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CASE No: LU22P00248

Neutral Citation Number: [2024] EWFC 382 (B)

IN THE FAMILY COURT AT LUTON

Luton Justice Centre
Floors 4 & 5, Arndale House
Luton Point
Luton
LU1 2EN

Date: 2 September 2024

Before :

RECORDER PATEL

Between :

FM

Applicant

- and -

MK

Respondent

Ms Andrea Brown, Counsel (instructed by Child Law Partnership) for the Applicant
Ms Manveet Chhina, Solicitor of Morgan Wiseman Solicitors for the Respondent

Hearing date: 15 July – 19 July 2024

Approved Judgment

Introduction

1. This has been a fact finding hearing following the father's applications in which the mother is the respondent. Those applications concern D, a boy born in 2014 and A, a girl born in 2016. FM is the children's father, he was represented by Ms Brown, counsel and MK is their mother, she was represented by Ms Chhina, Solicitor. M also has an older daughter, aged 10 but she is not subject to these applications.
2. The mother was previously assessed and granted an intermediary. However, the intermediary due to attend was taken seriously ill on Saturday 13 July and could not attend the final hearing. Counsel due to represent the mother at the fact finding hearing was also taken ill with covid and was not well enough to represent the mother. The mother, nor Ms Chhina, sought an adjournment in light of recent case law on the absence of intermediaries. Nor was an adjournment sought because counsel was unavailable.
3. The mother attended remotely from her solicitor's offices, as per one of the adjustments granted to her. She was supported by Ms Vekaria, solicitor. I reminded the parties of the participation directions as laid out in HHJ Newport's order of 19 April 2024. Throughout the father was behind a screen which prevented him seeing the mother and the mother seeing him.
4. The father attended in person, represented by Ms Brown, Counsel.
5. The mother and father were in a relationship briefly when the mother was around 14 years old. They reformed that relationship in August 2013, D was born in 2014 and A in 2016. The relationship ended on 2 January 2022.
6. The mother alleges the father was abusive, verbally and, on a limited number of occasions, physically; she was the subject of sexual abuse, including rape; stalking and harassment; and controlling and coercive behaviour, including financial, sexual and emotional. The father accepts some of the words he used but denies the allegations generally as amounting to abuse or control and coercion. The father alleges he was the subject of physical abuse, punishment via the mother disposing of his assets, withholding contact with the children and control or coercion via threats to leave the relationship. The mother denies those allegations.

The Legal Framework

7. I had the benefit of an opening note from Ms Chhina which contained the applicable legal principles. The contents were agreed by Ms Brown. I do not reproduce them here but I have had regard to those principles and do adopt them. I summarise the core principles below.
8. The party that asserts a fact must prove that fact. There is no onus on an individual to disprove an alleged fact. The standard of proof is the civil standard, the balance of probabilities, no more and no less. Neither the seriousness nor the nature of the consequences of a fact being proved changes that standard. The court must have regard to the inherent probabilities of events or occurrences. The more serious or improbable the allegation, the greater the need for evidential cogency.
9. Findings of fact must be based on evidence, including inferences that can be properly drawn from that evidence and not on suspicion or speculation. The court must take

into account the wide canvas of evidence that is available and not evaluate it in separate compartments. The evidence of the parties is obviously of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. Credibility is wider than the demeanour of a witness to which little weight is likely attachable. The court must be mindful that human memory is fallible. The human capacity of honestly believing something that bears no relation to what actually happened is unlimited. Therefore, contemporaneous documents are significantly important and, in that respect, hearsay is admissible and the weight to be attributed to it is a matter for the court to evaluate.

10. I bear in mind the possibility, especially in cases such as of this nature, that one parent or the other might be seeking to gain an advantage in a battle against the other. That does not mean that those allegations are false. It does increase the risk of misinterpretation, exaggeration, or fabrication. It is not for either parent to prove a negative.
11. It is not uncommon for witnesses to tell lies, but that a witness lies about something does not mean they have lied about everything. Principles of criminal law have no function in the Family Court. The resolution of disputes is fundamentally different in this arena.
12. I remind myself of the Family Procedure Rules and, in particular, Practice Direction 12J, and what it says about domestic abuse, the definitions therein and the approach that this court must take. Guidance was given in the case of *Re H-N and Others (Children) (Domestic Abuse: Finding of fact hearings)*[2021] EWCA Civ 448 and it has been followed by subsequent courts, and that is that the court must look at the totality of the relationship when considering domestic abuse and, in particular, controlling or coercive behaviour. Behaviour may be directive, assertive, stubborn, or selfish. It does not automatically make it controlling or coercive.

Evidence

13. I had the benefit of a bundle running to 1,339 pages. It included the applications and orders, the statements of the parties and the witnesses, reports of Cafcass and the LA, letters from the children's schools, an intermediary report, police disclosure, medical evidence, the contact notes and the papers submitted in the non-molestation order applications submitted by both parties.
14. I also had the benefit of the bundle filed in the civil proceedings brought by the father against the mother. Those proceedings centre on the father's assertions that the mother has deprived him of a number of items he owns. He seeks their return or payment in lieu.
15. I heard oral evidence from the mother, MP, the maternal grandfather, SJ, a friend of the mother, UJ, a caravan site manager in County F, HS, a neighbour of the mother, the father, FS, the paternal aunt and SS, the paternal grandmother.
16. While it was possible to conclude the evidence, there was insufficient time to hear submissions and give a judgment. I received the advocates detailed written submissions and have taken those into account.
17. It is not necessary to mention all the evidence in the decision I come to. I have taken into account all the documents that have been placed before me in evidence, together

with the oral evidence and submissions. I will only refer to evidence that is necessary to explain the conclusions that I have reached.

Mother

18. The mother's oral evidence was given very much as yes or no answers when asked questions in cross examination. When questions were asked by me, the mother did relax briefly and answered in a more narrative way. Throughout her oral evidence the mother was ticking or becoming triggered the longer questioning went on. Although breaks were taken in accordance with the intermediary report's recommendations, it was clear the mother found it incredibly difficult speaking about events.
19. The mother's recollection in oral evidence was not always the same as her statements. There were times that some details changed. I note that the events the mother talked about would have been traumatic and that explains some of those discrepancies. She found it difficult to talk about some events and that likely led to those simple yes or no answers.
20. The father claimed the mother fabricated allegations as he disproved them. However, at the time nothing had been proven or disproven since no fact finding had taken place. I also note, the allegations raised in the mother's first witness statement are almost all those she relied on.
21. A significant allegation that only arose in the mother's statement dated 12 April 2024 is of strangulation on 21 February 2021. Another allegation that was not directly made until the same statement is of financial control. The father had submitted two statements by this stage, dated 9 February 2023 and 13 March 2023. The first statement is before the mother has made any allegations and does not seek to disprove allegations at all. The second statement follows the mothers on 16 February 2023 and in responding there are factual denials but little else. One of the principal facts that appeared to change by the second statement was the date the mother alleges the father raped her. The initial allegation was in the mother's statement filed with her application for a non-molestation order, which was brief. I note the mother also submitted a number of other statements in support of breach of the non-molestation order and as part of the police investigation and they are consistent with her other evidence.
22. Some of the mother's allegations are expanded upon or made following her understanding of her experiences developing, for example being gaslit or made to feel guilty for being abused. Each of the other allegations that are suggested to have been raised by the mother are in direct response to events as they unfold during the life of the proceedings - issuing of county court proceedings, the incident on 7 December 2023 at The County Court, Father's counsels' submission the mother perceived an attack owing to her PTSD, the applications for non-molestation orders, the tracing of the caravan and A's school, raising the mother's childhood sexual trauma and seeking to cross examine her on her past sexual history.
23. I note the mother did not comply with the initial directions to file a witness statement. Her legal team explained that she was triggered by her experiences and unable to give her statement to them. There is reference to the mother being diagnosed with PTSD

and experiencing extreme anxiety. This is more likely than not to have played a part in her inability to recount matters.

