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IN THE FAMILY COURT

Neutral citation: [2024] EWFC 75 (B)  
Re GB (Parental Alienation: Factual Findings)

28 March 2024

Before His Honour Judge Middleton-Roy

Between:

**A Mother**

Applicant

**- and -**

**A Father**

1<sup>st</sup> Respondent

**The Children 'G' and 'B'  
through their Rule 16.4 Guardian**

2<sup>nd</sup> and 3<sup>rd</sup>  
Respondents

*Dr Proudman*, Counsel for the Applicant instructed on a direct access basis

*Mr Hankinson*, Counsel for the First Respondent instructed on a licensed access basis through Dads Unlimited (a registered charity)

*Miss Suresh*, Counsel for the Second and Third Respondents, instructed by Reeds Solicitors

**APPROVED JUDGMENT**

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## **His Honour Judge Middleton-Roy:**

### Anonymity

1. In line with the Practice Guidance of the President of the Family Division issued in December 2018, the names of the children and the adult parties in this judgment have been anonymised, having regard to the implications for the children of placing personal details and information in the public domain. The anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of Court and may result in a sentence of imprisonment.

### The Parties, Applications and Background

2. The children with whom this Court is concerned are a girl, age 12 and a boy, age 9. I will refer to them in this judgment as ‘G’ and ‘B’ respectively, to protect each child’s identity. The children are parties to these proceedings through their Guardian, appointed under Family Procedure Rule 16.4.
3. The Applicant is their mother. The Respondent is their father. Presently, the children have no direct contact with their father, consistent with their expressed wish. The father asserts that the mother has negatively influenced the children against him. The mother asserts that she and the children have been the subject of a pattern of domestic abuse perpetrated by the father.
4. The relevant application before the Court is an application made by the mother on 20 January 2021 in which she seeks a Child Arrangements Order for the children to live with her. She seeks an Order defining contact arrangements between the children and their father. Supplemental to her application for a Child Arrangements Order, the mother filed with the Court in form C1A dated 20 January 2021, details of allegations of harm, asserting, variously, that during their relationship, the father was verbally and emotionally abusive to her, he was financially abusive, he isolated and controlled her and he would lose his temper with the children, verbally and emotionally abusing them. In her application, the mother sought special arrangements to be made when attending Court, including the provision of separate waiting rooms and a privacy screen in the Court room.
5. This judgment follows a hearing extended over six days to determine the parents’ dispute as to the facts. The position of the parties is binary. The father accuses the mother of alienating the children against him. He has been consistent and persistent in making those allegations. He further accuses the mother of making false allegations and lying to the Court. On the first day of this Fact Finding Hearing, the Court was informed that the father no longer pursued allegations of “parental alienation.” He proceeded, however, to assert persistently and with great vigour that the mother “negatively influenced” the children against him, “damaging the children”, “acting in an irresponsible way” and using the children, “as a pattern of abuse towards me.”
6. The allegations made by the father are denied in their entirety by the mother. The mother accuses the father of a pattern of extensive, insidious coercive controlling behaviour towards her and towards the children. The mother’s allegations are denied in their entirety by the father.
7. The proceedings have a lengthy history. The parents married in 2009. On 18 December 2020, the mother applied to the Family Court seeking protection in the form of a Non-Molestation Order under section 42 Family Law Act 1996. Further, the mother applied to the Court for an Occupation Order under section 33 Family Law Act 1996, seeking to regulate the occupation of the family home where the parties lived with the children. A Non-Molestation Order was made by District Judge Moses on 18 December 2020, without notice first being given to the Respondent.

8. At the return date, listed on notice to both parties, at which both parties were represented by Counsel (not current trial Counsel) the Respondent father contested the applications for a Non-Molestation Order and Occupation Order. The mother intimated that she intended to make an application for a Child Arrangements Order under the Children Act 1989. Deputy District Judge Staves, a part-time Judge, gave a series of directions, notably consolidating the Family Law Act and the pending Children Act applications and dispensing with the need for a First Hearing Dispute Resolution Appointment in the pending Children Act proceedings. Expert evidence was permitted in the consolidated proceedings, the Deputy District Judge giving directions on the basis of an application made by the Respondent father for an independent “psychiatrist or psychologist.” The father’s application recorded his, “grave concerns about [the mother’s] behaviour directed towards both him and the children.” The Deputy District Judge granted the application, notwithstanding the fact that the application did not comply with the requirements of Part 25 of the Family Procedure Rules. The Deputy District Judge did not have the benefit of any draft letter of instruction nor any details of the proposed expert. The field of expertise of the proposed expert was not resolved on the face of the Order, that Order referring only to generic ‘expert evidence’. Directions were then given with a view to a three-day Final Hearing to take place remotely by video. It is unfortunate that in making those Orders, the Court lost the opportunity to hold a First Hearing Dispute Resolution Appointment in the Children Act proceedings. Further, it is of concern that the Court lost control over the issue of expert evidence by the manner in which expert evidence was approved by the Court, without any oversight of the issues the expert was required to address necessary to resolve the proceedings justly and without oversight as to the field of expertise or identity of the expert. Although the Deputy District Judge directed properly that the Final Hearing be listed before a District Judge, in the event, the hearing was listed before a Recorder, another part-time Judge.
9. The combined effect of the Deputy District Judge’s decision to consolidate the Family Law Act and Children Act proceedings, to treat the Final Hearing in the Family Law Act proceedings as a Fact Finding Hearing in the Children Act application and the listing of the Final Hearing before another part-time Judge was that the requirements of Practice Direction 12J were then not met. Paragraph 20 of PD12J requires that, where the Court fixes a fact-finding hearing, it must at the same time fix a Dispute Resolution Appointment to follow. That did not happen. Further, PD12J requires that, subject to limited exception, the hearings should be arranged in such a way that they are conducted by the same Judge. Judicial continuity is expressly noted in PD12J to be important. Judicial continuity was not achieved.
10. The mother made her application to the Court under s8, Children Act 1989 on 20 January 2021 seeking a Child Arrangements Order. On 25 February 2021, the mother applied for divorce.
11. Following the Deputy District Judge’s directions, the parties obtained independent expert evidence in the form of a report from Dr Marta de Madariaga Lopez, Consultant Clinical Psychologist, by way of psychological assessment of both parents. Dr Lopez’s report is dated 14 April 2021.
12. On 4 May 2021, the ‘without notice’ Non-Molestation Order made on 18 December 2020 was discharged by District Judge Moses, compromised on the basis of the father giving undertakings to the Court. No finding of fact exercise took place to determine the mother’s allegations of domestic abuse. The Final Hearing remained listed to deal with the Occupation Order application.
13. Decree Nisi of divorce was granted on 6 July 2021.
14. On 21 and 22 July 2021, the Court heard the mother’s application for an Occupation Order. The Recorder delivered judgment on 5 August 2021, dismissing the mother’s application. The effect of that Order was that the mother, father and children continued to live in the same property together. The hearing before the Recorder was conducted by video. The mother attended that hearing as a litigant in person. The father was represented by Counsel. The Recorder’s reasons

are set out in a written 'note of judgment.' The Recorder's substantive findings in the Occupation Order application are summarised in my judgment beginning at paragraph 34.

15. Two welfare reports were then prepared by Cafcass in the Children Act proceedings, the first on 11 November 2021, following the findings made by the Recorder.
16. In January 2022, the Local Authority Multi Agency Safeguarding Hub ("MASH") prepared a report following concerns that the father was, "very rough and forceful with the children. He grabs, pushes and forces them in and out of rooms to get them to do what he wants...there were several occasions when ['B'] has been bruised by this...he calls ['G'] a witch and an actor...he started sticking notes around the house for the children...the children found them distressing so they tore them down...he wrote a poem for ['B'] that describes how terrible it is that mum lies and how he condemns her...he talks abusively to her in front of the children. He wants her to leave the house for his time with the children but she doesn't have anywhere to go so sometimes sits in the car for hours...[the mother] is clearly very distressed and trying hard to provide stability for her children. She fears that they are not safe with their father due to his physical and emotional abuse of them...[the mother] reported to police that [the father] is very controlling especially financially...she was also concerned as he'd set up some cameras in the house." The Local Authority was concerned about, "father being rough with the children and the alleged emotional abuse of the daughter are all worrying. What doesn't make the situation easier is the couple are still living together despite an acrimonious separation and a previous Non-Molestation Order." The Local Authority identified, "significant concerns for the safety and wellbeing of the children and mother."
17. On 14 February 2022, the father was arrested for an allegation made by the mother of assault. He was released by the police with no further action taken.
18. On 12 March 2022, the father was arrested following further allegations that he had assaulted both children. He was placed on police bail, later to be released, again, without further action taken.
19. In March 2022, the Local Authority completed a "Families First Triage" incorporating a child risk assessment. The document recites the mother's report to the police of the father, "consistently filming her on a GoPro which he attaches to his person" and that the father, "had repeatedly taken photos of her when she didn't want him to, during sex, throughout their marriage...that a majority of the sex that they had throughout their marriage, especially in the last couple of years was not consensual...during these instances many times she told him to stop, however he didn't...he consistently would 'take sex' without asking and if she ever told him to stop it would only make him more forceful and it would never stop him from doing it." The report describes in detail two specific incidents disclosed by the mother.
20. A further Local Authority MASH report was completed in March 2022. The risk rating was increased from 'Amber' to 'Red', which includes the following rationale for that risk increase: "Since the last checks in January of this year, a lot of information has come forward, regarding [the father]. [The father] is controlling not just of [the mother] but also the children...[the father] has shown coercive behaviour, but also it has come to light that a lot of non-consensual sex has also taken place between [the mother and the father] and she has been scared and allowed him to do this to her. It is also not normal to have cameras around the house recording and control others...[father] wears a body worn video camera around the house and will leave iPads recording when he is not present at the address. He will also tell his partner and his children that they are not aloud [sic] any contact with each other when it is his turn to see the children, if they are together in the house he will stand over them until they separate. He has also kept his daughter locked in her bedroom whilst she has been shouting at him to let her out." The Local Authority concluded that the children are at, "ongoing risk of significant harm."
21. A Local Authority Children and Family Assessment was completed in May 2022. 'G' reported being scared of her father and that she, "didn't want to talk to Dad again, saying that he will not

change and that he was asked to change before but he does not listen.” ‘B’ reported, “Dad shouting at me and bossing me around.” The assessment noted that the father, “categorically denies any part in harm of the children.” The assessment records that the father, “continues with his concerns about parental alienation by [the mother] and believes [‘G’] has deep loyalties to [the mother] which is making her dislike him.” The Local Authority concluded that the children should be made the subject of a Child in Need plan.

22. On 26 September 2022, the father applied to Court seeking enforcement of the terms of the interim Child Arrangements Order.
23. A Final Hearing in Financial Remedy proceedings, consequent on the divorce application concluded on 9 November 2022.
24. A second Cafcass report was prepared on 18 November 2022. Cafcass recommended that all direct time between the children and their father cease with immediate effect. Cafcass recommended that the children have indirect contact with their father.
25. Direct contact between the children and their father having ceased, on 5 December 2022, the children were no longer considered by Local Authority Children's Services to be Children in Need.
26. On 16 December 2022, the father moved to separate accommodation.
27. On 9 January 2023, the children were joined as parties to the proceedings. The Cafcass Family Court Adviser who had prepared the previous welfare reports was appointed as the children’s Guardian.
28. On 1 June 2023, on application of the Guardian, District Judge Sethi directed that further expert evidence be obtained from a psychologist to undertake a ‘global psychological assessment’ of the parents and of both children, the Order inviting the expert to determine the factual matrix of the disputed allegations. The mother sought permission to appeal that Order. I granted permission to appeal and, on 30 August 2023, I allowed the appeal against the Order of the District Judge. The direction for expert evidence was set aside. The Court’s judgment in that appeal was published in *Re GB (Part 25 Application: Parental Alienation)* [2023] EWFC 150.
29. Thereinafter, the proceedings were reserved to me to achieve judicial continuity. Directions were given for a Fact Finding Hearing, to determine both parties’ allegations against each other, none of which had been the subject of any previous judicial determination, including the father’s allegations that the mother has engaged in behaviour with the effect of alienating the children against him.
30. During the Fact Finding Hearing this Court had the unique benefit of hearing oral evidence from the mother and the father. Each party was represented in the Fact Finding Hearing by highly experienced, specialist Counsel, who each provided the Court with invaluable assistance throughout. The Court is immensely grateful for the professional manner in which Counsel presented the parties’ cases and for their thorough and comprehensive preparation.
31. The mother is a vulnerable party within the meaning of Part 3A and Practice Direction 3AA to the Family Procedure Rules as a complainant of domestic abuse. A Ground Rules Hearing took place in advance of the Fact Finding Hearing and participation directions were given. Separate waiting areas were provided in the Court building. The parents entered the building at staggered times to avoid coming into contact with each other. A privacy screen was provided in the court room to prevent the parties from seeing each other throughout the hearing and during their evidence. Regular breaks were provided throughout the hearing for the benefit of each parent. Ground rules were revisited during the hearing. Although the mother’s first language is not English, her use of English, both written and verbal, is exceptionally good and the assistance of a language interpreter was neither sought nor required.

