she had recognised his voice because he had lived in the same house as her for six months.
52. She recalled meeting him when her granddaughter was 4 and he told her that he knew that what he had done was wrong but he had since had counselling, had changed and was sorry. She recalled the incident when SG's friend ran over and told her about the phone call from SG when she was very distressed. She remembers picking SG up but her not wanting to say what had happened. She had told her to go to the Police but she had not wanted to until later. She told me that she couldn't remember everything as it was a long time ago but that she wasn't making anything up.
53. HC who was the children's social worker appointed after child A had made her 'disclosures'. She had remained for about a year until she handed the case over to WP. She said that Father had wanted to be seen as a doting and caring father and he had never questioned the safe guarding which was put into place with him moving out to live with his mother.

54. She told me that she had been present at child A's police interview and that the Police Officer had taken the lead in questioning child A.
55. A section 47 assessment was undertaken and concluded with a working agreement whereby the father left the family home and stayed with his mother and that his contact with the children was to be supervised by an appropriate adult.
56. HC said that there were concerns that the mother had failed to recognise the risks to the children by continuing in a relationship although she accepted that the mother had a breast cancer scare in November 2018. She said that the mother had had counselling and this enabled her to see that father had been controlling and manipulative. She accepted that this would have been a huge shock and it would take time to process.
57. HC said that she had a conversation with paternal grandmother, DG and she asked her, her understanding of what had happened with child A and father. She said that DG accepted what child A was saying was true but she saw it as an accident and she couldn't believe the outcome and she believed that this was something that he would never do again. HC said that the Grandmother acknowledged the seriousness but not the affect it had had on child A.
58. WP the current social worker gave evidence. He said that the Police should have told the Local Authority about the father's previous conviction in 2003.
59. WP told me that the mother was always open and honest and sought guidance and was a fully protective mother. He described child A as articulate and confident. He told me that child B had been spoken to about child A's allegations and she had been upset and not had contact for a week and then she resumed her contact.
60. RP the social worker at the time of father's acquittal in 2012 gave evidence. He had not read his statement or the documents and his internet connection at home was poor and I adjourned the case to the following day to allow him to give evidence from his office at work.
61. He told me that he had to rely on the documents as it was a long time ago. He denied threatening the parents that the children would be taken away but said that he had expected the working together agreement to be adhered to. He said that the relationship between the children and their father was a 'normal' relationship. He told me that he was unsure of whether he knew the ex- girlfriend making allegations against the father had been a child or an adult but he thought she was an adult.
62. RP said that he had expected both parents to adhere to the 2012 WTA by allowing the father to have contact with the children without another person being present and on that basis the Local Authority had no further involvement until child A's allegations.
63. Father gave evidence. He told me that child A was a truthful child and if she had said that he had behaved as she alleged it was probably true. He told me that both SG and TM were lying and he had had contact with SG's daughter T, after they had separated and he had collected her from TM's house. He denied making obscene phone calls to TM or anyone else.
64. Father told me that he was very anxious when child A was heading towards adolescence and didn't need her parents so much. He said that he started drinking heavily and smoking skunk and weed. He said that he accepted that child A had seen him masturbating but it was not on purpose. He denied showing her his erect penis

before she started secondary school. He said that he became paranoid about something happening to child A, that someone may try and take her. He said that he had a number of conversations with child A about screaming and getting away from someone