24. Overall, I am satisfied that the mother has not been dishonest or fabricated allegations in response to the father supposedly disproving others.
25. I did not consider that the mother was an inherently dishonest witness. At times I have no doubt that she genuinely recalled matters, however, at other times it is more likely than not her memory has changed and therefore differs from the statements she made at the time.

Father

26. The father gave evidence for a significantly longer period than estimated on the witness template. A significant part of that was the narrative answers he sought to give, which often deviated from the topic he was asked about. During cross examination itself, the father attempted to control the narrative and redirect Ms Chhina to evidence. On the majority of occasions, it was a difference in a minor point but he made it appear as though it was critical and undermined the evidence of the mother or proved him right. This included undermining her parenting which was not a matter being decided at this hearing.
27. Throughout his evidence he was suspicious and often commented 'I see where you are going' followed by an explanation as to why Ms Chhina was wrong in her question or premise.
28. A feature of the father's evidence was not just controlling the narrative but attempting to control the questions as well. He often commented, 'I have answered that', 'move on', 'next question'.
29. He would decline to comment at times and relied on his right not to answer. This was an extension of his overall approach to evidence. Within his witness statements he denied the mother's allegations but did not provide the evidence he relied on. The father stated he held it back until the last possible moment to prevent the mother changing her versions of events. I note that he gave explanations and corrected other misinterpretations but often failed to give his own account of what happened.
30. When he sought to rely on material now, he was aggrieved he could not do so and relied on a judge's comments that this would be the time for him to produce his evidence. It is vanishingly improbable that any judge would have said not to produce evidence until the hearing itself. It is possible the father misinterpreted what was said to him. Even so, the father has had the benefit of legal advice and stated he relied on that advice in not producing evidence. I am therefore in no doubt that the father intended to withhold the evidence and as he stated, only reveal it when it suited him.
31. This appears to have led to a loss of the evidence that he sought to rely on. He claims that the laptop seized by the police had a full download of all his messages with the mother and would disprove many of her allegations. What was not explained was why it did not remain on the smart phone itself or in the cloud.

32. The father often pointed out the messages were incomplete and did not prove the mother's allegations. However, he often relied on the absence of serious incidents being mentioned as proof nothing serious happened. His approach was therefore contradictory and intended to be used for his advantage.
33. In his oral evidence he continued to avoid the question he was asked and produce any real explanations. Instead, he laid blame on the mother for the situation.
34. I have no doubt the father found giving evidence difficult and intrusive. He also struggled with numbers and getting to a page. I made an adjustment that reference to pages be kept to a minimum and he be allowed to get to the page before a question was asked. Following which, the father demanded to be taken to the page because he needed to see it in context. He stated that his memory works on the basis of an event. If something happened that he linked to then he would be able to recall, if nothing happened it would not stick out. However, I note that the father frequently answered spontaneously, without being referred to a document and was well able to reference the evidence within the bundle without reviewing it. I am satisfied that the father wanted to be taken to documents so that he would be clear in his own mind what he was saying about something and that it was consistent with what he had said before.
35. The overall approach of the father was to attempt to control evidence. I am also satisfied he was, at times, dishonest in his evidence. There are various accounts given to the police, submitted in the civil proceedings and in these proceedings that contradict or completely omit facts that he now relies on. I did not find the father to be a reliable witness of fact.

The Findings

The Relationship

36. The mother stated in the very early part of their relationship the father would place a pillow over her face and punch the pillow when he was angry. That this stopped shortly after because she fell pregnant. This allegation is made briefly in a police statement dated 16 June 2023. The mother was able to give detail in her oral evidence, that it was one or two punches, she could feel it and it hurt. The father denies the allegation. While I note this is not mentioned in other statements given prior to June 2023, it is not unusual for traumatic events to be recalled later and at least one of those statements was made to support a without notice non-molestation order and would not necessarily contain every allegation. Given my assessment of the witnesses and the findings that I make later, I am satisfied it is more likely than not that the father did place the pillow over the mother's face and punch it.
37. The mother was pregnant with D in late 2013, within a short time of the parents beginning their relationship. It is around this time that the father accepts he had an affair with one of the mother's close friends, Ms W. It is of little significance whether I accept the mother's version that she was pregnant with D or the father's that this was just after D was born. That affair was relatively at the beginning of their relationship and D was to be their responsibility.

38. D was born prematurely and has cerebral palsy and brain damage. He has also been diagnosed with epilepsy, hypoglycaemia and ADHD. D has had and, is likely to have in the future, numerous hospital attendances and stays, sometimes at short notice.
39. The father sought to rely on his inability to help his son as the reason he strayed from the relationship. The father later relied on a high sex drive and permission from the mother as to why he has intimate encounters with other women. I am satisfied for the reasons I come to later that the father had an affair because he considers it necessary to satisfy his sexual desires. The mother was at this time pregnant or had just given birth and from her evidence, I am satisfied that she was unable to meet his demands for sex. The father therefore sought to fulfil those desires elsewhere.
40. The mother said she was suspicious and challenged the father. He denied it and claimed that it was in her head. The father denies this throughout but accepts that he would lie about the affairs. That is not unusual. However, the father's later reliance on the mother not wanting to know about it cannot be true at this early part of their relationship as there was no permission from the mother to the father to seek physical intimacy elsewhere.
41. The mother discovered the affair just after D was born. The father alleges that when the mother found out she came into the room where he was sleeping and kicked the bed to wake him. The father alleges the mother was agitated and angry so he declined to resolve things while she was. He got dressed to leave and as he exited the flat, he alleges the mother punched him in the back. The mother denies this allegation. I note it is a single allegation, no other allegations of physical violence are made by the father and it took place 10 years ago. There is no suggestion by the father that this continued at other times or it formed part of a picture of abuse of him within the relationship. I find it is more likely than not the mother was not simply placid upon discovery of the affair but that it is unlikely that resulted in physical assault of the father. Even if I were wrong about that, this single act would not have any real impact on the future welfare evaluation this court must undertake given it was an isolated incident, around 10 years ago.
42. Prior to discovery of the affair, Ms W continued to visit the flat. The father stated he wanted this to continue as it would be more suspicious, it was an opportunity for him to spend time with Ms W and they could do that without being affectionate. I contemplate whether the purpose of this affair may have been more than physical. If it were, it would explain the desire to spend platonic time together. However, given the father's own explanations taken together, I find it is more likely than not this was to serve his physical needs and the explanation of spending time together was a lie.
43. There is no dispute the mother's friends stopped socialising with her. The father claims this is because he ended the affair with Ms W. The mother states the father argued with her about them being at the house. This is supported by messages from the father at other times seeking to spend time with the mother and for her to see them during the day when he was not there. It was also confirmed by the father during his oral evidence. People lead varied lives and there is no evidence that the friends could or could not visit at other times. However, the father's view overrode those considerations in any event. In the text messages to the mother, the father was abusive and derogatory about the mother's friends and I have no doubt he was throughout. In February 2014, those messages include calling the friends '*cutning wanking biatches*',

being oppositional when the mother arranged for a friend to visit without asking and perceptions that the mother leaves him out of plans. There are a number of examples of similar conversations and comments by the father in messages spanning later years until the end of the relationship.