32. Both parties, at the Court's direction, prepared a schedule of their allegations and a response to the other party's schedule. Judicial continuity in the proceedings was essential. Continuity of legal representation for each parent was also essential in this complex case and the Court is grateful to Dr Proudman and Mr Hankinson in ensuring their availability. On the first day of the Fact Finding Hearing the mother sought leave to adduce a further, significant allegation of rape. The father was already aware of the allegation as full details had been provided in the police disclosure and disclosed to the parties. The Court permitted the addition of that allegation to the mother's schedule of allegations. The Court directed the mother to file an additional statement in support and permitted the father to file a statement in reply. The first day of the Fact Finding Hearing on 6 February 2024 was adjourned to 9 February 2024 to facilitate that additional evidence and to allow the father adequate time to respond.

33. The Court has considered all the evidence, whether or not referred to specifically in this judgment, including a bundle of documents comprising over 850 pages, divided into five separate electronic bundles, together with additional documents filed during the hearing and a substantial amount of video evidence running to several hours' duration. The Guardian observed that the amount of information is 'overwhelming'. In articulating my reasons in this judgment, it is neither possible nor necessary to address every piece of evidence read, seen or heard nor every submission made on behalf of each party. Nevertheless, the Court has given all the evidence careful consideration and anxious scrutiny, whether or not specifically referred to in this judgment.

The August 2021 Hearing

34. On 5 August 2021, Recorder Brooke-Smith delivered judgment, dismissing the mother's application for an Occupation Order, under s33 Family Law Act 1996.

35. The Recorder noted in his judgment:

*"The application for the Occupation Order was listed for final hearing on 21 and 22 July 2021 on the basis that directions in the Children Act proceedings would be given at the conclusion of that hearing. The hearing did not proceed on those dates because the judge was ill. The parties were then offered 29 and 30 July. But the mother's counsel, Mr Harley, was not available on those dates, and so the mother asked the Court to adjourn the hearing. The Court's response was that an adjournment would be granted if both parties consented. The mother then tried to find alternative counsel, but, having been told how much that would cost, she then decided to proceed with the hearing, representing herself, but with a paralegal from her solicitors in attendance, to take a note. In the meantime, the father, whose counsel, Ms Foster, was also unavailable on 29 and 30 July, had indicated his agreement to the mother's request for an adjournment, but when he heard that the mother had decided to proceed, he also agreed with that course of action, and he has been represented by Mr Cooper of counsel."*

36. It appears from the Recorder's judgment that a decision was taken at the hearing of the Occupation Order application, at the request of the father, to also treat the hearing as a finding of fact hearing in the Children Act proceedings. At paragraph 10 of his note of judgment, the Judge records:

*"Mr Cooper [father's counsel] invites me to make findings of fact in relation to the allegations in the scott schedule, whether or not those findings are material to my decision on the merits of the application for the Occupation Order, and it seems to me that despite the Court having determined that no fact finding hearing is necessary in the [Children Act] proceedings, it may still be of some relevance and assistance in those proceedings to have the findings, and so I shall do so."*

37. Perhaps as a consequence of the Recorder's impromptu decision to treat the hearing as a Fact Finding Hearing in the Children Act proceedings, it is apparent from the Recorder's judgment that no prior consideration was given to the mandatory requirements of Practice Direction 12J to the Family Procedure Rules, notwithstanding the mother having made allegations of domestic abuse against the father. Further, it appears that no participation directions were given nor any

express acknowledgement of the mother's vulnerability, having regard to Family Procedure Rule 3A and Practice Direction 3AA.

38. The first day of the hearing proceeded with the mother, as a litigant in person, being cross-examined by Counsel for the father. It had been the expectation that on the second day of the hearing, the mother, as a litigant in person, would directly cross-examine the father, the alleged perpetrator of domestic abuse. The issue of Practice Direction 12J was then raised by the Recorder on the second day of the hearing, immediately prior to the time when the mother had been expected begin her cross-examination of the father. The Recorder's note of judgment sets out the following:  
*"On Day 1 of the two day hearing, I heard the oral evidence of the applicant [the mother] who was cross examined by Mr Cooper, and I heard brief oral evidence in chief from the respondent, limited to him commenting on the allegations made in the applicant's most recent statement. On the morning of day 2, the intention was to hear the respondent [father] being cross examined by the applicant [mother]. But during the overnight adjournment, it occurred to me that PD12J was engaged and that I should consider whether special measures should be deployed to protect the victim of alleged domestic abuse from having to engage in directly addressing the alleged perpetrator in her questions and being directly addressed by him in his answers. I raised my concern with Mr Cooper and the applicant on the morning of Day 2. Mr Cooper agreed that PD12J was engaged and suggested the option of asking the applicant to put her questions in writing and of me putting them to the respondent on her behalf, and the applicant said that she would welcome that option, and so the hearing was adjourned for a short time to allow her to put the questions in writing, which she did with the help of her solicitor, who then sent me a list of questions and referred me to the pages in the exhibits to which she wanted the respondent to be taken. I then put those questions to the respondent."*
39. The Recorder went on his judgment to observe the following:  
*"The Court is aware of the many shapes and forms of domestic abuse, including abuse caused by a party being controlling and coercive, and of how often such abuse is perpetrated from behind a mask of charm and politeness. The Court is also aware that perpetrators of such abuse develop strategies which can be super effective at making it difficult to prove. In such cases there are frequently no isolated actions or words which fit neatly into a scott schedule of allegations."*
40. The judgment sets out the Recorder's observation of the mother, who, *"impressed me as a highly intelligent and articulate person, able accurately to recall and refer to sections of the written evidence in the bundle. Her sense of despair and exasperation at being embroiled in these proceedings as well as the Children Act and Financial Remedy proceedings was obvious."*
41. The Recorder was plainly heavily influenced by the favourable impression he formed of the father in the witness box. The note of judgment records:  
*"The respondent struck me as someone who pays attention to detail, careful in his answers to questions, methodical. His witness statements are long and detailed. He took time and care when answering questions, anxious to be accurate about figures and dates. I took him to several parts of Dr Lopes's [sic] report where she has expressed her opinions about him, for example where she said he presented as "emotionally vulnerable" (9.12), and that he has "preoccupied and dismissive attachment strategies" (9.14) and that "preoccupied individuals can be both angry and controlling in relationships but can also show selflessness in their actions when aroused by emotive causes" (9.28). I also referred him to the passage in her report where she said, "analysis of [the father's] attachments might suggest that he would use coercive anger to manage his feelings about relationships" (11.24), "he remained preoccupied with his feelings of alienation and the financial impact of the current proceedings on his ability to provide for this children in the future" (13.10), and: "in his description of his children, [the father] would readily become distracted by his negative thinking about [the mother] and this would detract from his focus on his children". In response, the respondent said he did not agree with those observations and was disappointed to read them."*

42. Having considered the opinions expressed by the independent expert, Dr Lopez, regarding the father, the Recorder went on to express his favourable observations about the father's demeanour in the witness box:  
*"When giving his oral evidence, he came across to me as emotionally vulnerable, frequently becoming upset and tearful when talking about his children...But he also did strike me as someone who is preoccupied with his fear of being separated (he would say alienated) from his children by the actions of the applicant in pursuing this application to exclude him from the family home. He does agree that the current situation is far from ideal, but he denies that there is any alternative accommodation option available to him, and even if there was, he believes that if he left and so ceased to occupy the same physical living space as his children, he would lose all contact with them."*
43. The Recorder noted evidence from a psychotherapist, Ms Parkinson, who provided marriage counselling to the mother and father: *"She says that it quickly became apparent that the respondent [father] "was extremely controlling" (C14 para. 8), and she says that she was "worried about both [the applicant's] and the children's safety whilst they are living in the same house as the respondent" (C14 para. 9). She says that the respondent [father] was "fixated with the view that the applicant was an alienating parent" (C16 paragraph 17) and was "incapable of understanding how someone else might feel". And at C18, she says: "I feel that the respondent cannot deal with life and wants someone to do it for him. I feel that the respondent suffers with serious mental health issues"*.
44. The Recorder discounted the evidence from Ms Parkinson in its entirety, noting in his judgment that Ms Parkinson's *"qualifications and background are in therapy and she is not a psychologist. I am also concerned that, as a treating practitioner, she has offered an opinion on a contentious issue in the case (the state of a party's mental health) and expressed a strong view that that party is, in effect, and in layman's terms, the "cause of the problem" in the case. Even in the absence of the evidence from Dr Lopes, those concerns of mine would reduce the weight which I would attach to Ms Parkinson's statement, but in the light of the report from Dr Lopes, who has been instructed as a single joint expert, is well known to the Court as an expert in the field, and who has complied with her duties under Part 35 [sic], I have no hesitation in saying that, to the extent that there is any divergence of opinion between Ms Parkinson's views and Dr Lopes's, I accept Dr Lopes's view.... I accept Dr Lopes's view, as set out at para 3.5 of her report: "[The father] did not present with any current mental health disorder although there was evidence of historical anxiety and depression associated with interpersonal difficulties and perceived threat to his fragile self esteem that would hold implications for the current proceedings"*.
45. Having discounted the evidence of Ms Parkinson in favour of that of Dr Lopez, it is not readily apparent from the Recorder's judgment what weight, if any, he attached to Dr Lopez's conclusions that the father had, *"preoccupied and dismissive attachment strategies"* and that *"preoccupied individuals can be both angry and controlling in relationships but can also show selflessness in their actions when aroused by emotive causes."* The judgment records only that the father did not agree with Dr Lopez's conclusions.
46. It is not clear from the Recorder's judgment what weight, if any, he attached to Dr Lopez's independent opinion that, analysis of [the father's] attachments, *"might suggest that he would use coercive anger to manage his feelings about relationships"* or that the father, *"remained preoccupied with his feelings of alienation"* and *"would readily become distracted by his negative thinking about [the mother] and this would detract from his focus on his children"*.
47. The Recorder considered evidence from the parents' neighbour who, *"has witnessed the respondent behaving in a controlling and coercive way towards the applicant and has seen some of his messages to her, and says there has been a lack of affection and his behaviour is harmful to the applicant's and the children's mental health."* Again, it is not clear what weight the Recorder attached to that evidence.



48. Further, the Recorder noted evidence from the father's 'old school friend', who observed that the father, *"can seem obstinate and dogmatic, but it always well intentioned."* Another 'university friend' of the father was noted to have said that he, *"thought that the [father] was being subjected to coercive behaviour by the applicant [mother] and sent the respondent a link to a website on the subject."* The Recorder stated in his judgment that he attached little weight to any of the third party statements, noting that the third parties had not given oral evidence and were each, *"writing from a viewpoint on one side only."*
49. It is evident from the Recorder's judgment that he was unimpressed by the mother as a witness and formed an unfavourable impression of her. The Recorder noted that during cross-examination of her by Counsel for the father, the mother, *"interrupted him and said sharply: "let me finish" before proceeding defiantly to justify her actions...she then added in an irritated and impatient tone: For God's sake". She was visibly annoyed with [Counsel]."*
50. The Recorder noted the mother's evidence that, *"the respondent [father] used the words "stupid cow" and "f\*cking cow" [when she was pregnant] and that he constantly belittled her and denied being at fault, and blamed her, and he became angry and sent her long messages... and he is unstable and unpredictable."* The Recorder concluded, *"Having seen and heard the respondent give evidence, I find it hard to believe now that he would call the applicant the names she alleges."* The Recorder proceeded to make the following finding: *"The age of the allegation and the fact that it is a question of one word against another lead me to the finding that this is not proved."*
51. From his judgment, it can be ascertained that the Recorder made the following findings on the evidence before him:
- "
- (a) Both parties became angry with each other, both making accusations against each other;
  - (b) The Respondent [father] has addressed words of greeting and good wishes to the applicant and the children which have been ignored and so he has repeated them, which is not helpful or appropriate;
  - (c) The respondent's behaviour in repeating himself makes the applicant [mother] cross and she becomes exasperated by it but I do not find the children are scared by it;
  - (d) The respondent [father] did not call the Applicant [mother] the names she alleges;
  - (e) The respondent had not been financially abusive to the applicant;
  - (f) The respondent has not been isolated or controlled by the applicant (It is understood from the Recorder's reasons that, notwithstanding this express wording, the Recorder in fact made a finding that the father did not isolate and control the mother);
  - (g) There was an incident in either 2015 or 2016 when the respondent had been driving the car in which the applicant and children were passengers and there came a time when the respondent stopped and got out and left the applicant and the children in the car and she had to drive it home...Having heard and watched the parties given their evidence on the issue, it is entirely consistent with my experience of watching and listening to the applicant give evidence that she [the mother] would have delivered a tirade of criticism at the respondent. On occasions during her oral evidence she spoke at speed without much hesitation or pause between sentences and once she was in her stride it was clear that she had no intention of allowing [Counsel] to interrupt and she told him on at least one occasion to let her finish what she was saying. I also find it hard to believe that the respondent would have left the children in the physical danger which the applicant alleges by stopping the care at a roundabout or in any way which exposed them to a risk of physical danger. The wording of my finding is that the applicant [mother] was angry and did deliver the tirade of criticism and that the respondent stopped the car because of the effect this had on him, that he stopped in a layby without causing obstruction or putting the children in any physical danger;
  - (h) I am satisfied, having watched and listened to [the father's] evidence, that he would not deliberately act in a way which he thought would upset the children or put them at risk. I am also satisfied that if what he was doing was causing the children to suffer even based on the limited communication which takes place, he would know that this was the case, and he would have stopped doing it. Having said that, I do find that the use of the stickers for

leaving messages is off and it would not surprise me if the children think it is odd but I do not accept that they are frightened or scared by this. Alongside that it is extremely likely, given the strength of her views and the way she expresses them, that the children are aware of the applicant's belief that the respondent is causing her and the children harm...I do have a concern that the applicant's deep rooted belief about the effect of the respondent's behaviour may become instilled in the children;