65. He said that in relation to child A catching him masturbating it was very early in the morning at around 5:00 am and he was downstairs in the kitchen and child A got up early and came downstairs to find her phone.
66. Father told me that he had been 'blind drunk' in the caravan park when he got child A to masturbate him. He said that he hadn't remembered anything happening and whilst she didn't say that to him, father accepted that she had said it to other people and it was probably true. He said that he was so drunk he had mistaken his daughter for his wife. He told me that child A had not wanted him to tell her mother and he hadn't pressed her. When she asked him, what would happen he did say that they would probably get divorced. When she asked him if he would go to prison he said it would cause a 'storm'. Father denied telling child A to keep this a secret. He said that he couldn't remember telling child A that he had been sexually abused.
67. Father said that he didn't think that he had watched pornography on the computer as he used to watch it on his phone. He felt that child A was lying about that.
68. Father said in relation to the two offences in 2003 and 2005 he was in a very dark place at that time and J (a family friend) who had sexually abused him had died and he had inherited his estate which was worth eventually about 350k. He said that he had to go through all J's possessions.
69. Father told me that he had always 'put his hands up' when he had done wrong and had pleaded guilty although he accepted that he had not been truthful in his Police interview.
70. In respect of SD, he denied that she had stayed overnight at either property and he told me that he had saved her life twice when she was small. He also said that he had never been to her home and broken in and raped SD. He said that SD might have been jealous of his relationship with her sister SH. He said that LC (who was SD's mother) had lied at his criminal trial when she had said that SD had stayed overnight at his house. He said that she had been in arrears with her mortgage and had asked him to lend her £1,500 and he had refused and told her to tell her husband PD. He said that this is why she might have lied about him.
71. Father was vehement in his denial that he never socialised with SD and described her allegations as a 'complete joke'. He denied ever giving SD a lift and denied ever abusing her or raping her. He repeated that she was lying. He told me that she lied as a child, took drugs and sold drugs including cannabis and cocaine. She was aggressive and had ADHD and had trouble behaving herself. He said that he had smoked but everyone's breath smelt bad if they smoked. He said that she was not afraid of him.
72. In respect of SG's allegations, he said that she had been devastated when he had stopped going out with her because she had been having a sexual relationship with a bus driver. He accused her of 'making it up as she goes along' and he said she was lying like SD. He said that he had never raped her or forced her to have oral sex with him in a camper van as he had never driven a camper van.

73. Father said that he had not got TM's phone number and he denied making that phone call and the phone call to a family friend from his father's house threatening her that he would rape her. He said that the last incident was a complete 'misunderstanding' and the woman dropped the case.
74. Father described his former wife as a fantastic mother and partner. He described her as very clean living and said that she didn't know about his drugs and alcohol habit.
75. Father said that his sister did not want to see him at the moment and wanted some space from him.
76. ZB gave evidence. She is father's sister. She told me that she had had no contact with her brother and she supported her nieces and her former sister in law. ZB told me that she had not been given any details of what had happened to child A and she hadn't asked as she had said that she was told not to ask anything. She said that in the beginning she did want to know the details but she said that now her feelings were 'irrelevant. It was really a matter for child A to tell her if she chooses to do so. ZB told me that she was unaware of her brother's criminal record and the convictions in 2003 and 2005. She described the relationship with her father as very close but with her mother as up and down. ZB told me that child A is a wonderful person and that she 'generally tells the truth'.
77. ZB told me that she had not known about the rape allegations against her brother in 2011/2. She said she had never been told the details of the case. She said that she hadn't asked her brother about anything.
78. ZB said that she couldn't remember Sam staying over although she accepted that she and SD went horse riding together on Saturday mornings.
79. ZB accepted that the cousins went out together and two are now married. She said that she wouldn't be comfortable with that for her own children. She said that she had not believed that her brother would hurt anyone and she felt betrayed by him.
80. AI, paternal grandfather gave evidence. When he was asked about obscene phone calls being made from his landline he said that it wasn't him and he didn't believe it was his son knowing his son's character. He said that he was told that the allegations were withdrawn.
81. When asked about his son's convictions for exposure he said he knew nothing about any criminal convictions he didn't know any details of what had happened between his son and former daughter in law. He thought it was a custody case with the local Authority being involved too. He had no idea what his son had been accused of.
82. AI said that he was 100% sure that SD never stayed overnight as they would never have allowed it. He said that he didn't know if SD had been horse riding with his daughter ZB.
83. AI denied it was his fault that his son was sexually abused. He said it would have had an impact on him.
84. AI was asked about child A and he said that they were close and spent time together and went walking and cooked together. He said she was lovely.
85. In relation to being asked what he would accept if findings were made against his son he said that he had not been a witness to the whole case he had never witnessed or seen

his son do anything and he would have to accept that the judgment was correct but he seemed to be saying that because he had never witnessed anything he didn't believe it had happened and he didn't think his son was capable (of doing anything). He had no knowledge that his son had been on the sex offender's register. When told about the indecency offences his son committed he said it could have been simply urinating up a wall.