44. I have no doubt that the father had his own vision about home life, that was interfered with and whether there were arguments or discussions, it eroded the mother's wish for her friends to be there as it did not please the father. The mother therefore saw them less and less and when the affair was discovered, and later, not at all. She became isolated as those relationships ended.

Verbal Abuse

45. The father accepts he called the mother a 'cunt' and 'lazy tramp', as well as other derogatory names and was derisive about her frequently; that it was not acceptable but stated it was only after a prolonged period of the mother's inaction in cleaning and tidying the family home; he returning from work and having to do it himself while the mother went out and left him to look after the children. I have no doubt that family life can be varied and people hold different ideals about what they want. The father is also right that people say things they don't mean. He often apologises, that is within the messages but I do not consider that the apologies were for his language. The apologies were directly connected to an event. I am satisfied the father's use of these words and many others that are evident in the messages between them are abusive. There is no justification for their use.
46. In oral evidence the father accepted on one occasion it was about the missing items to wash clothes with. When clarified, there was only 1 item missing. Yet the verbal abuse was significant, the father took particular exception that the clothes had not been washed and they could not be washed, that his standards or expectations had not been met. This event occurred in November 2017 and similar behaviour continues within the messages until the end of the relationship. I can therefore be satisfied it started at least in 2017 and continued for 5 years, more than half of the relationship, until it ended.
47. However, I am also satisfied that it began before that time. SJ was present at the beginning of the parents' relationship and noted that the father called the mother names. She confirmed in her written statement about the father calling the mother names and asking at least D to repeat it when he was first learning to talk. A was a baby and not included. HS, a neighbour of the family witnessed the father call D a 'little bastard' and the mother a 'fucking bitch'. The event stuck in her mind because of its nature and that the father was lighting a fire in the front garden. The father accepted he was lighting a fire but denied the words used. HS is not a direct neighbour and does not know either of the parents. I considered that she was an honest witness and her recollection of the event was good because it was unusual. While SJ is not an independent witness, I am satisfied she was honest about what she saw and heard. I find it more likely than not the father did use these words about D and the mother.
48. I can therefore be satisfied that the father was using such language towards the mother, more likely than not, throughout their relationship.

November 2020

49. The father alleges that the mother threatened to leave the relationship if he did not comply with her demands. The message on 16 November at E121 confirms the mother raised whether they should stay together. The father responds with abuse but apparent acceptance that they will separate and threatens to tell the children it is the mother's fault. The conversation reveals the father was sending messages to another woman, the mother discovered this from looking at the father's phone and states she did not want to separate. The father twists the narrative and states he only talked to the woman to trap the mother. The father accepts changing the pin to his phone and the mother pointing out to him that he had done it. The mother accusing him that it was because he had something to hide. The mother also states she can't take the thought of him sleeping with another woman and then her so can't stay with him. Numerous messages go back and forth, the father refusing to reveal the pin to his phone and being abusive to the mother. The mother being stoic and accepting that is the case but that the relationship is over. However, the father relents, stating he will show the mother his phone. The mother stating she does not want to see it, the totality of her messages demonstrating only wanting to know why she could not see it. I note the totality of the messages demonstrate the mother was suspicious because of a change in the father's behaviour about his phone. Behaviour that mirrored a time when she previously discovered he was unfaithful.
50. I do not find the mother exerted any control or pressure on the father that she would leave the relationship if he did not give her access to his phone. That interpretation is applied by the father. I am satisfied the mother was suspicious of the father having an affair and discovered that she was unable to access his phone, challenged him about it and was accepting that it meant the end of their relationship. The father did not want the relationship to end and sought for it to continue, his protestations that it was over and that was ok were interspersed with messages designed to make the mother relent. The relationship did continue thereafter.

21 February 2021

51. In his first statement, the father states he was the one who decided to leave the relationship. The mother claims she was the one trying to leave the relationship. While the text messages between them are far from complete, the conversations at E326 onwards, demonstrate the father was not trying to leave the relationship. His messages consistently ask the mother if she is able to try and that he doesn't want the relationship to be over. The messages also highlight that the mother seeks to have some time to consider what she wants. However, a day and a half later the father is seeking sex and nude photos. The mother declines and asks for space but the father does not relent and those requests continue over the next 3 days.
52. The messages also demonstrate the father challenged the mother about her having an affair. Despite claiming the mother admitted this to him, there is no direct message or conversation of the same in other messages. The father went to the extent of accusing the mother of not being at her friends', SJ, home where she had gone. He controlled the time that the mother could leave to go and return. This is clear within the text messages as he did not want her to return late. The father relied on he and the mother

having made plans and then she would break them. Those plans were for sexual interactions.

53. The mother did return from her friends late and the father was angry because those plans had been broken. It is further evidence that he seeks to fulfil a vision of his home life and sexual desires that results in his use of abusive language and causes his anger. The father accused the mother of being seen with someone and that she was lying. However, there was no evidence of the same. There is then a dispute as to whether the mother performed oral sex on the father. I do not need to resolve that and the absence of it being mentioned by the mother does not mean she is lying about subsequently being strangled.
54. It is following her return from SJ's' the mother alleges the father continued accusing her of being unfaithful and became increasingly angry and aggressive. This resulted in him kneeling over her while she was on the bed and strangling her, she recalled not being able to breathe. The father denies this. The text messages between the parents demonstrate something occurred between 8.49am and 11.09am. At 8.49am they are discussing sexual interaction, at 11.09am the father is apologising and telling the mother I love you. He did not recall what he was apologising for. However, it is of such significance that the relationship is ending. The father states he is unable to cope with that. The mother appears to placate the father and agreeing to talk about it later, but ultimately her messages convey that the relationship is at an end. I am satisfied that an event occurred and that event was the father accusing the mother of being unfaithful as he had done while she was at her friend's home. The father not receiving a satisfactory answer lost his temper and placed his hands around the mother's neck as she lay on the bed and strangled her.
55. The father accepts in his statement that he engaged in a physical relationship with a work colleague during a period of the covid restrictions. He stated that he and the mother were already separating by this stage and he was sleeping in the caravan when the mother discovered this affair.
56. I find it is more likely than not the father having affairs sowed doubts in his own mind about the mother's behaviours and he challenged her thereby transposing his actions on to her, most likely to avoid discovery of the affair. That affair was discovered because the mother received messages from the partner of the woman the father was having the affair with.
57. The father accepts having a conversation with A to say that he would be leaving and when asked why, he stated that mummy didn't love him anymore. The mother alleges that he asked A where she wanted to live. The father denies this. Given my findings that he did not intend to leave the relationship and struggled to come to terms with it, I am satisfied that a conversation with A took place. Whether it was the mother's or father's version of what was said to A; it involved her in the adult conversation and amounted to emotional manipulation. The father did not value the mother as a co-parent. This is evident from the other behaviours towards her but also the consistent accusations about the mother's parenting. Accusations that are unproven and not necessarily entirely attributable to her conduct alone.