- (i) With the exception of the difficult times experienced by the children in the summer holiday of 2020 in [the mother's country of origin], during which they were exposed to the conflict between the parties in the context of the breakdown of the marriage for which no individual culpability can be apportioned, the respondent has not lost his temper or verbally or emotionally abused the children."

52. Having made those findings, turning to the application for an Occupation Order, the Recorder articulated his reasons for dismissing the mother's application:

*"Dr Lopes [sic] and Ms Parkinson may agree that it would be better for the parties and the children if the parties were living separately," however, "the Cafcass officer in her safeguarding letter, written in the full knowledge of the parties' current living arrangements recommends only that there be a section 7 report and does not raise safeguarding concerns about the living conditions: the Court accepted undertakings in place of the Non-Molestation Order, and: the Court decided there was no need for a Fact Finding Hearing in the Children Act proceedings, taken together, provide reliable and sufficient evidence that the effect of not making an Order will not be so bad...I have formed the clear impression that both the parties are managing under the current arrangements. The applicant is a strong character, and in my judgment, she has demonstrated that she can cope with the strained atmosphere and strange way of life that is being led by them all. The respondent presents as more vulnerable than she does...the draconian effect of an Occupation Order would be particularly felt by the respondent because the property has been his home for many years and he is attached to it...the effect of making an Order would be to disrupt the current level of contact between the children and the respondent and to cause major emotional and practical upheaval to the respondent."*

53. Having made those findings in the Family Law Act proceedings, which were intended to represent also findings in the Children Act proceedings, the Recorder did not then reserve the case to himself to conclude the Children Act proceedings.

54. In these current proceedings before me, the mother, properly, does not invite the Court to go behind the findings made by the Recorder. The mother, who was not legally represented at the hearing before the Recorder, acknowledges that she has not sought permission to appeal those findings and she is now significantly out of time. This Court is bound by those findings of fact. The focus of this Court's determination now is behaviour that post-dates the Recorder's findings. Further, this Court is invited to make findings about factual disputes that were not the subject of evidence or judicial scrutiny before the Recorder but which the parties assert evidence a pattern of domestically abuse behaviour.

55. This Court now has a wealth of evidence before it, not available to the Recorder, which cannot be ignored and which casts further light on the parties' relationship. Whilst this Court does not and should not go behind the findings previously made by the Recorder, it is clear that the Recorder heard evidence regarding only a snapshot of the parents' relationship in the vacuum of Family Law Act proceedings. Dr Proudman on behalf of the mother correctly points out that it appears that no consideration was given by the Recorder to the requirements of Part 3A to the Family Procedure Rules and Practice Direction 3AA, requirements which ought to have been embedded in the legal landscape of cases such as this, to ensure that the important safeguards the rules and Practice Directions provide for were in place. Further, as is clear from the Recorder's note of judgment, significant weight was attached by the Recorder to the the impression created by the demeanour of the mother and father when giving evidence, based on their tone, manner and other aspects of their behaviour in answering questions. The mother was, at the relevant time, a litigant in person, whilst the father was represented by Counsel. The mother made serious allegations of domestic abuse and verbal abuse, including allegations that the father was abusive to the children.

At no stage throughout the hearing before the Recorder was the mother assisted by special measures or participation directions pursuant to Part 3A of the Family Procedure Rules 2010 nor Practice Direction 3AA. The Court is under a duty to ensure that a vulnerable person is identified and the need for special measures and participation directions are addressed expressly. The Recorder only turned his mind to the issue, “during the overnight adjournment.” The hearing was then stood down only for a short time, putting the mother under further pressure to write questions by way of cross-examination of the father and send those questions to the Judge. The mother attended the hearing, seemingly under the impression that the hearing was to consider the Occupation Order application and not a Fact Finding Hearing in the Children Act application. She attended the hearing believing, in the context of the Family Law Act application, she would be required to directly cross-examine the person she had accused of domestic abuse. No ground rules hearing was held, contrary to rule 5.2 of Practice Direction 3AA, FPR 2010 to give participation directions as to the conduct of the advocates and the parties and to put necessary safeguards in place for the vulnerable party. Consequently, the mother was required to look at her alleged abuser and he was able to look at her throughout her cross-examination by Counsel for the father. It seems that no thought was given as to whether the father’s camera should be switched off during the video hearing. It does not seem that thought was given to the provision of breaks during the hearing generally and specifically during the mother’s evidence. It is a matter of regret that it appears that Counsel for the father did not draw the Recorder’s attention to the relevant provisions of the Rules and Practice Directions. This Court acknowledges that at the time of the hearing before the Recorder, the now clear provisions brought in by section 63 of the Domestic Abuse Act 2021 had not then been put into effect by the revisions to Family Procedure Rule Part 3A.2A, those provision only coming into effect on 31 January 2022. However, the provisions of FPR 3A and PD3AA together with the provisions of PD12J were effective at the date of the hearing before the Recorder. Further, Family Procedure Rule 1.1 requires the Court to put into effect the overriding objective of enabling the Court to deal with cases justly, having regard to any welfare issues involved. Dealing with a case justly includes, so far as is practicable, ensuring that the parties are on an equal footing.

56. This Court now has the benefit of a considerable volume of evidence not available to the Recorder. As all parties recognise, the landscape has shifted considerably since the Recorder’s findings in the Family Law Act proceedings. It is with that in mind that both parents seek the Court to make findings on allegations not determined by the Recorder. This Court now has, amongst other things, evidence of video recordings of events in the family home, since the decision was made by the Recorder to refuse the mother’s application for an Occupation Order. There have been two further police investigations. Further, the Court has evidence relating to other events said to have taken place prior to the date of the Recorder’s findings, which both parents invite the Court to consider as part of a wider pattern of alleged behaviour. It is incumbent on the Court to consider at all stages of the proceedings whether a Fact Finding Hearing is necessary. This Court determined as part of its case management decisions that a Fact Finding Hearing was necessary, being the first Fact Finding Hearing exclusively within these Children Act proceedings.
57. In these current proceedings, the Court expressly records that the safeguards necessary under FPR 3A, PD3AA and PD12J have been put into effect. This Court determined, having regard to the unresolved allegations made by both parties and with this Court’s focus being on the children who are the subject of the Children Act proceedings, rather than between the adults in the Family Law Act 1996 proceedings, that a further Fact Finding Hearing was necessary to provide a factual basis for a future welfare report or other assessment, to provide a basis for an accurate assessment of risk, to consider any final welfare-based Orders in relation to child arrangements and to consider the need for a domestic abuse-related activity. It is regrettable that the allegations were not grappled with at an earlier opportunity. This Court gave extensive case management directions leading to this Fact Finding Hearing, with full and proper input from all parties, including directions for both parties to exchange schedules of allegations and narrative statements. Directions were given for the disclosure of relevant documents from the police and the Local Authority. A Ground Rules hearing was held and participation directions were put into effect. Those ground rules were revisited throughout the Fact Finding Hearing. Judicial continuity has

been maintained since the August 2023 appeal hearing. In giving those directions, the Court put into effect the overriding objective under FPR 1.1 to deal with the case justly.

58. The Court is alive to the father's expressed concern that the issue of "parental alienation" is highly emotive and has received a great deal of media attention. This Court makes clear, expressly, that in making the findings set out in this judgment, the Court has approached its task objectively and impartially, independent of the parties, without fear of favour, affection or ill-will, on the extensive evidence now available. This Court has strived to avoid being influenced by personal biases and prejudices in its decision-making.

The Relevant Law

59. At this point it is convenient to me to set out in summary form the applicable legal principles for a case such as this, where the Court is tasked with making findings of fact. The following principles apply.
60. The burden of proof lies on the party making the allegation.
61. To prove the fact asserted, that fact must be established on the civil standard, that is, on the simple balance of probabilities. There is only one civil standard of proof, namely that the occurrence of the fact in issue must be proved to have been more probable than not. Neither the seriousness of the allegation nor the seriousness of the consequences makes any difference to the standard of proof to be applied in determining the facts. If the Court finds it more likely than not that something did take place, then it is treated as having taken place. If the Court finds it more likely than not that it did not take place, then it is treated as not having taken place. Where a fact is required to be proved, a 'fact in issue,' the Court 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. The fact either happened or it did not. If the Court is left in doubt, the doubt is resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, the fact is treated as not having happened. If the party does discharge the burden of proof, it is treated as having happened.<sup>1</sup>
62. Findings must be based on evidence, not suspicion or speculation.<sup>2</sup> The Court must take into account all the evidence and consider each piece of evidence in the context of all the other evidence.<sup>3</sup> If the evidence in respect of a particular finding sought is *equivocal* then the Court cannot make a finding on the balance of probabilities as neither the burden nor the standard of proof is discharged.<sup>4</sup>
63. The decision on whether the facts in issue have been proved to the requisite standard must be based on all the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors.<sup>5</sup>
64. In assessing whether the evidence is sufficient to lead to a finding, it is not necessary to dispel all doubts or uncertainty.<sup>6</sup>
65. Findings must be based on evidence.<sup>7</sup> The Court must not evaluate and assess the available evidence in separate compartments. Rather, regard must be had 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 has been made out on the balance of probabilities. The Court must take into account all of the evidence and consider each piece of evidence in the context of all the other evidence. A Judge in these difficult cases must have regard

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<sup>1</sup> Re B [2008] UKHL 35, per Lord Hoffman

<sup>2</sup> Re A (A child) (Fact Finding Hearing: Speculation) [2011] EWCA Civ 12 per Munby LJ

<sup>3</sup> Re T [2004] EWCA Civ 558, [2004] 2 FLR 838, Per Dame Butler-Sloss, President

<sup>4</sup> Re B (Threshold Criteria: Fabricated Illness) [2002] EWHC 20 (Fam), [2004] 2 FLR 200

<sup>5</sup> A County Council v A Mother, A Father and X, Y and Z [2005] EWHC 31 (Fam)

<sup>6</sup> Re D (A Child) [2017] EWCA Civ 196

<sup>7</sup> Re A (Application for Care and Placement Orders: Local Authority Failings); sub nom Darlington Borough Council v M, F, GM and GF [2016] 1 FLR 1 per Munby LJ

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 has been made out to the appropriate standard of proof.<sup>8</sup>