86. DG gave evidence. DG is the paternal grandmother. She told me that SD had never stayed over as her behaviour was terrible. She would scream, shout, swear and kick. She said that she didn't want to babysit her and she described father rescuing her from a water barrel when she was very small.
87. DG told me that she did not know the details of what her son had done as she had been told not to talk about it by the Police and Social worker. She said that her other grandchild B had asked her what was going on and was becoming very upset in the car and she said that she had tried to reassure her that it was just a silly misunderstanding.
88. DG told me that she went to court with father in 2005 and heard about the conviction in 2003. She said that she had asked him what was going on and he had told her that he had been sexually abused as a child and had told her that it was their neighbour J a bit later.
89. DG told me that she would not jeopardise her relationship with her grandchildren and she believed child A to be truthful. If she said something had happened, it had happened as she was not the kind of girl to make things up.
90. DG told me that she had supervised contact between her son and child A and child B and did exactly what she had been asked to do. DG said that child A had told her that she had seen her father masturbating twice when she went downstairs but that was the only thing that she knew about.
91. DG told me that she had not spoken to AI about Father being sexually abused as she felt it was for father to tell him about it.
92. NC (formerly I) the mother of child A and child B gave evidence. She told me that she was now divorced from Father and she had just completed on a house after selling the former matrimonial home. She told me that her hobby was athletics and sports and she went to Cross Fit and they were an active outdoor family.
93. Mother told me that she had a normal sex life, Father had never been aggressive or raped her and she had only known about the proceedings in 2005, not the earlier offence in 2003. He told his mother and her after the court case that he had been sexually abused as a child and she felt that this was a cry for help and she said that she felt real empathy and love for Father. She told me that the Section 47 investigation at the time concluded that he was not a risk to their children.
94. In respect of SD's allegations in 2011/12 she told me that she had been a witness. She had never got to read all the papers although she was aware it was an allegation of rape. She said that SD had lied about her being at the house as she didn't go on the night out with ZB and SD. She said that she definitely doubted SD's case now (meaning the not guilty verdict) as she believed that she was telling the truth. She told me she had not known anything about SG's allegations.

95. Mother told me that she didn't believe father's version of drinking heavily and smoking skunk. She said that she would have smelt it on him or seen some evidence of it when she got back from work in the early morning. Whilst they drank when they went out with friends they were not drinkers and she said that it 'wasn't their thing'. Whilst Mother said that Father was a smoker and he might have occasionally smoked cannabis at family parties but he hadn't done so at home.
96. Mother told me that she thought she had a perfect life and child A's revelations were like a bomb going off and she felt she had lost control. She said that Father didn't give her space to think and constantly asked her about making new memories for the girls and going on holiday. She also had a breast cancer scare and she had had 3 or 4 biopsies. Child A's counsellor had asked her how she was feeling and she then considered that she was not doing very well. She said after she had some counselling she realised that she did not want to be with father and decided to separate. She accepted that she had taken time to come to this decision and said that after child A had told her everything she had taken her to the Police Station.
97. Mother told me that child A had asked her lots of questions about giving evidence and she had told her honestly about what it was like. She said that child A had said that she wanted to concentrate on her education but felt that she would do an Achieving Best Evidence interview in time.
98. Mother said that the paternal grandmother had said that she thought this had been blown out of all proportion and she didn't speak to her for a while. She told me that both children have a good relationship with their grandparents and Aunt ZB. She told me that child A had told her cousin that she had seen her father masturbating and she had told child A to talk to her about it. She said that it was made quite clear that public areas of the house were not a place for 'that kind of thing' and whilst it was embarrassing it had been resolved.
99. Mother also told me that child A had asked about why men and boys put their hands down their trousers whilst walking. NC said she didn't think it was a specific thing and just answered that it was 'a man thing'.
100. Mother said that she had been with father for 15 years and he had been a good father and husband and they both worked hard. She would want to turn back time but felt she had dealt with everything that had happened.
101. Mother said that when Father was found not guilty in 2012 she like the other members of the family believed that he had not done anything and that it meant that SD had been lying. She described signing the written agreement with RP and accepted that she had breached it by going to work at night and leaving the father with their girls. However, the Local Authority had also found that Father was not a risk to their children.
102. Mother described a warm relationship with the social worker WP and said that she was able to ask him for advice and support and help. She had told child B in a child sensitive way according to her understanding about child A's allegations as she felt that she should know. She didn't believe now that father should have contact with child B because of what he had done.
103. The police applied for a Sexual Harm Prevention Order against the father on 25 September 2019 at the Magistrates' Court. This was granted.