December 2021/January 2022

28 December 2021

58. The mother gave an initial statement to the police on 2 January 2022 stating the father had accused her of having an affair. He did not believe her denials and stated he had contracted chlamydia and it had to be because she cheated on him and gave it to him. The father left the house and allegedly stated he would kill himself. He returned soon after to collect money, went upstairs and when he returned, he had a knife. The father pointed the knife at the mother and threatened to kill them both if the mother did not tell him the truth. The mother was scared and said she had cheated to calm the father down. She was able to remove the knife from him and place it in the drinks holder in the sofa. The father then swung his right arm and slapped the mother on the left cheek with an open hand causing her to fall on to the sofa. The father approached her, said he was sorry and hugged her but that *"now you are going to come upstairs and watch me kill myself"*. The father then took the mother upstairs, she sat on the bed and the father unlocked the gun cabinet, took out a gun and the mother took hold of the barrel and pointed it away. The conversation continued and eventually she was able to calm the father down. This included the father ordering an STI test for the mother to take.
59. The mother's subsequent statement in these proceedings in February 2023 is largely consistent with her police statement. The father points to various inconsistencies in the mother's statements to the police, in support of her non-molestation order application, these proceedings and her oral evidence. I note the findings that I have already made about the nature of the relationship and that the mother's ability to exercise her own mind had been diminished. The mother accepted there were some differences in her evidence and that was because of the intense fear and stress she felt at the time. I have no doubt that the mind can believe something that bears no resemblance to actual events. The discrepancies are more likely the product of the mind and a rehearsed lie would be unlikely to change. I am satisfied that the differences in the mother's recollection do not undermine her evidence. Overall, the statements made close to the time and those now provide the same accounts.
60. The father denies this occurred at all and that the mother had his knife because she had told him she was raped. That information only comes about after this allegation so the latter cannot be true.
61. There are records of the text messages that are exchanged between them at this time compiled by the police. They demonstrate that some messages appear on both parents' phones and some messages are only on one of them. The father suggested this was because the mother was trying to hide things and she deleted messages to do that. I note that some of those messages sent by her that are not on her phone include 'I'm sorry I can't make you believe me', 'I love you' 'not implying you are going to do anything'. Other messages that do not appear on the mother's phone include abuse sent to her by the father, including 'its shit you smell bad isit'. I am satisfied the mother did not delete messages to manipulate the narrative. There are messages that both parents have deleted, the reasons for that cannot readily be explained as the deleted messages range in their content.
62. The totality of the messages on 28 December do establish that the father threatened to kill himself, left the property, sought to return and the mother was afraid of what he might do to himself. These messages also record the mother knows the father has a knife. In oral evidence the father again suggested the mother had it, he gave it to her

because she had been raped. However, that was not known until 30th December. This occurred prior to 9pm and the allegations the mother makes about the knife and gun. There are no messages included by the police after 20.27hrs.

63. My assessment is the mother's evidence is largely consistent. There are undoubtedly things that she would not recall and that it is more likely than not the things she did say were to placate the father. The absence of injuries or otherwise in the knife or gun being removed from the father is not indicative of her lying. Her version of events is that she removed them not that a struggle took place. The father's evidence has been simple denial and little to no explanation provided because he attempts to control the narrative and deflect back on the mother. I am satisfied he is not honest about events during this period.
64. I am satisfied the father had threatened to hurt himself and had a knife. He did so to obtain what he considered to be the truth from the mother. The mother was worried about the father harming himself. When he returned home, the father pursued what he considered to be the truth, he threatened to kill the mother with the knife if she was not honest. When he got the answer he wanted, he slapped her and threatened to kill her instead with a gun. The mother recanted that she had been seeing someone else. Both agreed to order and wait for the results of an STI test.

30 December 2021 - Rape

65. Messages between the parents demonstrate the argument from the 28th continuing. The father being abusive in the messages. There is then a gap in the messages between 18:52 and 22:17. The messages after the latter time is the father asking the mother to confirm what happened and the mother confirming it is. These messages refer to the mother telling the father she has been raped as a potential explanation for contracting an STI. The mother accepts she lied about being raped to placate the father because he threatened to kill them both and leave their bodies for the children to find. The mother alleges that at this point the father anally penetrated her by force. The father denies the allegation and alleges the mother has lied and fabricated it.
66. The mother's initial report to the police is on 2 January 2022, she gives a statement the same day and is interviewed on 28 February 2022. Each of those accounts is consistent with each other and her statements in these proceedings. The mother describes in detail the father accusing her of giving him chlamydia and her lying about being raped before he forcibly raped her anally, including getting a condom and putting it on, how she tried to turn over and said 'don't' before accepting she could not resist. The mother is also open that they had consensual vaginal intercourse the following day. I accept her explanation given my later findings that this was to prevent any displeasure in the father given what she had been subjected to the day before and in the past.
67. The mother alleges D heard something occurring between the parents and asked her about it. The message sent by the father stating he could not return because of what D had said related to this. The father disputed this. I am satisfied D was exposed to the abuse in his parents' relationship. The father's explanation that he could not return because D had said he wanted to live with the father is not plausible. The father alleged D was at risk of harm in his mother's care because of a lack of supervision and

therefore he would want to return. D wanting to live with the father would not be a reason to stay away.

68. The messages thereafter demonstrate the father feeling a failure for not protecting the mother and being supportive. However, there remains an underlying suspicion on the father's part of whether it is true. He also does not pressure the mother to report it as it would be unlikely to lead to anything. That also is contradictory to his submission as to why the mother did not report an allegation of rape against him until later. I note that the delay in reporting by the mother is a matter of days. I take into account that there are many reasons for not reporting matters of this nature. The mother reveals to the father on the same day she was subject to childhood sexual abuse. I am not asked to determine the truth of that. However, that is one explanation, shame is another, the dependency or reactions of the father are further. I do not need to speculate, the mother herself gave these as reasons for not reporting earlier.
69. There is a gap in the documentary evidence because the parents do not send each other messages for a number of hours while they are arguing face to face. The mother has provided a consistent account of what happens in this time. Within the messages she rarely is able to challenge the father about his actions and the absence of any mention of rape in the messages is therefore not unusual. The father has provided little explanation save that the mother was lying. His controlling behaviour is evident within the narrative that both parties have set out. In particular in relation to an STI. The father informed the mother he had taken a test and been treated for Chlamydia. However, in oral evidence he accepted he had not taken a test and had obtained antibiotics online. Therefore, his assertions to the mother were a lie and intended to manipulate by presenting the existence of an STI as a verified fact. When asked by me why he did not take a test himself, the father stated he could just take the antibiotics and they were easy to get online. The mother did take a test and it was negative. The father stated this was later and probably after she was treated. I am satisfied that the father either contracted an STI from someone other than the mother or his own paranoia of it led to his belief that he had contracted an STI. That was then attributed to the mother and used to manipulate her behaviour and caused her to be inferior.
70. I am satisfied that it is more likely than not the father forced himself on the mother when he did not get the response that he was expecting and did anally rape her. D heard something and was exposed to his mother being harmed by his father and therefore was harmed himself.