66. Failure to find a fact proved on the balance of probabilities does not equate, without more, to a finding that the allegation is false. An alleged fact not proven is not a fact in English law. That is the effect of the binary system of proof: if a negative is to be proved, that has to be proved with cogent evidence, just as if the positive is to be proved. It is not a correct proposition of law that a rejection of evidence mandates a judge to find that something is false.<sup>9</sup>
67. Expert evidence must be considered in the context of all the other evidence. The roles of the Court and the expert are distinct. It is the Court that is in the position to weigh up the expert evidence against its findings on the other evidence. The Judge must always remember that he or she is the person who makes the final decision.<sup>10</sup> The expert evidence is part of a wider canvas and it is the court that is in the position to weigh up all the expert evidence against the other evidence.<sup>11</sup>
68. The evidence of the parents is of the utmost import and to this end the Court will make a clear assessment of their credibility and reliability. The Court is likely to place considerable weight on the evidence and the impression it forms of the parents.<sup>12</sup> In assessing and weighing the impression which the Court forms of the parents, the Judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so: *“No doubt it is impossible, and perhaps undesirable, to ignore altogether the impression created by the demeanour of a witness giving evidence. But to attach any significant weight to such impressions in assessing credibility risks making judgments which at best have no rational basis and at worst reflect conscious or unconscious biases and prejudices. One of the most important qualities expected of a judge is that they will strive to avoid being influenced by personal biases and prejudices in their decision-making. That requires eschewing judgments based on the appearance of a witness or on their tone, manner or other aspects of their behaviour in answering questions. Rather than attempting to assess whether testimony is truthful from the manner in which it is given, the only objective and reliable approach is to focus on the content of the testimony and to consider whether it is consistent with other evidence (including evidence of what the witness has said on other occasions) and with known or probable facts.”*<sup>13</sup>
69. In principle, the approach in private family proceedings between parents should be the same as the approach in care proceedings. However, there are specific risks to which the court must be alive. Allegations of abuse are not being made by a neutral and expert local authority which has nothing to gain by making them, but by a parent who is seeking to gain an advantage in the battle against the other parent. This does not mean that they are false but it does increase the risk of misinterpretation, exaggeration or fabrication.<sup>14</sup>
70. Intention to cause harm does not need to be proved to make a finding of abuse. None of the authorities require that a positive intent to molest must be established.<sup>15</sup>
71. Domestic abuse can inflict lasting trauma on victims and their extended families, especially children and young people who either witness the abuse or are aware of it having occurred. Domestic abuse is rarely a one-off incident and it is the cumulative and interlinked physical,

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<sup>8</sup> Re T [2004] 2 FLR 838 at 33, per Dame Elizabeth Butler-Sloss P

<sup>9</sup> Re M (Children) [2013] EWCA Civ 388

<sup>10</sup> A County Council v K, D & L [2005] EWHC 144 Fam, per Charles J at paragraph 39

<sup>11</sup> A County Council v K, D & L [2005] EWHC 144, [2005] 1 FLR 851 per Charles J and Re JS (A child) [2012] EWHC 1370 (Fam) per Baker J, Lancashire County Council v R, W and N [2013] EWHC 3064 (Fam) per Mostyn J.

<sup>12</sup> Re W (Non-Accidental Injury) [2003] FCR 346.

<sup>13</sup> Re M (Children) [2013] EWCA Civ 1147 per of Macur LJ

<sup>14</sup> Re W (Children) (Abuse: Oral Evidence) [2010] UKSC 12.

<sup>15</sup> GK v PR [2021] EWFC 106, Peel J. and Re T (2017) EWCA Civ 1889

psychological, sexual, emotional or financial abuse that has a particularly damaging effect on the victims and those around them.<sup>16</sup>

72. Much like an allegation of domestic abuse, the decision about whether or not a parent has alienated a child is a question of fact for the Court to resolve and not a diagnosis that can or should be offered by a psychologist. "Parental alienation" is not a syndrome capable of being diagnosed, but a process of manipulation of children perpetrated by one parent against the other through, what are termed as, "alienating behaviours". It is, fundamentally, a question of fact. What is important, as with domestic abuse, is the particular behaviour that is found to have taken place within the individual family before the court, and the impact that that behaviour may have had on the relationship of a child with either or both of his/her parents. In this regard, the identification of 'alienating behaviour' should be the court's focus, rather than any quest to determine whether the label 'parental alienation' can be applied.<sup>17</sup>
73. If a Court concludes that a witness has lied about one matter, it does not follow that he or she has lied about everything. If a witness lies in the course of the investigation or the hearing, the witness may have lied for many reasons, for example, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure.<sup>18</sup>
74. This case concerns allegations of domestic abuse, including coercive and controlling behaviour. As such the Court must follow the principles and guidance at PD 12J of the Family Procedure Rules 2010, and the guidance given by the Court of Appeal in *Re H-N and Others (children) (domestic abuse: finding of fact hearings)* [2021] EWCA 448 (Civ). In that case at [25] to [27] the Court of Appeal noted that PD 12J remains "fit for the purpose for which it was designed" enabling the courts to recognise domestic abuse and thereafter how to approach such allegations in private law proceedings. In relation to the recognition of domestic abuse in the form of coercive and/or controlling behaviour the Court of Appeal said:

*"[25] ... there are many cases in which the allegations are not of violence, but of a pattern of behaviour which it is now understood is abusive. This has led to an increasing recognition of the need in many cases for the court to focus on a pattern of behaviour and this is reflected by (PD12J).*

*[26] PD12J paragraph 3 includes the following definitions each of which it should be noted, refer to a pattern of acts or incidents:*

*"domestic abuse' includes any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse. Domestic abuse also includes culturally specific forms of abuse including, but not limited to, forced marriage, honour-based violence, dowry-related abuse and transnational marriage abandonment;*

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

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

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<sup>16</sup> JH v MF (Rev 2) [2020] EWHC 86 per Russell J

<sup>17</sup> Re C (Parental Alienation: Instruction of Expert) [2023] EWHC 345 (Fam) para 103, per McFarlane P

<sup>18</sup> R v Lucas [1981] QB 720

75. The Court of Appeal highlighted the harm to children that can be caused by coercive and controlling behaviour:

*"[31] The circumstances encompassed by the definition of 'domestic abuse' in PD12J fully recognise that coercive and/or controlling behaviour by one party may cause serious emotional and psychological harm to the other members of the family unit, whether or not there has been any actual episode of violence or sexual abuse. In short, a pattern of coercive and/or controlling behaviour can be as abusive as or more abusive than any particular factual incident that might be written down and included in a schedule in court proceedings (see 'Scott Schedules' at paragraph 42 -50). It follows that the harm to a child in an abusive household is not limited to cases of actual violence to the child or to the parent. A pattern of abusive behaviour is as relevant to the child as to the adult victim. The child can be harmed in any one or a combination of ways for example where the abusive behaviour:*

- i) is directed against, or witnessed by, the child;*
- ii) Causes the victim of the abuse to be so frightened of provoking an outburst or reaction from the perpetrator that she/he is unable to give priority to the needs of her/his child;*
- iii) Creates an atmosphere of fear and anxiety in the home which is inimical to the welfare of the child;*
- iv) Risks inculcating, particularly in boys, a set of values which involve treating women as being inferior to men."*

76. The Court of Appeal endorsed the judgment of Hayden J in *F v M* [2021] EWFC 4 in which he referred to paragraph 60 the statutory guidance published by the Home Office pursuant to Section 77 (1) of the Serious Crime Act 2015 which identified paradigm behaviours of controlling and coercive behaviour, and said:

*"'coercion' will usually involve a pattern of acts encompassing, for example, assault, intimidation, humiliation and threats. 'Controlling behaviour' really involves a range of acts designed to render an individual subordinate and to corrode their sense of personal autonomy. Key to both behaviours is an appreciation of a 'pattern' or 'a series of acts', the impact of which must be assessed cumulatively and rarely in isolation." [4].*

77. However, the Court of Appeal emphasised at [32] that:

*"It is equally important to be clear that not all directive, assertive, stubborn or selfish behaviour, will be 'abuse' in the context of proceedings concerning the welfare of a child; much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour. We would endorse the approach taken by Peter Jackson LJ in *Re L (Relocation: Second Appeal)* [2017] EWCA Civ 2121 (paragraph 61):*

*"Few relationships lack instances of bad behaviour on the part of one or both parties at some time and it is a rare family case that does not contain complaints by one party against the other, and often complaints are made by both. Yet not all such behaviour will amount to 'domestic abuse', where 'coercive behaviour' is defined as behaviour that is 'used to harm, punish, or frighten the victim...' and 'controlling behaviour' as behaviour 'designed to make a person subordinate...' In cases where the alleged behaviour does not have this character it is likely to be unnecessary and disproportionate for detailed findings of fact to be made about the complaints; indeed, in such cases it will not be in the interests of the child or of justice for the court to allow itself to become another battleground for adult conflict."*

*"a) PD12J (as its title demonstrates) is focused upon 'domestic violence and harm' in the context of 'child arrangements and contact orders'; it does not establish a free-standing jurisdiction to determine domestic abuse allegations which are not relevant to the determination of the child welfare issues that are before the court;*

- b) *PD12J, paragraph 16 is plain that a fact-finding hearing on the issue of domestic abuse should be established when such a hearing is 'necessary' in order to:*
- i) *Provide a factual basis for any welfare report or other assessment;*
  - ii) *Provide a basis for an accurate assessment of risk;*
  - iii) *Consider any final welfare-based order(s) in relation to child arrangements; or*
  - iv) *Consider the need for a domestic abuse-related activity.*
- c) *Where a fact-finding hearing is 'necessary', only those allegations which are 'necessary' to support the above processes should be listed for determination."*

### The Allegations

78. The father makes allegations against the mother, all of which are denied by her. The mother makes allegations against the father, all of which are denied by him. Counsel for both parents were instructed on a direct access or licensed basis. The parents were effectively acting as litigants in person for the purposes of drafting their respective allegations, preparing their witness statements and adducing the evidence they sought to rely on in support.
79. The mother makes the following allegations against the father:
- (1) From 2020 onwards, "the father used coercive controlling behaviour towards the children and towards myself:
    - (a) He used force and threatening behaviour towards me when the children were present and was using force and abusive behaviour towards the children causing them upset and fear;
    - (b) The father was obstructive with my contact with the children and with the relationship between myself and the children and he also used force to achieve his obstructions creating fear;
    - (c) He would speak in a derogatory manner to professionals about me to damage my reputation and influence them negatively about me;
    - (d) The father made an application for a mental health assessment of me, despite there being no concerns or evidence of issues with me, my mental health, or my parenting;
    - (e) The father encouraged people who never met me to damage my reputation, to create a negative narrative about me and further provide it to the Court, CAFCASS and authorities as evidence;
    - (f) The father consistently sent me intimidating messages criticizing me and my parenting and continuously accused me of alienation from 2020 to the present in order to distress, confuse and frighten me;
    - (g) The father persistently video recorded me and the children which created an atmosphere of control and intimidation;
    - (h) The father regularly spoke in a derogatory manner to me in front of the children. This caused them upset and fear;
    - (i) The father would warp my perception of reality and accuse me of things of his own making to gain control;
    - (j) The father would undermine the children in front of each other, warp their perception of reality and would scapegoat them;
  - (2) In February 2022, "the father would neglect the children's medical needs;"
  - (3) Over various unspecified dates, the father, "exerts financial control to cause [me] financial distress and consequences;
  - (4) From 2020 onwards, the father would make major decisions about children's life without my consent - such as giving notice to schools without securing and providing alternatives, withdrawing money from the children's accounts. He then gaslit me stating that I had withdrawn the money from the children's accounts;
  - (5) From 2020 onwards, "The father does not follow the recommendations, provides misleading information to the Court, and uses proceedings to emotionally torment the children and me;"