104. The law in relation to fact finding is set out in the case of *Devon County Council v EB & Others* [2013] EWHC 968, Baker J summarized the correct approach to be taken by the Court when making Findings of Fact and the summary has been approved by Jackson LJ in *Re BR (Proof of Facts)* [2015] EWFC 41. The law to be applied can be summarized as follows
105. (i) The burden of proof is on the Local Authority, who make the allegations. It is accepted that there is no burden of proof on the parents to prove anything. However, I am entitled to take their evidence into account as part of the overall picture.
106. (ii) The standard of proof is the balance of probabilities. (*Re B* [2008] UKHL 35). If the Local Authority proves on the balance of probabilities any of the items within the Schedule of Allegations, the Court must treat those facts as established and all future decisions concerning the children's future will be based on those finding(s). Equally, if the Local Authority fails to prove any or all of the allegations, the Court should disregard them completely. As Lord Hoffmann observed in *Re B*:
107. "If a legal rule requires the facts to be proved (a 'fact in issue') a judge must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are 0 and 1."
108. The Court should take into account the inherent probability or improbability of the relevant alleged incidents. The Court must not, guess or speculate or draw inferences from what are still only suspicions rather than proven facts.
109. Findings of Fact in these cases must be based on evidence. As Munby LJ, as he then was, observed in *Re A (A Child) (Fact-finding hearing: Speculation)* [2011] EWCA Civ 12:
110. "It is an elementary proposition that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation."
111. The Court may, however, arrive at reasonable conclusions based on proven facts. In this case, one of the central issues is whether the father has raped and sexually assaulted SD or SG? This factual issue will turn on whether the Court believes the father, who denies these allegations, or those witnesses who claim to offer evidence to the contrary. I must give close attention to the details of their accounts; to assess their inherent plausibility and likelihood; to check their internal consistency or inconsistency, and their consistency, or inconsistency with external established facts. The credibility of each of these witnesses has been in issue and must be considered.
112. When considering cases of suspected child abuse the Court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. As Dame Elizabeth Butler-Sloss P observed in *Re T* [2004] EWCA Civ 558, [2004] 2 FLR 838 at 33:
113. "Evidence cannot be evaluated and assessed in separate compartments. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the Local Authority has been made out to the appropriate standard of proof."

114. The evidence of the Parents and any other carers is of the utmost importance. It is essential that the Court forms a clear assessment of their credibility and reliability. They must have the fullest opportunity to take part in the hearing and the Court is likely to place considerable weight on the evidence and the impression it forms of them (see *Re W* and another (Non-accidental injury) [2003] FCR 346).
115. I bear in mind that a witness may lie for many reasons, such ‘as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything’ (see *R v Lucas* [1981] QB 720). I give myself what is now known as a ‘Lucas warning’.
116. I was directed to *R v P* [2020] EWCA Civ 1088 where Peter Jackson LJ considered the issue of similar fact evidence in family cases. He set out the position from the House of Lords in *O’Brien v Chief Constable of South Wales Police* [2005] UKHL 26; [2005] 2 AC 534 the House of Lords considered the issue of similar fact evidence in civil cases, where it is contended that an individual’s behaviour in other circumstances makes it more likely that he will have behaved in the manner now alleged because it is evidence of a propensity to behave in that way. I didn’t consider that I needed to refer to this because I considered all the allegations on their own merit.
117. The essential factual issues that require determination, and the parents’ responses, are set out in the composite schedule of findings sought at A(i)106. These focus on discrete issues in the case:
- (a) The allegations of rape and sexual assault made by SD against the father (para 1);
 - (b) The allegations of rape made by SG against the father (para 3);
 - (c) The allegation of receiving sexually explicit telephone calls from the father made by TM (SG’s mother) (para 4);
 - (d) The father’s criminal convictions in 2003 and 2005 for offences of indecency (para 5);
 - (e) The allegation by an adult family member (‘S’) that the father made sexually abusive and threatening telephone calls to her (para 7);
 - (f) Child A’s allegations against her father that he exposed his erect penis to her, masturbated frequently in the downstairs area of the family home such that child A was exposed to this, sexually abused child A at Sheerness, touched his genitals in front of her and deliberately exposed her to pornographic material on his computer (paras 8 to 13);
 - (g) The allegation that the father attempted to manipulate and coerce child A into keeping his sexual activity with her a secret (para 14);
 - (h) The risk of sexual and emotional harm to child B (para 15);
 - (i) Breach of the 2012 written agreement by the mother and father (paras 16 and 17);

(j) The mother's alleged failure to protect the children from the risk of harm posed
by the father and her alleged failure to prioritise the children over her desire to remain
in a relationship with the father (paras 18 and 19);
(k) The mother's alleged failure to support child A to disclose the full extent of
the father's abusive and harmful behaviour towards her (para 20).

129. I have spent a long time thinking about and rereading the bundle in relation to SD's and SG's allegations. I am of course aware that the jury did not believe SD's evidence 'beyond all reasonable doubt'. I have watched the achieving Best Evidence interviews of both women. I bear in mind that the father does not have to prove anything. If I don't mention every piece of evidence, it is simply because of the volume of it and the number of allegations that I have been asked to try.