2 January 2022

71. In the days following the mother and children stayed with the maternal grandparents. The mother intended not to return to the father or the family home. I accepted her evidence that the dependency upon the father as a result of her own low self worth, lack of independent financial means and control over her that she felt compelled to return. However, the father's behaviour did not abate and the mother changed her mind quickly. The father stated the mother would not have returned at all if any of her allegations were true. However, given the findings I have made about the nature of their relationship I reject that notion.

72. The father's overall approach to the mother's allegations is contradictory, at times he believes she has been raped and others he states she was lying, both at the time and in evidence. He continued to question her about having an STI on 2 January. The mother left home without the children on 2 January after fearing what might happen and called the police. The mother stated she was going to the allotment to feed the chickens. Upon her arrival she called the police. The father sent several messages that the mother did not respond to and he finally stated that he would leave the children to come find her in light of her having been raped at the allotments recently. The police met the mother and attended the home address to intercept the father. Upon arrival the police found the father getting in his car and he lied about who he was when asked. In his statement he states he was just pulling the car around to get the children in. However, the layout of where the car was and the age of the children suggests there was no reason to move the car to get the children into it. If he was that concerned about the mother's safety, it would be more likely that he would seek to save time and take the children out of the house for a single trip to the car.
73. The relationship comes to end following the father's arrest on 2 January 2022.

Physical Abuse

74. There are a limited number of occasions on which I have found that physical abuse has taken place.
75. There is evidence that D has been exposed to domestic abuse within his parents' relationship. The letter from D's school, dated December 2023, records him dominating friendships and exerting control, being violent to his mother while she was driving and him saying he hurt her because she deserved it and working with a learning mentor telling them that when he doesn't agree with things at home he is mean and says horrible things, he hurts people when he is angry and it makes him sad.
76. D has undertaken play therapy between January and April 2024. D's play with puppets in session two included 'screaming at the top of his voice to each puppet in turn "FUCK YOU", role playing mummy and daddy puppets - 'dominated by hitting, biting and hair pulling of the mummy puppet and the daddy puppet saying, "shall we get it on" without reply from the mummy puppet - he began to be sexualised towards the mummy puppet'. In session three there was evidence of commanding the therapist in the play. Puppets reappeared in session 7 and D commanded the female puppet to kiss his puppet, this increased to sexualised behaviours. Session eight involved puppets and I quote the therapy report - "gave me the "mummy puppet", he took the "daddy puppet". "I want some cheerio's for breakfast." (placing my hand across my mouth so my puppet couldn't hear !!!I asked quietly "What shall I say?". He whispered back say "We haven't got any". Which I did. He responded by saying "Right, you fucking whore, I'm going to divorce you". (Again, in a whisper, so puppet couldn't hear). "What shall I say?" He replied in the same way, say "Fine, I don't want you living here anymore, you can leave." Out of context he then turned the light off in the room and said "Are you going to pay your bill.....I've got £45 in my jar you can use?"
77. I have taken into account that D has neurodevelopmental needs and that may have a varied effect on his presentation in different circumstances. It can include sexualised

behaviours and a lack of awareness of danger. However, D is nearly 10 years old for most of these sessions and it is unusual for him to develop the level of knowledge he demonstrates in sexualised behaviours that he uses in his play. The level of aggression and specificity and particularity of the behaviours he uses in his play are also unusual. So much so that I am satisfied the only means by which he could have come by them is by being exposed to them directly or having overheard them.

78. The father stated that D has learnt to swear from his mother and that he has not been there for D to learn these things. He sought to reframe it as coming from their gaming and online interactions with friends, that he didn't like the way they were being brought up. There is no evidence to suggest that the children are exposed to inappropriate behaviours by the mother or online. There is nothing to demonstrate that D has himself behaved the way that he demonstrated in his play between the mummy and daddy puppets. I am therefore satisfied that it is more likely than not his playing out these interactions comes from his own experiences of them between his parents not what he may have been exposed to since.
79. I am therefore satisfied that D has been exposed to domestic abuse from his father to his mother.

Sexual Relationship

80. Aside from the allegations the mother makes there is nothing illegal suggested in the sexual desires or conversations between these adults. I do not pass judgement on the activities or proclivities of either party. The sexual interactions the father wanted were different to the ones the mother was willing to engage in. She did engage in them at times because she was fearful of the reaction of the father or his persistence eroded her resistance. At other times she was firmer. The father denied that he was persistent or angry - he stated if the mother did not want to do it then it did not happen.
81. It is not disputed the father wanted more sex and, in his words, more 'adventurous and not the boring sex'. The mother did not, but made plans and discussed the father's wants, sometimes agreeing and engaging in them. The text messages between them demonstrate a persistence on the part of the father. He is never directly forceful but there are a number of conversations where despite the mother attempting to place boundaries, the father persists in his wishes. The father goes further and states at times that if the mother does not want to engage in it then he will have to seek it elsewhere. On other occasions he becomes angry when their plans change or his expectations are not met. The father is derisory about the mother's hygiene or appearance or abusively calls the mother names. In April 2018 the father states that he is not staying. However, that message quickly becomes emotionally manipulative. The father states '*unless you are going to let me screw other people it's pointless your not into sex and I need it to stay calm... I promised you I would cheat again and I haven't but I'm not getting enough so I have no choice unless I break my promise.*' The messages are incomplete so it is impossible to say what the mother's response was but the relationship continues and it is more likely than not that manipulation resulted in the mother's acquiescence for fear of those consequences.
82. I am satisfied it is more likely than not the mother's ability to say no to the father's sexual demands was eroded by the consistent reactions of the father that were either

emotionally manipulative or abusive, calling her a cunt and demeaning her for her appearance or self care. The other response the mother gave at times was that the father should sleep with someone else to fulfil those desires. There is more than one text exchange that confirms the mother having said this. Again, I am satisfied that is a direct result of the father's persistence or his reactions, coupled with the emotional dependence on the father by her, that the mother acquiesced. That behaviour is emotionally manipulative and coercive. Throughout these interactions I remind myself that this pattern of behaviour has persisted for a number of years.

Affairs

83. The father would say that the mother did not wish to know about the sexual interactions he was having. However, one of the text exchanges where father asks the mother if he can get a blowie before coming home - meaning if he could meet another woman for oral sex - demonstrates the mother did know and the father was open. The affairs the mother referred to in her evidence were clearly those times when the father more likely than not, had not been given 'permission' by the mother, hence the need to hide them.
84. Having hid them and lied about them, which I do not consider unusual, the mother claims the father was gaslighting her into believing the same was all in her head and not true. I remind myself that gaslighting is about manipulation such that a person's perceptions, memory or sanity are doubted by them. While the father undoubtedly was emotionally manipulative, I do not find that he was attempting to alter the mother's perception of reality or her own sanity in denying the affairs, however he phrased it. The purpose in hiding the affairs and lying was to ensure they were not revealed.
85. The father not only denied affairs but he accused the mother of having affairs and placed standards on her that were not applicable to him. When the father accused the mother, he did not even wish for there to be anyone she was talking to or there was no point in trying. However, there were few times when there was not another woman that he was talking to or having a sexual relationship with. That ideal did not apply to him.