- (6) “(a) In July 2020 and in August 2020 the father raped me while the family was on holiday in [my country of origin]; (b) On 7 August 2020, I received an email threatening to publish a sexual video of me online if I did not send £500; (c) the father was voyeuristic and took many sexual photographs and videos of me without my consent.”
80. The father makes the following allegations against the mother:
- (1) Between August 2021 to present, “the mother repeatedly misrepresented and lied about her behaviour, the father’s behaviour and the behaviour of the children in order to prevent the children having contact with their father. Having failed to falsely characterise the father’s behaviours at the August 2021 hearing, the mother became even more extreme in trying to frame most actions by the father as being negative;”
  - (2) In February / March 2022, “the mother made false accusations to the police leading to the arrest of the father on two occasions: the mother contacted the police claiming that the father had caused her actual bodily harm. This was a lie intended to escalate their dispute in a way that would cause previous court findings to be revisited. When the police took no further action she again contacted them, this time instructing the children to make false accusations. Despite the Police having the video evidence from the father wearing a body cam throughout, no evidence was found to support the accusations;”
  - (3) On unspecified dates, “the mother negatively influenced the children to use their voices to prevent them having contact with their father. The mother created an environment in the house where the father’s actions were to be reported to and reframed by her, and the children were to talk about him in the negative terms instructed to them by their mother;”
  - (4) Between July 2023 and September 2023, “the mother acted to prevent the children having contact with their paternal grandmother. Having attempted to portray herself as sympathetic to the children having contact with their paternal grandmother, the mother showed her true intentions by her inappropriate behaviour in front of the Guardian, actively discouraging the children to prevent any such contact from happening;”
  - (5) Between August 2021 to present, “the mother acted to deliberately obstruct and delay the legal process to prevent the children having contact with their father. Through failing to answer direct questions about her position, or to put forward constructive proposals for next steps, the mother has sought to deliberately delay the legal process from reaching conclusion. She has sought to normalise a situation where the children have no contact with their father with no reference to whether this is in their interest or not.”
81. This Court sets out the key pieces of evidence in this judgment, sequentially, considering first the mother’s evidence followed by the father’s evidence and thereafter consideration of the wider evidence. The judgment is structured in that way for convenience. The Court makes clear that in reaching any finding or drawing any conclusion, it has considered the totality of the evidence, looking at the wide canvass of evidence holistically.
82. The advocates invited the Court to view the video evidence, prior to the Court hearing the parties’ evidence. It is convenient to consider the video evidence first in this judgment, this evidence being part of the wider evidence in the case. The father produced a series of videos, disclosed to the police, recorded on his body worn camera. The Court also has the benefit of viewing police recorded interviews of the father and police body worn camera footage of the father’s arrest and transit to the police station. The mother produced a number of shorter videos recorded from her mobile device.
83. Police video evidence of the father’s arrest on 14 February 2022 at the family home at 19:02 records the father’s interactions with the arresting officers following an incident the previous Friday when the father is alleged to have caused bruising to the mother’s arm by slamming a door on her. During the process of cautioning him, the father interrupted the police officer. Immediately

following the arrest, the father controlled the pace of the situation before being taken to the police station. He used the toilet. He took time to select and put on his coat. He delayed in selecting clothing, a hat and spectacles. He took time to place food in the fridge. He told the police officers, "They're supposed to be in *my* care. *I'm* supposed to be making them dinner", referring to the children. He sought to admonish one of the officers stating, "I really hope your colleague isn't doing that in front of the children." He expressed his dissatisfaction with the arresting officers exclaiming, "I'm absolutely appalled to be arrested. A ridiculous slur on my character." He proceeded to criticise the mother exclaiming, "My wife has slandered me. I'm absolutely fed up with this. I'm 'Mr Timid', 'Mr Follow-the-rules'. Things haven't been going in the direction my wife intended."

84. The father gave a 'no comment' interview at the police station, with advice from a trainee solicitor, providing a written statement and declining to comment on questions from the interviewing officers. In his written statement provided to the police, the father denied causing injury to his wife. He stated that he was going through a very difficult divorce and there were ongoing Family Court proceedings. He stated that the parties separated in December 2020 but were cohabiting. He stated that his son was off school with a temperature: "My wife insisted she would take him for a PCR test. My wife sent me a message with alleged NHS results. I suspected they were fabricated. I was scheduled to have care of the children. It raised my suspicions she fabricated a positive result to prevent the trip. I gave my son a lateral flow test. It came back negative and the PCR was negative." He denied that the "disagreement" had become "animated". He denied ever slamming a door. He asserted it was not possible to cause bruising to his wife's forearm by his actions.
85. Police body worn video footage of 12 March 2022 records the police arriving at the family home at 09:30, responding to an emergency call made by the mother. The father informed the investigating officer that his daughter was, "having a tantrum." One of the investigating officers spoke with 'G' privately in her bedroom. 'G' can be seen to be very distressed. 'G' told the investigating officer, regarding her father, "He wouldn't let me through the door. I didn't want to go to music school because he wants me to go his friend's house. He got angry and called me mean and an actress...I felt really scared. He stood by the door and would not let me through the door. He nudged my arm. My hand really hurts. He grabbed my wrist hard. He tried to snatch my arm. He has a camera on. It's really intimidating. He never listens to me. He poured freezing cold water on my legs [previously] and I was scared the socket would explode, a week before last."
86. Separate police body worn video footage of the same events record the mother and 'G' appearing distressed on the arrival of the police at the family home. The father was asked in a private room in the home to explain what had happened. He told the police officer, "My daughter won't go to school. She's having a tantrum." 'G' can be heard stating in a distressed manner, "he wouldn't let me through the door." The father told the police, "This is *my* weekend caring for the children and their mother is interfering. She encourages my daughter not to do what she knows she should be doing." He described wearing his own body worn camera, "so there can be no more fake incidents." He told the police officer, "She's decided she won't go to music school. My wife wants *my* time with the children to go really badly. We have a court order that says she will remove herself when it's *my* time. She will not remove herself. She keeps putting herself between me and children. ['G'] was screaming when nothing was happening. My wife was smiling when she was filming it. She's insisting on sitting with the children during *my* time. This was the first big test. I had to take her mum's phone off her ['G']. She ['G'] screamed and said it was hurting her but it wasn't." The investigating officer is then shown the father's body worn camera footage of the incident replayed on his laptop. The footage shows the father standing next to 'G's bunkbed, where 'G' is lying on the upper bunk. The father is seen to tell his daughter, "You're putting pressure on me by not coming to your music lessons...is it normal for children to say I don't want to go anywhere?" 'G' replies, "Is it normal for you to force me to do things?" The father continues, "Did you like us being late yesterday? Was that fun? You're making us late every day. You're behaviour's bad. You're not bad. You're a good person trying to do the right thing. That doesn't mean you're bad. I'll leave you alone if you get up. Otherwise, I'll stay here as you're sabotaging it again. I'm trying to understand why you're doing these things. Is that what they teach you at school? I'm going to stay here until you're getting up...if you're not getting up then I'm staying

here.” The father then identified that ‘G’ had a phone in her hand. He says, “Is that mama’s phone?” He then approaches the bed again and says, “Give it to mama.” ‘G’ then exclaims, “Why are you hurting me? Get away from me! You’re grabbing me!” The father can be seen to reach towards the child’s arm. ‘G’ screams. The mother comes to the door of the bedroom and the father approaches the mother stating, “Why are you smiling?” There is no evidence of the mother smiling. He continues, “Why are you interfering? Please go away. Why would you be smiling while your daughter is screaming?” ‘G’ is heard to exclaim, “Leave me alone! Leave me alone!” The father replies, “I’ll leave you alone when you get up for music. We are going to music today. I don’t want mama’s phone to distract you.” The father then approaches the child’s bed again and exclaims, “I’m taking that phone away until you have breakfast.” The child then screams. The mother is heard to say, “What is going on?” The father replies, “I’m trying to help [‘G’] come down. Please leave us alone.” The father instructs the child, “Give me the iPad. I’m not going anywhere. If you’re going to use it, I’ll take it away. You’re making it up. I know you’re a good actress. I’m filming this. That’s called acting. That’s called pretending. I realise you’re acting. Are you suddenly not afraid anymore? You threw things at me.” ‘G’ then exclaims, “leave me alone!” The father continues, “Perhaps you could be more careful. Perhaps you could try not to hurt me. If you get up, I’ll go away. It’s quite simple.” The child then repeatedly asks the father, “let me through the door, let me through.” The father replies, “Why do you want to go through door? Why?” The child responds, “I need the toilet.” The father replies, “You’re just going to the toilet?” The child then begins to become more distressed and screams, “Let me through the door! Let me out!” She calls out for her mother’s help, “Mama! Mama!” repeating to the father, “Let me through the door!” The father tells the child, “Will you calm down? When you calm down, I’ll let you through the door.” The child continues to scream, “Mama! Mama!” and “Let me through the door!” The father persists, “Calm down and I’ll let you through.” He then blocks the bedroom door and holds it shut. The child cries out in high distress, calling for her mother, hyperventilating and screaming, “Why won’t you let me through the door?” The father tells the police officer viewing the footage, “I won’t let her through because she’ll go straight to her mother.” The video footage continues with the child pleading, “Why won’t you let me through the door? Is that too much to ask? Mama! Mama! Mama!” At this point, the mother having called the police, the footage shows the police arriving at the family home. The father tells the police officer watching the replay of the footage with him, “she had a bit of tantrum. I’m afraid her mother’s encouraging her.”

87. The video footage makes for disturbing viewing. The child is patently in a high state of distress. The father manifestly is seen to be behaving in a controlling, domineering manner preventing the child from leaving her bedroom. His behaviour is patently emotionally abusive. In his narrative to the police, the father sought to blame both the child and the child’s mother for a situation so demonstrably created by him. The events are vividly captured on the father’s body worn camera. The father’s narrative demonstrates a complete lack of insight into the damaging effect of his behaviour, with seemingly no understanding of how intimidating it would feel for a then 10-year-old girl to be blocked from leaving her room for a prolonged period, preventing her from seeking the comfort of her mother and being recorded in bed on a body worn video camera. His lack of empathy is troubling. The father’s attempts to impose a narrative on the child that she was acting, is further evidence of his harmful behaviour towards her. In this Court’s judgment, the child’s distress was real, genuine and palpable. Furthermore, the father’s narrative to the police that the mother was, “encouraging her” is evidence of an *idée fixe* that permeates throughout the evidence.
88. A separate police video, captured on the officer’s body worn camera at 10:18 on the same day, records a discussion between the police officer and the younger child, ‘B’. ‘B’ told the police officer that his father, “pushed me for no reason. I was in the kitchen. He pushed me on stomach and I fell and hit my nose. He’d had an argument with my mum.”
89. At 10:44 on the same day, the body worn camera footage records the situation at the time of the father’s arrest. The father instructed the arresting officer to, “ask my wife to leave.” In a manner similar to his arrest on 14 February 2022, the father expressed his dissatisfaction with the police, stating, “I’m really disappointed you’re doing this. This is really disappointing. I’m being abused here. Can’t you arrest her? She is blackening my name and if you take me away, you’re supporting

her. It's abusive." In behaviour similar to that at the time of the 14 February arrest, the father then controls the pace of the arrest, keeping the police waiting while he uses the toilet, selects clothing and then brushes his teeth. The police are remarkably accommodating.

90. His interview with the police at 22:40 on 12 March 2022 was recorded. The father again, with legal advice, gave a 'no comment' interview and provided a written statement in which he recorded, "My wife and I are going through a protracted, difficult divorce process. We separated on 18 December 2022, cohabiting with two children and trying to arrive financial settlement. I was advised in 2020 to protect self from false accusations by recording interactions in the home. I was advised by the police to record interactions to protect myself." The father denied pushing his son, stating, "[B] complained of stomach ache. She [the mother] deliberately blocked me going to [B]. I placed my body between him and the mother to check he was ok. I did not intentionally push him...[B] banged his nose on something, maybe the fridge door. I did not see it happen. I did not push or hit him. He was taken aback and complained he hurt his nose. I put frozen peas on his nose." In respect of 'G', the father stated, "[She] has been acting out recently. It has been difficult getting her up on days when *I'm in charge* of the children. I tried to encourage and cajole [G] to get out of bed. I took the duvet off her to try to get her to get up. I'd heard of a trick where if you put water on someone's foot that would make them want to go to the loo. I poured water on my hand and touched her foot. I did not intend to frighten her or use violence. [G] needed to go to music class. Once again, she was not getting up. I pulled the duvet off her and tried to reason with her, sitting on her bed. [G] did not want to go because I would take her to meet some of my friends afterwards...I tried to reason with her. She was messing about with her mother's phone. I tried to reason with her and took phone off her so she was fully engaged in our conversation. I did the same with the iPad. At one point she started screaming. I tried to calm her down. She tried to avoid engaging with me by leaving the bedroom at one point. I asked her why she was leaving. I was in the doorway. I did not intend to trap her in room to exercise control. I did not intend to frighten her or use violence against her. I tried to maintain a loving relationship with my children. As a parent I do have to exercise a degree of parental control over two young children. I never sought to constrain [G's] behaviour, activities or movement to a degree which objectively could be seen as oppressive. I have to tell her off as normal parenting, as reasonable and in her best interests, not to threaten or humiliate her."
91. The police took the decision not to charge the father with any criminal offence.
92. The mother produced in evidence her own video footage. In one clip, the father is heard to say to 'G', "This is my time with you. See that calendar? It's called co-parenting". In another clip, the father is heard speaking to the mother telling her, "You will interfere and hurt the child. This is what the Court Order says. This is what the psychologist says. [G] can't leave her room because you won't go into yours." He is then seen to close the door. The mother made her own recording of the incident of 12 March 2022 in which the child 'G' can be heard screaming for her mother in distress and pleading with her father, "Let me through the door!" A further short video recording evidences 'B' showing his mother a bruise, stating that the father was, "holding me too tight. I wanted to go down [stairs] because I was hungry. He was stopping me." The child 'B' states in reference to his father, "He makes me have a sore throat that I can't talk normally." In respect of the incident when the father is alleged to have pushed 'B' to the floor in the kitchen, the mother's video footage records 'B' saying to his father, "Stop!" In a further video clip, the father says to the mother, "Are you staying down or going up? I'm trying to make sure you don't interfere with the children." The mother replies, "Is it ok if I come out?" The father responds, "Not if you're going to be with [G]. I have to move [G] so you don't interfere with her."
93. I turn to consider the evidence of the mother. In this Court's judgement, the mother gave her evidence in a direct manner. She answered questions in thorough cross-examination by Mr Hankinson without evasion. Further, her core evidence was supported in all material aspects by the written documentary evidence and video evidence available. The mother presented to me a straight forward, honest witness, who did her best to assist the Court. She presented as quiet and timid in the witness box. This is in stark contrast to the observations made by the Recorder when he conducted the hearing by video in August 2021. In respect of the August 2021 hearing, the

mother told the Court, “I was not ready for a Fact Finding Hearing. We were going for something very different. I did not know what was going to happen. I did not understand the process. I felt intimidated. They [the father and his Counsel] were both there on the screen. I felt like [the father] was giving a different version of reality. He told [the Recorder] there were only two floors in the Paternal Grandmother’s property and one bathroom and [fewer] bedrooms. There was not. It has three floors, four bedrooms and two bathrooms. Even then, I was not believed.” I have considered whether in the hearing before me the mother was attempting to give a false impression to the Court that she was vulnerable and timid. I entirely reject such hypothesis. On the contrary, the mother was in my judgement genuinely tearful at times and plainly found the process of giving evidence to be distressing, notwithstanding the participation directions put in place.