130. In respect of SD's allegations, I was struck by how much she had changed since she gave her ABE interview. She has now become a Muslim and dressed accordingly now. A lot of time was spent cross examining her about how difficult she was as a child and how bad her behaviour was. Whilst there are discrepancies in her evidence about whether her father found bloodied underwear in the bathroom (he could not remember) and whether she had gone on a night out with mother or not. I have to consider all the evidence from all the witnesses.

131. The father says that SD is not consistent with regard to the allegation of digital penetration which is the first matter that I should consider as it is the first in time. The father points out that he was 11 years old when this first occurred and this was touching between children. The father says that there is a clear conflict in what SD alleged in the interview to the Police in September 2011, which was digital penetration with 2 fingers, and her description to this court which was touching of the external of genitals through clothing. He said that there is more detail given about the abuse at the age of 6 to this court; the bench downstairs and sitting on Father's knee, a feature which was not said nearer the time of the alleged abuse.

132. Further he says that in her description to the Police at her interview is of the digital penetration causing her bleeding. A point which in cross examination by the father at this court she was unable to recall, or indeed, support. On that basis the father says that the evidence of inappropriate touching is therefore conflicting and insubstantial.

133. I have considered the evidence and whilst it is true that SD appeared angry and upset, I can see that this is the second time she has given evidence and she has had to wait a long time to do so. These are very personal matters. I bear in mind that these allegations are historical, it would be very strange if SD could accurately remember every detail after all this time. I have looked at all the evidence in the round as I must do. I considered the way that father gave evidence when he was talking about his daughter and how different he was when he was talking about SD and SG. He was aggressive and contemptuous of both women, accusing SD of dealing drugs and being loud and aggressive. I saw a very different side to the doting father he portrayed in relation to his daughter.

134. I considered that SD was convincing about this. The one piece of evidence which was helpful and corroborated SD's evidence was that her sister SH described father as being 'touchy feely'. When I asked what she meant by this she said that he 'groped boobs and bums'. I noted that SD had said this in her Police interview in 2011. I think it is more likely that not Father did sexually touch SD from when she was young. I can't say that he caused her to bleed or that he penetrated her, but it is clear to me that there was inappropriate touching from a young age.

135. I also find it more likely than not father did sexually assault SD when she was pregnant at East Terrace. She was quite clear about the details and I accepted what she said about father putting his hands down her trousers. SD was very convincing when she said that this was the last time that he assaulted her, and she threatened to scream if he didn't stop.

136. In respect of the rape that occurred at her house whilst she was on her first period after she said father had broken in, I found her to be convincing. She was suitably upset and her description was consistent with the evidence that she had given previously. Whilst she could not remember exactly how old she was she did remember it was her first period. SD's mother said that father sometimes turned up early in the morning and a neighbour had told her about a man climbing in through a window. I am unsure how he gained entry but I accept that he did so. At the time she was not at school. She described graphically how he achieved this rape and it is clear to me that this occurred. Whilst she can't be clear whether father ejaculated or whether she had been anally raped she was clear that it was wet afterwards and she was bruised and sore. I bear in mind that this was her first sexual experience and it was a terrible shock.

137. Whilst her father and her sister did not recall seeing any bruises I did accept her evidence that she was bruised. She was very clear about this and the trouble it had caused with her parents. She was entirely credible about this and also the reasons why she had gone to the Police in 2011.

138. Whilst father and his parents said that SD never stayed overnight at either of their properties and ZB could not remember her staying over, SD's evidence was supported by her sister and her father. SH was very clear that she had stayed over and I relied on her evidence and PD's evidence on this point. SH had not had a good relationship with her sister and she was clear and straightforward when she gave her evidence. I found that SD was also straightforward and I accepted his evidence that the children were really allowed to do what they liked which is why they all wanted to stay. Everyone was clear that SD had gone riding with ZB on a Saturday morning and this would seem to further corroborate this point. I bear in mind the evidence that LC had M.E. and was often unwell. I accepted PD's evidence that it was a free for all and whilst SD probably didn't stay as often as SH (who was friends with father as well as being a cousin) she did stay.

139. I also found that both DG and AI were very supportive of their son and both sought to downplay the allegations and I didn't accept their evidence on this point. AI in particular seemed angry and had very little idea of what his son had been convicted of or accused of.