Financial control

86. The father denies financial control. He accepts having the mother's account logged on his device but because the mother asked him to. The mother states this was the father exerting control and preventing her having access to independent funds.
87. Like most couples, each parent has taken on responsibilities for certain aspects of their lives. The father appears to be responsible for the family finances. However, that would be a superficial view. When examined more closely the messages between the parents reveal a pattern. The mother consistently informs the father of the money she is spending to the penny. The father himself seeks that information by asking 'Exactly' when the mother states shopping is £60 at page C301. At times the father confirms there is enough money in the account. At other times the mother not only gives the amount but then updates it by £1.01 because she forgot to add juice to the total. The father often confirms which account the mother is to use. The mother's bank

statements demonstrate the father transferred sums to his accounts. He produces statements of his own to demonstrate transfer of sums to the mother's account but these are not complete and only show those transactions, not others or the balance that is in the account.

88. Both parents accept that during D's hospital stays the father wanted the mother to eat at home to save money. The mother goes further to state it was because she was not allowed to spend money but that the father had no such restrictions over himself.
89. There are several messages that taken in isolation might simply be conversation between them about whether to buy something or the mother asking if there is enough money. However, taken together and noting that on occasion the mother phrases the question 'can I...' it is clear she is seeking permission. The behaviour of the father in confirming, seeking exact amounts and which card or account to use confirms that is necessary. The level of that control over finances is laid bare when the mother asks if she should use the £10 that is in her purse and the father asks where that came from on page C303.
90. I also note that the father's civil claim identifies that he spent, in comparison to the family finances described as quite tight, substantial sums on his hobbies of fishing and breeding reptiles. There is absolutely no mention or discussion of this within any of the messages as to whether it was agreed that he would spend these sums. It demonstrates that there was no restriction on him in spending money.
91. From the totality of the evidence, I am satisfied that the father had control of the accounts and the income. The mother was not working and had no access to independent income save for benefits which were transferred from her account to the father's. The mother had to account for her spending and that made her reliant on the father.
92. Following the parent's separation the mother states she has been left with significant debts of the fathers. The mother informed the father of the debts in an email dated 20 May 2022 at C50 of the bundle. The father in oral evidence confirmed he did not respond to the debt part of the email. The mother has had to enter into an IVA in November 2022 that includes a £3000 debt for electricity. The bills were not known to the mother and the father was in control. I am satisfied that the father was in control of the family finances. I do not accept the father's explanations that the debts are nothing to do with him. He was clearly aware of the debt owed to the DWP was an overpayment of tax credit but the mother was not. Despite knowing of it and in oral evidence stating it was to be paid half each, there is no evidence that he has paid half. Likewise, the electric bill he claims is only to be paid for by the mother. Yet the paternal aunt was told that the electric bill was racking up in connection with collecting the father's snakes. In the statement filed as a counter claim in the civil matter, the father states he was paying the rent and the mother was to pay the other utility bills. The father did not raise the same in these proceedings. The financial evidence submitted in the civil claim is far more than has been submitted substantively in the children act proceedings. The father claimed he was not aware of what the debts were but at least one letter from the same company listed in the mother's IVA - Lowell Financial Limited - is submitted by him in his civil claim and relates to a debt to BT Plc. He relies on mother having taken action to write off a separate debt to Utility Warehouse but the email he produces does not state who made

that enquiry or any details of the debt. It would also be concerning if the father was in possession of the mother's emails in any event.

93. I am satisfied that the mother was not in control of the finances and not in a position to control what was paid and not paid. The father was responsible and since their separation it has come to light that there are debts in the mother's name which has adversely impacted her and the children. I am satisfied that those debts are more likely than not attributable to the father.

Mother disposing of father's assets

94. It is accepted between the parties that the father has sought the return of certain belongings. Some of these have been returned to the father. However, he continues to seek fishing gear, compensation of his reptiles and a caravan.
95. Both the paternal aunt and paternal grandmother attended the family home to collect the father's belongings on 8 February 2022. in oral evidence both confirmed they were not asked by the father to collect specific items and no list was provided to them. The paternal grandmother stated there were things they knew belonged to him to collect. The paternal aunt stated she arranged specific items to collect with the maternal grandfather.
96. It is clear from the email chains that have been produced there were many back and forth conversations about the belongings. The people collecting belongings had not been given a list and the items they were permitted to access had been placed in a garage. I am not satisfied that the father was deprived by the mother of his belongings in the circumstances.
97. A part of the dispute relates to a second garage that was rented by the father and contained other belongings. The mother stated, and the maternal grandfather confirmed, she was contacted by the council about arrears for the rent of the garage but told that if it was returned then the arrears would not be pursued. The father correctly stated in oral evidence that he should have been asked about the return of the garages. However, it is also right that he was responsible for their rent, they were in his name and he knew it was a matter to be dealt with by the council. The mother was clearly concerned about debt attributable to her and returned the keys. It is also clear this information was communicated to the paternal family and recorded in the paternal grandmother's statement. The father was therefore aware of the need to make arrangements and could have done so directly with the council. In oral evidence the father confirms he only went as far as seeking an explanation how the garage in his name was returned but does not recall if he ever asked about the contents. I find that telling - it was a significant source of dispute between him and the mother and rather than seek his belongings he chose to escalate conflict for them not being returned.
98. The paternal grandmother also confirms that her husband's ashes (the father's stepfather) were in that garage. There is no dispute that these have been returned. Those findings further reinforce the finding that the mother did not dispose of the father's property.
99. The items the father claims the mother disposed of or retained have been reported by him to the police as theft. This included the caravan after he discovered it had been

removed from the family home. This demonstrates that he continued to either observe the home himself or have someone else do it and report to him. The caravan was a disputed possession and subject to the civil court application. Reporting it served only to cause police to visit the mother and raise her anxiety. The police had already advised it was not a matter for them because ownership was disputed.

100. One of the father's principal allegations is the mother caused the death of the reptiles he was breeding. There is no dispute the RSPCA were called and removed 16 snakes. The mother produced the record from the RSPCA which includes the 'Inspector Updates' on 21 February 2022 – “16 snakes. All alive. No water and rubs are dirty but heat mats on. R[a pet shop]coming later to collect. Have snakes water in meantime...” this is only 19 days after the father has last been at the property. The father's civil proceedings statement makes clear it was not because of a lack of food or water but because the heat mats had been turned off that the snakes had to be put down. However, he produces no email chain nor report or bill for the same from R, a pet shop, where the snakes were recovered to and who supposedly provided him this explanation. The only evidence is a single text message from DM who supposedly works at R. The message confirms the snakes were very cold on arrival, several were euthanised due to severe RI and others were rehomed after 14 days with them. This is far from the circumstances that the father states he was informed of or relies on. The father also claims that there were far more reptiles than 16. The paternal aunt gave a list of them. It is unclear how she had this knowledge since no list was provided by the father of the things she was to collect. There is also no verifiable information that these reptiles were in existence at the time, that they died or the mother disposed of them.
101. Even in oral evidence the father has asserted that he would welcome the return of items. I do not consider that statement genuine. The items have been offered previously, which is what the father wanted. Once they were offered to be returned, he rejected them and sought reimbursement only. I am satisfied that demonstrates an intent to continue conflict and use proceedings to abuse the mother by ensuring they continue for as long as possible.