94. The mother told the Court that the children do not want to speak with their father or interact with him, “because of the accusations he makes. They were scared of his reactions. He would start accusing us that we are horrible. He said to [‘G’] no one will like you when they find out who you really are and calling her a witch and an actress. We were scared.” The mother told the Court that, having called ‘G’ a witch, he bought her a broomstick for Christmas, whereas he bought a laptop for ‘B’. The mother spoke of the father filming the children intrusively, making them feel uncomfortable. She described the body worn camera he carried at all times around his neck. Further, “he hid a device under the bed or on the sofa. He was giving a narrative while recording us, that was not the same as reality...It was him being obsessive and blaming us. We always felt watched wherever we go and whatever we do, even when he was not in the house. They could see even when he was not there, the camera was there.” The mother described the father taking pictures of the neighbours’ children, intimidating them in their own garden, “Even the neighbours’ children experienced that...he had an issue with the neighbours, if a ball came over the fence...he took a photo of the children. His intention was to intimidate them and show, ‘I have something on you’. It would never occur to me to take a picture of a child if a ball came over the fence.” The mother continued, “he had a camera around his neck. He went everywhere with it. I told him we feel uncomfortable.”
95. Regarding the events of 12 March 2022, the mother told the Court, “I was very stressed with the whole situation. I did not know what to do. I could not enter [‘G’s] room because he blocked the door. I was afraid to push the door as he was on the other side and I was afraid [‘G’] would be hurt. I was crying. I was distressed. I was terrified and trembling, worried about [‘G’]. [‘G’] asked him to let her go. He was very cold. The whole situation, I was scared. He was blocking the door. I was worried how the situation would develop.” The video footage of the incident was played in the Court room. The mother was tearful and, in this Court’s judgement, demonstrated real and genuine distress in the witness box.
96. The mother told the Court that she was instructed by the father not to leave her room. “He told me [‘G’] can’t leave her room until I stay in mine. I removed myself. He followed me downstairs and told me I interfere. He was obsessed with where I was...he told us, one of us has to go to our room. It’s impossible in our house that our paths wont cross. It is absolutely not the reality that I was interfering with [‘G’]. She was in her room and he was in her room. His narrative is the opposite of what was happening. He was telling [‘G’] she was not normal. She explained that she did not want to go with him to see his friends as they made her uncomfortable. He had no conversation with her about what she would like to do. There was no compromise. He told her there was something wrong with her because she would not do what he was saying she should do. He snatched her phone from her. Why did he have to be forceful? He was not listening to her. She was trying to communicate with him. He was controlling the situation according to his narrative, ignoring what she was saying and ignoring her worries. He then obstructed the door, snatched her phone and climbed up to her bed filing her. She was terrified and frustrated. He told me to get out. He gives narratives to things that are the opposite of reality.”
97. The mother described being forced by the father to sleep in the smallest room in the house, telling the Court that the father moved her mattress from [‘B’s] room and told her to sleep on the floor in the storage room: “It was not just once my mattress was moved...he told me where to stay...He was telling me where to go, where to sleep. He controlled every aspect of what I did.” The mother

told the Court, “He implied to our marriage mediator that I have mental health problems. He emailed her saying I was mentally ill.”

98. Regarding the incident when it is alleged that ‘B’ was pushed to the floor by the father, the mother referred to her video recording where ‘B’ is heard to say to his father “Stop!” and then ‘B’ groans. The mother told the Court, “I was present. I know what happened. The father pushed [‘B’] to the floor. He was right next to him. [‘B’] was saying his tummy hurt. [‘B’] came to me. The father said I was interfering...The father pushed between us and pushed us apart...he was angry...he can change very quickly... [‘B’] fell to the floor and banged his head on the tiled floor. He hurt his nose. [‘B’] said ‘Stop!’ [‘B’] was distressed. I moved away because I did not want more to evolve from that.”
99. The mother told the Court of events on 11 February 2022 in the afternoon when ‘G’ was at school and ‘B’ was at home, ill with a temperature. She told the Court that she was downstairs in the hallway by the door. She described the father as not being happy that ‘B’s PCR test results had not come through, as the father was due to take ‘B’ away for the weekend. She told the Court that she walked away and the father followed her, still talking to her. She told the Court, “He has a habit of closing doors when talking to me, to separate us. He pushed the door on me. A flash of his anger. His anger always comes in flashes. I put my hand up to cover my face. The edge of the door hit me on the forearm.” The mother demonstrated the action in the witness box, holding her arm over her face. She told the Court that the father used such force that the door came off its hinges. She provided photographic evidence of the door hanging by its lower hinges only, the upper hinges having separated from the door frame. The mother told the Court that she did not report the incident to the police for two days, stating, “I’m scared to do things when he is in the house that would upset him. I was injured on the Friday. He left on the Saturday. I called the police on the Sunday. I collected my thoughts and thought, all this is wrong...It was painful. I was terrified...I was scared to react because of how it would develop. Most of the time it is control, intimidation and fear.”
100. It was put to the mother that when she reported matters to the police in February 2022, she denied that she had been subject to coercive control. The mother told the Court, “He was desperate to give the impression I was alienating the children. I was in fear of losing the children. I was scared of the system. He was in constant contact with Cafcass saying I was alienating the children, walking around the house with a camera and giving a narrative to the situation. I did not want to accuse him of coercive control because he was using the system to scare me...he accused me of having mental health problems...I was terrified. I could not sleep or eat. I was scared to say anything...he would send messages telling me, ‘This is what you’re doing’ and sending extracts from psychology websites about alienation, implying there was something wrong with me, making me feel it was my fault. I did not know where to stand. He would send messages saying I was wonderful and at the same time accusing me of being a horrible person...He would say, ‘I know what you’re doing,’ sending a link to an alienation website implying that I was hurting the children. I felt terrified with the messages. He was implying I was hurting the children. I did not know what to think. He was playing with my reality. It made me feel very anxious. I could not think straight and could not sleep. What he was saying was not me...I was afraid and alone. I was not legally represented. I had not been believed by the Court. It was very hard for me to say things [to the police] over the phone. I was not able to talk about things. I was scared of the consequences...nothing had been done. Things had got worse...I had nowhere to go, no money and could not afford being out of the house...he accuses me of alienation but it comes from his insensitive approach to the children which causes them harm.”
101. The mother asserts that on 13 February 2022, the father took ‘B’ away from the family home for a weekend by the sea, contrary to ‘B’ having been kept off school with a high temperature, as this was ‘his time’ with ‘B’. The mother points to evidence of ‘B’ describing being “very cold” during the trip and the mother was prevented from speaking with ‘B’ while he was away.
102. The mother told the Court in her oral evidence of a pattern of the father telling her she was mentally ill, sending to her links to psychology websites, informing their marriage counsellor of his belief

that the mother was mentally ill and sharing with the marriage counsellor information about parental alienation. She points further to evidence of the father telling his own therapist, Dr Kraft, and the Local Authority that she was mentally ill.

103. The mother told the Court that the father gave notice to the children's schools terminating their placements, without informing her. Further, she told the Court that the father refused to pay for school trips for the children, telling the mother that it was her responsibility to pay. His earnings were significantly greater than hers. She told the Court that the father transferred all monies from the children's bank accounts into his business account where she could not access it and where he had total financial control. He failed to pay maintenance payments ordered by the Court, resulting in the mother being required to make an application to the Court for an enforcement Order. The mother told the Court that the father sought to make his own application to the Court seeking an Order that he be permitted to collect his belongings from the family home, notwithstanding the mother having offered the father by email various dates to collect his belongings. She asserts that the father, jointly with his brother, owns the property in which the Paternal Grandmother lives and that he owns a further property but this was not made clear to the Recorder at the time of determination of the Occupation Order application.
104. In respect of the allegations of rape that took place twice during a holiday in her country of origin, it was put to her on behalf of the father that she had initiated sexual intercourse. The mother flatly denied the suggestion. The mother was clear that she did not consent to intercourse nor did she consent to him photographing her during intercourse throughout their marriage. This Court takes care not to draw any adverse inference against the mother for delayed reporting of the allegations of rape. It is clear that the mother did not report the incidents in her country of origin. She later reported the events to the police in the United Kingdom. It does not appear that the police signposted the mother for support via her GP or for therapeutic work. Indeed, it does not appear that the mother's allegations were considered by way of any thorough police investigation. The allegations were largely dismissed by the police, it seems, without the father being questioned. The mother's reports of the incidents were documented. The Court was informed that it was only when direct access Counsel become involved that the mother was given advice regarding seeking findings on the allegations and to provide a detailed statement. The mother was consistent in her evidence that, during the holiday in her country of origin, she was very clear to the father that she did not want sex but he continued regardless. The mother was consistent further in her evidence, during thorough and proper cross-examination, that the father would regularly video her during intercourse, contrary to her express requests that he should not. The mother asserts that the father's behaviour fits into a pattern of abusive, dominating and controlling behaviour, where he demands what he is entitled to. In this Court's judgement, the mother's evidence regarding the two incidents of rape was clear and reliable. Consistent with her other evidence generally, the mother answered questions in cross-examination in a direct manner without evasion. Her evidence was detailed and compelling.
105. The mother told the Court, having received an email from an anonymous source seeking to blackmail her and claiming to have sexualised images of her, that the father, "works in I.T. He has access to all the technology. He is the only person who has pictures of me of this nature. It happened around the time of the video court hearing in July. I could not prepare myself for it. I could not even speak during the video hearing as windows kept popping up. The email had all my details, phone number and address. He is the only one with access to all those things."
106. In respect of the father's allegation that the mother prevented the children having a relationship with their Paternal Grandmother, the mother told the Court, "I treat her with respect and kindness and keep the children in the middle of attention."
107. I turn to consider the evidence of the father. In his oral evidence, the father accepted moving a mattress, for the mother to sleep on, to another room, while he had exclusive use of a bedroom with a double bed and exclusive use of an office within the family home. He accepted that the mother, "did not have a room of her own per se" and that she had to sleep on a single mattress that he had moved between rooms. He told the Court that he did not ask the mother before moving the

mattress, “because she did not engage in conversation.” He stated, “I was concerned she was sleeping beneath [‘B’s] bunk...[I moved the mattress to the smallest bedroom] in an effort to discourage her from interfering with *my* normal weekend.”