140. Whilst SD might have been aggressive at times as a child and she undoubtedly lied about some things she had ADHD which was treated with drugs eventually. Whilst it was said she had lied about her mother having terminal cancer I do bear in mind that her mother did have a cancer scare and whilst she might have lied about this it was borne out of things she had heard discussed in all probability. She could not recall saying this and I didn't think that this was a material point.

141. Whilst the father says that SD had a troubled and difficult childhood and she lied about her mother being a 'violent alcoholic' it is true that her mother apparently had a drink and mental health problems and spent some time in a mental hospital which she was teased about at school. She accepted she did react badly to this. Whilst her sister did not support her in this I bear in mind her sister had moved out by the time she was 17 years old and SD was 12. SH had her own life and being five years older was a big gap between them and she wasn't necessarily aware of what was going on at home as the sisters were not at all close.

142. Whilst father says that SD's teachers did not regard her as a timid victim and believed that she was a liar this doesn't necessarily mean that she has lied about everything. I give myself a Lucas warning which means because she has lied at times this doesn't necessarily mean she lied about all these allegations. Further in respect of whether SD spoke to SG I note that she said there were texts.

143. Whilst SD said that one of the aunts was prosecuted for witness intimidation which wasn't true, it was certainly true that there had been issues because I saw the Police report that the aunt had been spoken to about this and she was very contrite about the matter.

144. As to the point that no one witnessed father abusing SD and it is 'likely someone would have done' which is submitted by the father, I do not think that is how abuse works. As far as I can see even with a lot of people in the house there would be sufficient opportunities for someone to do this whether or not she had stayed overnight.

145. Father claims in respect of the house rape allegation that it is 'simply incredulous.' that SD alleges that she had gone to the home of her alleged sexual abuser and rapist, that his mother and sister were in the house when she was raped. Further that SD voluntarily went to father's bedroom where he put his fingers in her vagina and raped her. SD scratched father and fought him off. SD left in a distressed state in her pyjamas and walked home.

146. I considered this allegation carefully. SD told me that she had stayed after going out with ZB. Father asked her whether she wanted a cigarette. She was awake in the morning before ZB. It was accepted that they all smoked from a young age. Whilst it might seem strange that SD put herself in that position I bear in mind that she was young. Father apparently put himself in the same position by visiting the man that had sexually abused him. I don't think it is so straightforward to say that it is incredulous that she did so. Whilst ZB doesn't recall this I do bear in mind that this was a long time ago and just because she doesn't corroborate SD's account doesn't mean that it didn't happen.

147. Also in respect of the contention that this had been the perfect opportunity for SD to tell her family again this is not determinative that because she didn't tell anyone at the time that it simply didn't happen. Sometimes as in this case and father's case people wait some years before they tell anyone.

148. SD has been consistent in the details of this, whilst father would say that she has been consistently lying, she was very convincing that this had happened. Whilst father claims that he has always owned up to what he had done I do not consider that this is the case particularly in the Police interviews in relation to the earlier offences.

149. In respect of the rape in the car the father makes the point that having been subjected to at least 2 violent rapes, SD then alleges that she got into a car with her rapist and she '*knew exactly what was coming to her*'. It is further said that; 'the description of the assault is difficult to fathom. If as SD alleged to the Police it was a 3-door car, it is hard to understand how she was thrown onto the backseat by father and why having got out of the car, she got back into the car to be raped. SD told the Police '*he threw her and raped her again*' the suggestion being that there was more than one assault on that occasion. Further it was submitted that SD did not say to this court she had been raped twice, nor could she be sure that she had been raped in the vagina or anus. This contradicts her evidence at the crown court that there was just one rape and the earlier attempt was unsuccessful.

150. Whilst I accept that there were inconsistencies in her account I do not accept that it was inconceivable that she would accept a lift with father. As father knows he went voluntarily back to his attacker (J). I bear in mind SD was very young. The families were still very close. I do believe that father did attack her in his car. Whilst SD may have been inconsistent about whether it was once or twice he raped her I do accept that there was an attack. Whether there was vaginal or anal penetration I am unclear about. Simply because SD is inconsistent about all the details doesn't seem to me to rule out that an assault happened. I bear in mind this was a long time ago and whether he managed to rape her or not I cannot say but I do find that this was an attempted sexual assault.

151. In respect of the rape by father in his rented house.. The father points out that she went to the address voluntarily, having been told that everyone else was there. Her father corroborated that point as he gave her a lift. SD allegedly watched a film with father. He then carried her upstairs and raped her. There was a violent struggle, and assault only stopped when father's cousin (MI) came back home. The father says that the cousin therefore would have seen a very distressed SD who had just been subjected to a violent assault. Father says again that it is incomprehensible that SD said nothing to MI or that there is no evidence from the cousin witnessing SD's state of distress. In fact, the cousin gave the opposite evidence in his statement to the Police and at the Crown Court and, that he had never witnessed SD in that way and had no recollection of ever seeing her at the property at all.