Father locating the mother through the caravan and A's school

102. Following the father's arrest the mother returned to the family home with her parents but by the end of January had left again and went to a refuge as she could not be alone in the property and the father had been released from police custody. A and the mother's eldest child's schools were changed to be closer to the refuge.
103. In May 2022, A's new school called the mother and informed her that the father had called the school and asked for information. The father accepts locating the school and calling them. He did not provide an explanation as to how this was achieved until his oral evidence. The father stated he called the School Admissions Authority at the local council and was informed of which school A attends. He had to prove he was her father before they would do so and paid for birth certificates to do so. The father did not find it concerning that an authority would provide these details, however, the court does. It is a significant concern that an authority has not questioned why a parent does not know where their child is going to school or raised any investigations

to check. In my assessment it is a significant safeguarding failure to allow information about a child to be provided in these circumstances.

104. I do not accept the father was trying to locate A or D. A number of family members were involved in retrieving his belongings, there were other lines of communication that would have been possible. It must have been clear to the father that the mother was not residing at the home address or that there was a change in school otherwise the enquiry would not have been necessary. The father did not ask anyone about the whereabouts of his children or for an update about them.
105. While I note the father did no more than locate A's school and did not make any attempt to locate the refuge, I am satisfied he made a concerted effort to ensure the mother knew he could find her. The father carried out these actions despite the allegations she had made, the police investigation and the bail conditions he was under. Having been notified by the school, the mother was afraid of the consequences and that the father had found her.
106. By July 2022 the father had made his application to this court. Through the early hearings it was made clear this court could not deal with the property dispute between them and that there would need to be an application to the county court. The father made such an application. The father sought the return of a caravan, the ownership of which is disputed and it forms part of the civil proceedings. The father was made aware it was no longer at the family home. He discovered where it was likely to be and called that caravan site on 9 August 2023 but denies withholding his number. The father produced his mobile phone record to show he did not dial 141 first. It is not the only way to withhold a number, it can be achieved via the settings in a mobile phone.
107. The mother claims the father made a call during supervised contact, while in the toilet, after the children confirmed to him they were going to the caravan after contact and someone followed them there. There is no evidence that this was the means by which the father located the caravan site save the mother's assertions. The father states he looked through the mother's social media for photos of the children, someone liked a photo where a previous family photo was taken and he called a caravan site in that area. The father's evidence was contradictory, on the one hand claiming the children knew the name of the caravan site but had not told him and then seemingly being able to select the correct one based on a photo taken in the area. He gave no explanation of attempting to call several to find the right one.
108. The evidence of the caravan site manager, UJ, was honest and compelling. Her written statement and oral evidence were consistent. UJ is an independent witness. The father called the site on 9 August from a withheld number. A conversation about retrieval of a caravan from site took place. The father asked if MK was at the site, he gave details of her having a caravan at the site and then changing it to another one and that they were going to court on Tuesday.
109. UJ described the mother's reaction upon being informed someone had called, in particular that she was shaking, crying and an absolute mess. The mother kept repeating 'he has found me again'. UJ was shocked and this reaction stuck in her mind. I am satisfied that she did not exaggerate the mother's reaction.

110. I am satisfied that the father called from a withheld number to the caravan park. Although the purpose of that is unclear as it would be evident who was calling. I reject that the father was attempting to locate a caravan. UJ's evidence was clear - the father stated the mother had a caravan and it had been changed. He was aware of significant details of the mother's life that he could not have obtained without investigation into her life. I am also satisfied that the father did not simply locate the caravan based on the photo, the children did not reveal the location as it is only mentioned by them at contact after 9 August but that the father more likely than not had someone follow the mother to locate the caravan site.

7 December 2023 - The County Court

111. A hearing was due at the county court on 7 December. The parents were in attendance, the mother supported by the maternal grandfather and the father supported by his siblings, the paternal aunt and uncle. There is no dispute the parties were to be separated; the mother and maternal grandfather occupied a room adjacent to the entrance. The paternal aunt and uncle entered the building and were passing security. The mother and maternal grandfather were outside the building at this point. The paternal aunt began shouting and pointing. The paternal uncle is said to have been the one shouting according to the paternal aunt. The father states he was upstairs, the maternal grandfather stated that could have been correct but at some point, he came downstairs. The father having heard his siblings accepts he did come downstairs and told them both to shut up and go upstairs.

112. The mother alleges there was an intention on the part of the father to intimidate or abuse her at court. However, it is clear this incident was instigated by the paternal aunt or uncle. Thereafter, the mother and maternal grandfather retreat to the room they were in. The father arrives, between them coming back into the building and re-entering the room, because he hears shouting. There are clearly significant tensions between the parties but no evidence that the father himself took action in the incident or instructed either of his siblings to do so. I am therefore not satisfied that this allegation is proved.

113. What I am satisfied of is the mother's reactions as described by the maternal grandfather. The mother was petrified and unable to compose herself. He had previously witnessed her panic on route to court but this was the worst he had seen her and had never seen her crumble like this. I am satisfied that description and the one given by UJ, taken together with a likely diagnosis of PTSD, is indicative of the mother's reactions when faced with anything to do with the father. It has impacted her ability to participate in proceedings without adjustments to support her and even limited her ability to give instructions and witness statements to her solicitors. I take into account there is no expert evidence as to the mother's diagnosis or cause of PTSD. However, I am satisfied it is more likely than not the mother's extreme anxiety reactions, which are similar to that of someone suffering from PTSD, are caused by her experiences within the relationship with the father. They occur in direct response to events concerning the father and not at other times.

Mother perceived an attack owing to her PTSD

114. At the ineffective fact finding hearing before HHJ Newport on 15 January 2024, Mr Tresman, counsel, submitted that the mother perceived an attack on her on 7 December 2023 owing to her PTSD. The mother alleges the father instructed counsel to do so in order to emotionally and psychologically abuse her. The father denies this. It is also recorded in the court order of 19 April that it is not the father's case that the respondent perceived an attack as a delusion induced by PTSD. I am not satisfied that there is sufficient evidence to substantiate the finding mother seeks. Father may have informed his counsel of his views, however, it is counsel's submissions and there is nothing to demonstrate that Mr Tresman did not select the words or in fact the particular way it was phrased.

Asos

115. The father accepts ordering something from Asos. The account he used had the family address listed in it. From the exhibits produced this occurs after a court hearing on 15-16 January 2024. The delivery was held at the Royal Mail delivery office, the father states because he discovered his mistake and tried to stop the parcel. A conversation with Asos is produced to support that which demonstrates it could not be stopped. The father instead contacted RoyalMail and asked it to be held and not delivered. What is unclear is how the mother's phone number appears on the delivery information. He previously claimed the only time he ordered from Asos was when he was in a relationship with the mother but not that he put her information on the delivery. This delivery was in his name. I am satisfied it is more likely than not the father ordered in his name but using the mother's address and phone number, for the parcel to be held at the sorting office to serve as a reminder that he was still around. It scared the mother such that she could not leave her home that day.