108. The father was asked what he thought was wrong with ‘G’ wanting to chat with her mother during the time the father regarded as “his time” with the children. The father told the Court that ‘G’ was, “ignoring him. [The mother] created a situation where the children were conflicted which parent they were supposed to be dealt by, she [the mother] saying I’m a nasty father.” It was put to him by Counsel that he had not previously asserted that the mother had called him a ‘nasty father.’ He told the Court, “It’s the implication.” He told the Court that he considered it wrong for ‘G’ to go to her mother for a cuddle during. “his time,” as it was, “not necessary.” He told the Court that the mother was providing, “inappropriate reassurance” to ‘G’ by cuddling her during, “*his* time” with the children. He asserted that the mother was, “over egging the need for comfort.”
109. Regarding the allegation that he pushed ‘B’ on 11 March 2022 causing ‘B’ to hit his head, the father told the Court that the mother, “was not supporting co-parenting.” He told the Court, “I remember coming down to find [the mother] and [‘B’]. [‘B’] was saying he had a stomach ache. [The mother] was making him [‘B’] feel conflicted because she was helping. I found him [‘B’] downstairs being comforted by his mother.” He denied pushing ‘B’ to the floor, telling the Court, “We bumped into each other” and ‘B’, “made contact with the floor. There was no damage...no ambulances were necessary”. He accepted that ‘B’ said, “Stop!” The father told the Court, “I don’t know what he was trying to get me to stop. I did not use force. I was so shocked that she [the mother] was so clearly conflicting our time together.” The father was asked whether he put his body between ‘B’ and the mother. He replied, “Not in the way you’re implying. It might have ended up that way. Not a great aggressive act. It was *my* time.” When put to him that in his statement to the police he had accepted putting his body between ‘B’ and the mother, the father told the Court, “I’d forgotten that...it’s not dramatically inconsistent...it was clumsy. The problem was, *she* was interfering all the time. It was not clear to me how to resolve that.” He was asked again whether he had pushed his son over. The father told the Court, “You can see from the video, he fell over.” In fact, the video does not show that. He was asked whether he accepted there was physical contact, to which he replied, “There’s physical contact and physical contact. I helped him up when he fell over, is the way I see it. It’s not like I’m about to call an ambulance. He hurt himself, yeah. It’s not ambulance time though.” It was put to the father that in ‘B’s own words, he stated that his father had pushed him to the floor and hurt his forehead and that his father was angry. The father told the Court, “He is negatively influenced by his mother, the same way [‘G’] is. It’s prejudicing *my* contact with him.”
110. The father was asked in cross-examination about the mother’s video recording of 11 March 2022 in which the father is heard to tell the mother that she can’t come downstairs as ‘G’ is downstairs and, “this is my time with [‘G’].” He tells ‘G’, “Mama is going to have to leave. It’s called co-parenting.” The father told the Court, “I was confused about what was going on. She [the mother] is not letting me care for [‘G’]. She’s taking over the time we’re supposed to be together.” He accepted that he, “comes across as frustrated”, telling the Court, “I’m trying to do co-parenting. The co-parenting is frustrating me. I don’t think it’s great.” He was asked whether he saw any negative information in the video regarding his behaviour. The father told the Court, “I don’t see much at all. I’m aware she [‘G’] is not afraid of me, that’s what I draw most from *her* behaviour.”
111. Regarding the events of 12 March 2021 where he blocked ‘G’ in her bedroom, the father, in reference to the video evidence, told the Court, “You see me in an absolute quandary about what to do about the mother interfering with *my* time with the children. I’m all over the place.” He was asked whether he acknowledged it was intimidating to stand over ‘G’s bed with a body camera attached to him. He told the Court, “I’m 6 foot 2. I’m intimidating to a lot of people.” It was put to him that it can be seen from the video that he spoke to ‘G’ in a cold, menacing tone. The father told the Court, “I was being dragged through the mill, the other parent persistently pushing themselves into a conflict situation.” When asked in cross-examination by Dr Proudman what kind of message his behaviour sent to the children, that their mother cannot leave her room nor could ‘G’ leave her room, the father responded to Counsel, “You’re deliberately provoking me.” He told



the Court, “The mother is frustrating the father...clearly there was some sort of collusion going on...her mother is interfering with a normal relationship with me and her.” Having told the Court in evidence-in-chief that the mother showed, “no distress” during this incident, the father was referred to the video evidence of mother’s telephone call to the police. The father told the Court, “She is very distressed when on the phone to the police. It’s made up. The situation is being contrived to portray me in a bad light.” He proceeded to accuse ‘G’ of, “acting” and having, “made it up...I believe the situation was being manipulated, so it’s very hard to say what is fear and distress. I saw her smiling when she expressed anger to me. It was not a true representation of what she was feeling...her mother asked her not to cooperate with me. She was doing her best for her mother. Her mother behaved irresponsibly. She’s in a bad situation. That’s why I’m here. I’m terrified she will be anorexic or self-harm because of this...her behaviour is briefed by her mother. She will look at her mother and say, ‘what do I do now mum?’...I can’t find any other explanation for the child screaming...I’m encouraging a good relationship. She [the mother] is telling them to misbehave in a very serious way, making the children lie.”

112. The father was asked about his allegation that the mother was ‘grinning’ throughout the incident. He was asked why he had not produced any video evidence to prove his assertion, given that he was wearing a body camera throughout. The father told the Court, “I don’t want to escalate the situation or to be about mudslinging.” It was put to him that there is no video footage showing the mother grinning, to which he replied, “Good. I’m glad...she’s in as much trouble as it is.”
113. Having regard to ‘G’s indication that she did not wish to go to the father’s friends’ house, the father told the Court, “Again, she is taking one specific occasion and suggesting a pattern of behaviour.” He referred to his friends as, “two very nice people who are experienced with this type of situation...[one] is trained in therapy. I asked for advice how best to make it normal for the children...it was clear to me [‘G’] had been negatively influenced in a way that was never going to be positive...I was sorry to have to involve my friend. It was very disappointing. I felt it was arranged by [the mother] to stop [‘G’] having normal relations with me.”
114. The father accepted wearing a body worn camera to record inside the family home. He told the Court, “I had a number of amazon fire tablets. I got the newest ones as a little collection. I switched them on to video me and my behaviour in my room so at trial I could use evidence to protect me from accusations...it is definite false characterisation to suggest I was moving around the house videoing everyone...from my perspective, if she believed I was abusing her, she would have breathed a sigh of relief knowing I was wearing a bodycam...there is nothing inappropriate. There is no video of anyone undressing. To accuse me of that is false.”
115. The father told the Court, “I’m very disappointed she [the mother] involved the children. That’s a red line for me...I hope the outcome from these proceedings is the Court will let her [the mother] know the accusations she has made are false and the conflict she is stirring up is not good for them...she has alienated the children from me and that’s why I don’t have a relationship with them...getting me out of the house and wanting the house as her possession.”
116. The father told the Court, “I have withdrawn ‘parental alienation’. I did not realise the issues around that phrase. My concern is for the children, not to use the shorthand phrase *the Court used*...it’s a massive distraction. I’m aware from [newspaper articles] that paedophile fathers have used parental alienation to get contact.” It was put to the father that he had sent to the mother a link to an article from a psychology website about parental alienation, with the message, “This is you”. The father told the Court, “I was managing the conflict between us by avoiding having arguments in person...I was looking for information that might inform what was happening. I came across this article...I was finding things online that seemed to inform what was happening between us. I presented it to [the mother] to say, ‘We can work on it’...I was trying to convey positive signals to her...some of the behaviours demonstrated to me by my ex-wife were not good...I sent her examples about parental alienation after she exhibited the behaviour described [in the article] because I was alarmed about what was happening. If she behaved badly, I would send these in response. I would give her examples I thought would illustrate to her why it was wrong.”

117. The father accepted sending a parental alienation article to the couples' marriage counsellor Ms Parkinson. He told the Court, "I was being characterised wrongly by her. She did not understand my distress. This reflected the fact that I was being abused...I sent her the article as I hoped it would illustrate what was happening." It was put to the father that he had told Ms Parkinson that his neighbour was trying to kill him. The father told the Court, "My neighbour was having some work done on his roof without netting and metal fell off...I tried to explain this to Ms Parkinson. Clearly, she has some agenda and things were twisted...she is not qualified and is clearly biased."
118. Having regard to the father's concern that the mother was preventing the children having a relationship with the Paternal Grandmother, the father accepted that the Paternal Grandmother visited the mother's home at Christmas to deliver presents for the children, stating, "to her [Paternal Grandmother's] surprise she [the mother] invited her in...the mother said the children locked themselves in the bathroom...I'm hearing from my mother that [the mother] huffed and puffed...in my opinion [the mother] was stopping them opening presents...it was an act of cruelty. She can't pretend my mother doesn't love them because my mum does love them!"
119. The father was asked in cross-examination about a poem he wrote for his son. The poem begins with the introduction, "In the poem I am saying you are bruised that you are doing this to me. You aren't being the person you want to be, that you can be." The poem is entitled "Bruised":

"[B] wonderful child  
 Beautiful dreamer curious boy  
 Flesh soft and gentle  
 Please don't stop having your wonderful thoughts  
 Please don't stop playing your wonderful games  
 There are no bruises on your beautiful body  
 Thank God everyday that the tortures of illness don't affect you  
 Yet your mother who knows how much I love you  
 Has said that I bruised you  
 Unknown priest at the confessional  
 Forgive this woman her awful lie  
 Forgive her the hate that has made her say such a poisonous thing  
 Please bless this mother who cares for our beautiful son  
 Give her peace, soothe her, give her happiness that she deserves  
 God you may curse me with the torture of her words,  
 Only please release the pain that made her do something so bad to me  
 Why would she do this to me and her own children?  
 Solve this awful riddle that locks me in this purgatory  
 It has locked her in as well and I long for her to be free"

120. Responding to Counsel, the father stated, "you read it quite inelegantly. I could give it a more sympathetic reading...you so wilfully misinterpreting it is very disappointing." He told the Court, "I was bringing out into words the situation I am in, in a lyrical way...I stand by my poetry. I am a lyricist...it expresses the love for my son and my shock for the mother who said such awful lies...it's a call for help...she [the mother] said something that was poisonous and prejudiced my relationship with my son. Ms Parkinson [the marriage counsellor] wilfully misinterpreted it...I'm trying to get positive intervention to help my wife behave appropriately." The father denies showing the poem to his son. In this Court's judgement, the poem provides further insight into the father's state of mind and his fixated, rigid belief that he was the victim of abuse perpetrated by the mother.
121. The father accused the children of 'hitting' him: "They were being part of the abuse towards me because of the negative influence of their mother...their mother was acting in an irresponsible way, damaging them...they were clearly influenced by [the mother]...[she] told them to say negative things about us." When put to him that 'B' had alleged that his father had hurt him and bruised his hand by holding it too tight to prevent him coming downstairs when he was hungry

the father told the Court, “This is [‘B’] trying to come up with examples to make [the mother] feel ok. I would have organised his thoughts so he would feel positive...I was protecting the children from the toxic environment created by [the mother’s] actions.” When it was put to him that he was the perpetrator of domestic abuse, the father responded, “I resent that implication. I regard that as attempting to put a label on me to prevent me having normal relations with my children.” He proceeded to assert that ‘B’s English language skills are, “suffering because he does not have a well-spoken English man who makes a living from words.”

122. In respect of the allegations of rape, the father told the Court, “It is completely surreal that someone would make such accusation without me being slightly aware of it...sexual conduct between consenting adults is not generally the concern of public authorities. I object to giving this sort of detail in a public Court.” The father denied that any sexual intercourse took place when on holiday at the coastal city in the mother’s country of origin, telling the Court, “It was very cold.” In respect of the allegation of rape when on holiday in the capital city of mother’s country of origin, the father accepts that intercourse took place, telling the Court, “I was surprised. It was out of the blue...she asked me if I wanted sex. I was confused she was asking. I thought she wanted to put things on a better footing. We had sexual intercourse. It was very strange. She did not touch me affectionately. I went to kiss her and she withdrew. I did not understand why it happened. It was not the beginning of any thaw in relations.” He accepted taking photographs and videos of the mother during intercourse throughout their marriage generally. He accepted in cross-examination that he had never asked her permission to take photographs or videos of her and had, “never asked her if she wanted sex...we did not make contractual relations for the congress we were about to enjoy...forgive me for being fascinated what that might have done if I’d asked her questions during the experience...If I had asked during congress, I think they would think I had gone mad.” He repeated, “These are private sex matters that are of no concern to this Court.”
123. The father accepted during the holiday in the mother’s country of origin that the atmosphere between him and the mother was, “frosty and at times we were not speaking.” He accepted that he would spend much of the time alone, working, eating alone and going for walks alone, while the rest of the family holidayed. He was referred to a statement from the mother’s brother who was present during some of the holiday, in which the brother-in-law indicated that, in response to ‘B’s eagerness, the father had shouted at ‘B’ and the father accused ‘B’ of beating him and ‘hassling’ him. The father told the Court, “[‘B’] was being encouraged to hit me by his mother. He was hitting me. I was alarmed this was happening in front of other people.” He described the atmosphere on the holiday as, “unpleasant and unhappy...my children paid no attention to me. They ignored me.” He described the mother as being aggressive to him and, “furious”. He told the Court that he asked his in-laws whether the mother had, “ever behaved like this before.” He then accepted that his in-laws spoke no English. The father told the Court that when speaking with his in-laws he used, “google translate.” He told the Court in respect of the mother, “I found her quite unattractive during this period,” and that he was, “scared of her... She was behaving extremely unpleasantly to me.” He proceeded to tell the Court, “She asked me for sex...I don’t care how inconsistent it sounds. I’m not getting anything out of this.”
124. On his own case, the father’s evidence was that the relationship between the parents had deteriorated significantly at this point in time. He had isolated himself and was not engaging in the family unit, eating alone and going for walks alone. On his own evidence, he described the mother as aggressive and cold. His assertion that she initiated sex lacks any credibility. He sought to represent himself throughout as a victim and that she was the perpetrator, seeking to reverse the role of victim and offender. His evidence that he sought to hold conversations with his brother-in-law in the mother’s country of origin during this holiday by the use of an online translation app, to identify why the mother was behaving in the way he alleged, equally lacks any credibility. On his own evidence, he told the Court that he would never seek consent for sex.
125. Regarding the allegation that the father sought to extort money from the mother to prevent publication of sexualised images of her, the father told the Court, “She’s managed to warp it into being about her.” He accepted taking videos of himself engaging in self-arousal. He told the Court, “So when I wrote this email, I was confusing me with her?” Asked by the Court whether this was

an admission on his part that he, “wrote this email”, the father told the Court that he was using sarcasm. It was submitted on behalf of the mother that the father’s use of sarcasm in his evidence, regarding deeply concerning allegations, reflects his controlling personality, knowing that mother was distressed by the allegations. This Court finds weight in that submission.