152. Further the father says that there was no mention of this rape initially in SD's first interview. He points out that SD says that she had started taking sleeping pills that things started '*coming back to her in her dream*'. The father says that his significant omission in SD's accounts of her serious abuse cannot be simply explained by saying

that victims invariably take time to remember what happened to them. The father also says that SD's hatred of Father is almost 'evangelical'. She had a reason to be jealous of his 'perfect relationship with NC'.

153. I have not heard any evidence from MI (father's cousin). I bear in mind that although he and father were cousins they were also 'like best friends'. It was put to MI in cross examination that he knew the seriousness of whether he had seen SD. I don't know whether he lied about this or whether he could simply not remember but it does seem very likely that this occurred as SD said. I had the benefit of seeing SD give evidence and she was totally convincing in her recall of the details of it.

154. SD has told a number of people about these sexual assaults and she has been generally consistent about what she has said. She did seem appropriately angry about them and at times was extremely upset. I don't accept she is making this up because she was jealous of father or his relationship with her sister. She had a cogent reason for telling everyone what had happened. When she said that she was giving evidence for child A it was clear that it had really upset her.

155. In respect of SG's allegations, it was said that both were teenagers. Both were still children. SG had a sexual relationship before going out with father at age 14 years old and had become pregnant by another man and didn't tell him that he was the father. It is contended by father that SG was devastated by the relationship ended and she was jealous of father's new girlfriend NC (mother). SG had accepted that their relationship was tempestuous.

156. SG makes allegations that father raped her on a number of occasions and specifically when her child T was a few months old. Father denies these allegations. I have considered these allegations carefully.

157. It was clear that SG did not want to be at court and did not want to give evidence. I accepted her evidence that she did not wish to pursue these allegations when she reported them initially because of issues with the family. I also bear in mind there might have been some truth in the fact that she said she and father were trying to sort out their differences as they reunited at times.

158. I found her evidence completely convincing and she readily accepted that she also had consensual sex with Father. She also told me that he was supportive when she had T and his name was on the birth certificate even though he was not the father. SG had told a number of friends about the assaults. TM's evidence was absolutely clear about what she thought of the relationship. I do think it is very likely that the relationship was off and on (as confirmed by MI as well) and I accepted TM's evidence that her daughter appeared to be under father's spell and she just kept coming back to him. She had told her mother that father had raped her and TM confirmed that she had been told about this.

159. In respect of the first rape she gave evidence about when T was a few months old, her mother confirmed that she had bruising to her arms although SG did not say how it had occurred at the time. This does corroborate her account. Whilst father says that SG described the rapes as violent and hadn't provided all the details about him biting her and holding her down father denied that anything like this happened at all. Father

was aware that she had alleged he had bruised her and so was aware of the nature of the allegations. I don't consider that there is a breach of father's Article 6 rights when he simply denied anything had occurred.

160. It seems clear that both SD and SG describe father when he was raping them as biting them and holding them down and causing bruising to their bodies and also being spiteful. Both report this and it seems clear to me that this did occur. It seems too much of a coincidence that both had reported this as occurring.

161. One of the assaults was recorded by telephone and SG's mother confirmed that she went to collect her as a result of that call but her daughter would not say what had happened. SG also told a friend after the alleged oral sex allegation in the camper van and her mother and her mother corroborated that she also knew about it. Father didn't challenge that she had called her friend and told her at the time but said it was untrue.

162. Whilst SG accepted that she had contacted father before the hearing and asked him to just admit what he had done it was clear to me that she was angry about what happened to her. She was also appropriately upset. Whilst there may have been some contact between SD and SG which they had denied they said that they hadn't spoken which of course may have been technically true as it was by text message. I don't find that this invalidated their evidence in any way and I give myself a Lucas warning that even if they had lied about this it. I don't find that either conspired to give evidence and lie about what they each say happened.

163. I accepted what SG said about all the rapes she alleged happened to her. It was clear to me that she had made it plain she was not consenting and she was a plausible witness.

164. In respect of the sexually obscene phone calls that father is alleged to have made to TM, I accept TM's evidence that she recognised his voice as he had lived with her for about six months. Whilst there are further allegations about other sexual threatening phone calls which father might possibly have made as I have not heard any direct evidence from any of the parties about those matters I do not propose to make any further findings.