Mother preventing contact with the children.

116. There has been an order for supervised contact since the early part of these proceedings. Contact has taken place on a limited basis. It was suspended by the mother following the incident on 7 December 2023. The mother states she is fearful of the behaviours of the father and those that might be around from the paternal family, that she does not feel safe. The court gave directions about a third party transporting the children. There have been a number of enquiries around professional transport services but the only one that has provided a quote is beyond the means of the father.

117. The mother has agreed to supervised contact and it has taken place. The last contact occurring in November 2023. Since that time there have been a number of difficulties in the arrangements. While those are unfortunate, I do not find they are a result of the mother's intentions to frustrate contact between the children and the father. I am satisfied the mother is genuinely fearful but continues to see value in the children seeing their father and therefore suggested alternative transport options rather than her attending the contact centre.

Raising the mother's childhood sexual abuse and seeking to cross examine her on her past sexual history and using litigation to abuse the mother - County Court, NMO, lives with order

118. The father raised at a hearing on 19 April 2024 before HHJ Newport that he was considering cross examining the mother on her past sexual history. This stemmed from the mother telling him she was raped when it was untrue and revealing her own past childhood trauma. A direction was given for any such application to be made by 3 May 2024. At the hearing the father also raised his intention to seek an order that the children live with him for the first time.
119. On 10 May 2024, the father made the latter application formally by C2 and sought an extension of time to consider applying for permission to cross examine the mother on her sexual history. The father also raised new allegations in his statement of alienation of the children by the mother. These were adjudicated upon by HHJ Newport at a directions hearing on 21 May 2024. There was no securely founded evidence of alienation or implacable hostility from the children to the father within the contact centre notes and it was raised late in the proceedings. The father was not permitted to rely on those allegations. The application for further time to consider cross examination of mother on her past sexual history was denied and the previous direction stood preventing the same.
120. The application for a lives with order followed the court striking out the father's allegations relating to the mother's care of the children because they were not relevant to a spend time with application. The father denied this is why he made the application. He stated it was always an application he intended to make but was advised to do so at the right time. He relied on the fact that the mother would frustrate contact and alienate the children if they did not live with him. I am satisfied that this is another element of control by the father. He responds to events he perceives negatively to his position by attempting to force an outcome. It escalates those concerns and tries to make his allegations relevant again. That prolongs and widens the considerations which serves to be stressful and harmful to the mother.
121. The father acts without there being any evidential basis for rational conclusions. Seeking findings without submitting substantive evidence before this court; making allegations without evidence to found them on; and making applications without merit or that seek to prolong the proceedings. I have no doubt that the father has sought to use the proceedings themselves to abuse the mother by creating an impression that he will simply continue to apply for orders. The mother in her statements and oral evidence is fearful that these applications will be granted and that the father will be believed over her. It is indicative of the control and lack of autonomy the mother has from the relationship with the father.
122. There is further evidence of the father's manipulation in relation to the obtaining of legal aid in these proceedings. He accepts it is granted on the basis that he is a victim of domestic abuse and he has been abused. However, that is misleading. There is a dispute as to property and possessions, there is no physical or emotional abuse perpetrated via that dispute. While the father claims it, there is nothing to demonstrate the same. There is a suggestion that there is financial abuse but again save for a loss within the reptiles there is no indication of other loss. That is a matter for the civil court.
123. I accept that the father has suffered in his mental health and obtains support for that. There is no denying that he has had traumatic life experiences and is right to seek support. Until 7 December 2022 it does not extend to domestic abuse but as confirmed

by his GP letter, the father is referred to Men's Advice Line and Domestic Abuse Service for mental health support. This is a well known charity to this court and its purpose is to provide support to male victims of domestic abuse. It is also clear that by this stage the father had applied to the court for an order, Cafcass have undertaken safeguarding checks and there was a court hearing before District Judge Sprague. The mother had made allegations, the father was under investigation and despite that had not raised domestic abuse in the three prior appointments with his GP. The father includes physical abuse against him in his C1A dated 7 July 2022 but notably references the first incident in 2016 and not shortly after D was born in 2014, which is the only pleaded physical abuse allegation by father.

124. The father's claims he is emotionally abused by not seeing his children does not paint the whole picture. It does not include the father's admissions or the mother's allegations as against him. I am satisfied that the father was aware to obtain legal aid he would need to demonstrate he was a victim of domestic abuse, conveyed the notion of him being a victim to his GP for a referral and that manipulation granted legal aid in his favour.
125. I have already made a finding that the civil proceedings issued by father are being used to abuse the mother, both emotionally and financially.
126. The father's application for a non-molestation order was issued on 12 December 2023. he claims it was principally for the protection of his property as the mother declined to accept an undertaking about not damaging or selling the same. I note that the application filed goes much further than simply seeking protection for his property. The father sought protection from harassment, intimidation, posting/publishing about him, coming to/near his home or work and harassment/intimidation of the children.
127. On 29 January 2024, HHJ Newport dismissed the application. It is noted in the court order that the father stated in the chat box of the virtual hearing, he would apply again if it was dismissed. The following day, a further application was made by him. That application is identical to the first. That application came before me on 4 March 2024 and was dismissed as totally without merit. There had been no single change in the time it was filed nor in its contents and therefore there was no basis for such an order to be made.
128. I am in no doubt the father's application was not intended to protect his property but to ensure the mother felt the pressure of litigation. It caused the mother emotional distress to have to face the first application but then to be subject to a second in such relentless fashion was abusive.

Conclusion

129. Standing back and looking at the overall relationship, I am satisfied that the father was abusive to the mother through verbal abuse, demeaning and belittling her; physical intimidation, threats and assault, including strangulation and threats to kill her or himself or both; coercion through persistence for engagement in his sexual desires, threats to seek out others to fulfil his sexual desires; raping the mother; emotional manipulation, including threats to leave the relationship, criticising her friends and causing her to be isolated; restricting the mother's ability to have social

interaction when she would wish to; restricting the mother's ability to access finances independently or spend without permission.

130. The father continued to abuse the mother following their separation by claiming to be a victim of domestic abuse, making allegations of the same to the police and court; initiating and prolonging court proceedings; making a repeated application for a protective order without foundation; seeking to cross examine the mother on her sexual history but seeking to prolong the decision whether to apply; tracing the children's new school and caravan site they were visiting and making his presence known by contacting those establishments;
131. I am satisfied these behaviours form a pattern of acts that were coercive of the mother by threatening, humiliating and intimidating her in order to harm and punish the mother. I am further satisfied that these behaviours form a pattern of acts that were controlling of the mother, they deprived her of independence, an ability to resist and regulated her everyday behaviour. Those acts were intended to make the mother subordinate and she was isolated from sources of support.
132. The impact on the mother has been physical, psychological, financial and emotional.
133. The father used abusive language towards the children and they have been exposed to the behaviours perpetrated by the father, principally D as exhibited in the play therapy report. A has also been exposed to emotional harm from involvement in the adult conflict. Both have undoubtedly been impacted by the effect of the abuse on their mother as their principal carer.