165. In respect of child A's allegations, I was initially concerned about child A not having done an Achieving Best Evidence interview as I was aware of a number of different people including her counsellor discussing what had happened to her. However, Father accepts that as child A has said these things happened, they must have done, as she is a truthful child. Whilst child A initially said that her father had been drinking at the caravan incident and had mistaken her for her mother child A says this was contradicted when her father tried to get her to masturbate him again and said, 'do it again like you did the first time' 'hard and fast'. It is clear to me that although father probably had been drinking he was not so drunk that he was incapable of remembering what had happened. I find that if child A had not pushed him off when she did it is more likely than not he would have seriously assaulted her.

166. I do find that father sought to effectively silence child A by telling her about his own sexual abuse, telling her that he would go to prison and that her mother would divorce him.

167. In respect of father showing child A his erect penis before she started at secondary school I do find that this happened and whilst father doesn't directly deny this he says he doesn't remember it.

168. In respect of the issue of masturbating, I would say being caught once might be considered as unfortunate, more than that it would seem to me that he in effect wanted her to see him doing so. Child A says that her father had asked her why she hadn't come downstairs to say goodnight to her which seems pretty clear to me that he was expecting her to come down and see him. Whilst he says one occasion was very early in the morning and he wasn't expecting her most people might think it was odd that he would be masturbating in the kitchen having known that he had been caught out previously in the living room. I don't think it really matters if it was 13 times or more. I do find that it was on a large number of occasions and it should not have happened at all. The father was aware of the issue after child A had raised it the first time and he was aware of what was appropriate and what was not.

169. In respect of the father's assertions that he had taken drugs or was so drunk he had no recollection of what had happened I accept what the mother has said about this issue. I accept that if the father had been drinking heavily or smoking skunk or cannabis she would have smelt it when she came home. This looks to me like an excuse for the father's behaviour. The parents were not big drinkers and I am quite sure that the mother would have noticed.

170. In respect of the pornography on the computer, I accept what child A has said about this. It seems clear to me that Father did try and talk about what was on the screen and he was watching it when child A was present. I am satisfied that she has given a truthful account. Further when she had caught her father masturbating child A says that he was also watching porn.

171. In regard to the case against the mother I find that the written agreement which the parents were effectively forced to sign was completely unworkable. I can well understand the mother's confusion after her husband had been found not guilty in 2012 and he had been assessed as not posing a risk to their children. I can understand that the Local Authority were concerned about a possible risk but I think they were trying to cover their back and seemed to me to be giving the parents and in particular the mother a mixed message. Whilst the parents both breached this written agreement I don't think it would have been foreseeable that the father would sexually abuse child A and I don't find that she failed to safeguard the children.

172. In respect of her continuing her relationship with the father and not supporting child A I accepted the mother's evidence that this was a huge shock and her world was turned upside down. Whilst she appeared to be slow to separate and at first didn't seem to have appreciated the absolute seriousness of the father's actions I bear in mind that she wasn't aware of everything that had gone on. The mother also had a breast cancer scare and I accepted her evidence that everything felt out of control and the stress that she was under.

173. I do think that the mother has tried her best to support child A and she is, as the father and social worker acknowledges, a good mother. I do not propose to make any

findings against her as I consider that if she, for one moment, had suspected something like this could happen she would not have been with the father. The father had been a loving dotting father and he has worked hard to support his family. These are not typical care parents and before this issue they had not come to the Local Authorities' attention for neglect or drink or drugs. I think after the conviction in 2005 the father had become effectively the victim after he alleged sexual abuse by J and the spotlight was turned off his offending.

174. The findings that I have made against the father are extremely serious. As far as I can see he is a danger to women and children and should be the subject of a risk assessment so that a decision can be made in respect of his contact. I find that there was a risk of significant sexual and emotional harm to child B arising from my findings in respect of child A.

175. Whilst I fully accept that Father is also a victim because he was sexually abused as a child this does not reduce his culpability for what he has done to SD, SG and child A.

176. With regard to DG and AI (paternal grandmother and grandfather) I should say that whilst it might be natural to try and stick up for their son they appeared to have very little knowledge of what he had done previously and both sought to down play it. It would be better if the family were aware of what he has done in order to protect any children within the family.

177. This has been a grueling case and I am grateful to SD and SG in particular for giving evidence. Whilst I am conscious that these are private proceedings I do think they should have a copy of the judgment suitably redacted so they can see the outcome of their allegations.