126. In respect of the allegation of financial control, the father told the Court, “I had quite a lot of bank accounts...I used the children’s accounts to put aside money. We were spending way beyond our means. I kept things on an even keel. When [‘B’] started school, we were haemorrhaging money.” He accepted withdrawing money from the children’s bank accounts without seeking the mother’s consent and using the money, “to pay for tax liabilities for the company.” It was put to him that he took money from the children’s accounts and put the money in his sole name. He told the Court, “I don’t remember.” It was put to him that he removed the mother’s access to their business account. He told the Court that the mother had taken money from the account: “I took the rest of the money out so she could not take it.”
127. Having told the Court at a Dispute Resolution Appointment on 28 July 2022 that he had not been allowed by the mother to see the children for four months, he accepted in oral evidence that he and the Paternal Grandmother were invited by the mother to attend ‘B’s Holy Communion in May 2022 and that he and the Paternal Grandmother had both attended. He told the Court, “It was awkward and embarrassing.” He told the Court, “I had not lied to the Court. I tried to give the complete truth. My mother and I were hangers on. It was not meaningful contact.” It was put to him again that he had lied to the Court. Giving his response while smiling, the father told the Court, “What’s funny is your suggesting I’m lying. The children have been negatively influenced. Me not saying I had attended at Communion means I’m significantly lying to the Court? It means you are making false allegations.” Further, it was put to the father that despite telling the Court at the Dispute Resolution Appointment on 28 July 2022 that he had not been allowed to see the children for four months, he had in fact been invited by the mother to attend a music concert at school where ‘G’ was performing on 9 July 2022 and he had attended. The father responded to Counsel, “You are confusing literally seeing someone and meaningful contact.”
128. The father accepted in oral evidence that during the Final Hearing in the Occupation Order proceedings before the Recorder, when addressing the issue of alternative accommodation, he had told the Judge that the Paternal Grandmother lived in a two-storey property and that the accommodation was unsuitable for him. He accepted in oral evidence that the Paternal Grandmother’s property is a three-storey property with four bedrooms and two bathrooms. He told the Court, “I made a mistake...it was very distressing for me. I was concerned about financial liability.”
129. In stark contrast to the mother, who assisted the Court with direct answers during her oral evidence without any evasion, the father’s evidence was deeply troubling. He was repeatedly evasive in his answers to straight forward questions. His evidence on the core issues was not supported by any reliable documentary or other supporting evidence. He repeatedly sought to deflect blame onto the mother and the children and accused third parties of bias, repeating at every opportunity his narrative that the mother was responsible for negatively influencing the children against him, without producing any cogent evidence in support of that narrative. With sheer inveteracy of will, he maintained his *idée fixe* that the children had been negatively influenced by their mother, a rigid belief, that no fact could derail.
130. The father’s evidence to the Court was laced with sarcasm. He repeatedly grinned and smiled during cross-examination by Dr Proudman, which Dr Proudman properly highlighted when he was behaving in this manner. His response was to state to Counsel, “I’m amused by the absurdity that I’m a lunatic angry man.” The father was repeatedly combative during cross-examination, asserting variously that Counsel was, “wilfully misinterpreting facts” and, “repeatedly stating falsehoods.” He accused Counsel of, “pure fantasy” and “not representing the true situation.” He accused Counsel repeatedly of, “false characterisation” He asserted to Counsel, “I understand the campaign you’re running.” His combative approach did not assist the Court in the task before it of determining the factual matrix in the case nor did it assist the children. The father demonstrated

not the slightest insight into the impact of his actions and behaviours on the children. In evidence to the Court, he found it impossible to think empathetically towards the children. He was unable at all to reflect on the clearest possible evidence of his controlling and abusive behaviour, that being the video evidence he took on his body worn camera during the incident when he prevented 'G' from leaving her bedroom, resulting in the situation escalating to one of the child demonstrably experiencing such a high level of prolonged distress. The father took the decision to video record all movements in the family home. In doing so, he is hoist with his own petard.

131. Further, the Court must conclude that the father is not a witness of truth. He demonstrably lied to the Court during the Family Law Act proceedings on one of the core s.33 issues relating to the Occupation Order application, being that of the housing resources of the parties. His evidence about the size of the Paternal Grandmother's property was false. The Court does not accept his assertion during these current proceedings that he had simply made a mistake on this key issue. Further, the father patently misled the Court in the course of the current Children Act proceedings by asserting that he had not been allowed by the mother to see the children for four months, despite having been invited to and actually attending 'B's Holy Communion and 'G's school music concert within that period. In respect of each of the disputed facts, the Court is bound on all the information available to prefer the evidence of the mother.
132. Dr Proudman on behalf of the mother submitted that the father sought throughout his evidence to deflect or deny, to attack the mother and to seek to reverse the role of victim and offender. In doing so, it was submitted, the father sought to act manipulatively to avoid taking responsibility for his own actions and to seek to shift the blame onto the mother, who is the victim of the domestic abuse perpetrated by him. The mother asserts that in respect of his relationship with the children, the father lays all the blame at the mother's door and accuses her of lying about behaviours he has engaged in. The mother submits that this is a pattern of behaviour, which was noted by Dr Lopez. In this Court's judgment, having had the unique benefit of seeing and hearing the father give evidence, and having regard to all the evidence before the Court, there is significant weight in those submissions.
133. In reaching these conclusions, the Court has taken into consideration also the wider canvass of evidence, including the evidence of Dr Lopez, Consultant Clinical Psychologist. Dr Lopez, in her independent report of 14 April 2021, permitted by Order of the Court as a single joint expert, had the benefit of meeting with both parents separately to undertake an assessment of them. Dr Lopez concluded that the mother did not present with any mental health disorder, although there was evidence of stress associated to her then living arrangements, where she was cohabitating with the father. Dr Lopez concluded that the mother would have capacity to achieve a less acrimonious relationship with the father, were she to not feel the need to protect herself: "as a parent, [the mother] has learnt that it is 'important to be together' which would have increased her determination to stay in a relationship that she might have perceived as controlling." Dr Lopez concluded that overall, the mother's attitude to the father, "would predict that there would be significant risk that the relationship would continue to be acrimonious and characterised by reciprocal accusations that would have a significant impact on the children emotionally. She would continue to feel powerless to affect change in her life...she would have greater difficulty keeping the children at the centre of her thinking. At such times, there would be a greater risk she would be exposed to her parents' acrimonious relationship."
134. Dr Lopez concluded that the father did not present with any mental health disorder, although there was evidence of historical anxiety and depression associated with interpersonal difficulties and, "perceived threat to his fragile self-esteem." Dr Lopez concluded, in respect of the father that he remained unresolved about his parents' separation that continued to organise his thinking and behaviour in his current separation. His interpersonal difficulties had, "organised his response to his perception of [the mother] controlling his interactions with the children." Further, his psychological organisation, "would continue to impact on his relationship...and he remained preoccupied with his perceived injustices, false allegations and fears of being controlled that would predict that this relationship would continue to be acrimonious." In Dr Lopez's expert opinion, the father's narrative described him, "very much aligned" to his own mother's needs and

feelings. He was noted by Dr Lopez to often confuse beliefs about care with descriptions of discipline and hardship.”

135. Dr Lopez told the Court in her report that the father’s, “dominant attachment strategy was to present himself as emotionally vulnerable and use coercive anger to force attachment figures to attend to his needs.” Dr Lopez described ‘coercive individuals’ as often persuasive and charming, “but are also prone to becoming more controlling in their behaviour,” noting that this would increase the risk of conflict within relationships: “He would be more limited in his range of responses to interpersonal difficulties,” Dr Lopez concluded that the father’s, “determination not to abandon his responsibilities as a father would paradoxically increase his potential to maintain a more entrenched position within the current proceedings. Preoccupied individuals can both be angry and controlling in relationships...[he] remained extremely preoccupied with his feelings of perceived injustice...which would suggest a limited capacity to reflect on his feelings or the impact of his behaviour on other people and he would be less able to think empathetically about the impact of his anxiety and anger. Rather, he would justify or exonerate these feelings in terms of his rather rigid beliefs about right or wrong...Analysis of [his] adult attachments might suggest that he would use coercive anger to manage his feelings about relationships. This would increase his risk of hostility towards other people. Cognitively, he would overlook the impact of his anger on other people, and he would be less able to think empathically about the impact of his anger. Rather he would either justify or exonerate his anger in terms of his rather rigid beliefs about right or wrong.”
136. Dr Lopez considered, in her independent expert opinion, that the father, “obtained elevations on the *Narcissistic* and *Histrionic* personality constructs: People with this particular combination of traits tend to have an inflated sense of their own importance, a need for attention, and a lack of empathy for others. They can also be unreasonable in their demands, and insensitive to the difficulties of others. They can be prone to intense emotions and can behave eccentrically to get attention. However, their self-confident appearance is usually underlined by a fragile self-esteem and a marked vulnerability to criticism...”
137. Dr Lopez considered further that the father obtained elevations in the *Anxiety* clinical syndrome scale: “People with the above-mentioned traits can experience considerable difficulties handling stressors that can threaten their self-centeredness and perceived entitlements. [The father] was extremely limited in his ability to think reflectively about his mental health, approach. He was not able to describe any particular insight into the pattern of anger or difficulties managing his behaviour when aroused by his rigid sense of right or wrong. Rather he would justify any feelings of anger in order to defend himself or a principle. On interview, he would become particularly more assertive when describing his feelings towards those that presented opinions that he perceived as a threat to his idealised view of himself including medical professionals and his wife and would dismiss their opinions as either untrue or presenting a false impression of events (“I’m going to get that letter ripped up”). He would reconcile these feelings by giving an evocative account of the harm that he felt he had experienced in their care/relationship and his attempts to protect himself or the children.”
138. In conclusion, Dr Lopez considered, in her independent expert opinion, that the father, “remained extremely preoccupied with his feelings of perceived injustice by [the mother] or presenting himself as the victim of injustice and abuse. His thinking about [the mother] would often obscure his focus on his thoughts about his children emotionally. [His] feelings of anger and indignation would be most triggered by circumstances that he perceived as unjust, rather than due to any other relationship difficulty... He would have great difficulty relinquishing power and control within his relationship with the children and would have difficulty accepting [the mother’s] decision He would have greater difficulty keeping his children at the centre of his thinking or decision making about them. At such times, there would be a greater risk that the children would be exposed to the parents’ acrimonious relationship. In his description of his children, [he] would readily become distracted by his negative thinking about [the mother] and this would detract from his focus on his children. In his thinking, he struggled to separate his positive feelings towards [the children] from his negative feelings towards her mother...Overall, [he] was limited in his ability to think

reflectively and empathically about his children in their own right or consider their relationship as separate from his feelings about other people. His difficulty thinking reflectively about his children would predict he would have greater difficulty interacting with his children and connecting with them in a way that would promote their security of attachment. He would struggle to prioritise his children's needs over his own without appropriate support. He would be less able to interpret his children's subtle indicators of happiness or distress necessary to make decisions about their welfare but would be more likely to make these decisions based on his own feelings."

139. In this Court's judgement, Dr Lopez's astute conclusions in respect of the father regarding his extreme preoccupation about his feelings of perceived injustice by the mother, presenting himself as the victim of abuse, his feelings of anger and indignation and his limited ability to think reflectively about his children were starkly and vividly revealed.
140. The parties jointly engaged in online therapeutic sessions with Ms Parkinson, with a view to the parties repairing their marriage. Ms Parkinson produced a statement in which she records her concerns about the father's behaviour. Ms Parkinson records in her statement, "I was especially concerned by his demeanour and manner. I could see that he was suffused with anger, that he felt victimised by his wife, children, neighbours et al."
141. Ms Parkinson continued, "From the very beginning, the Respondent [father] would describe the violence he has been subjected to during his life. He would often backtrack his words but at other sessions continue with the violence theme. He would state that and describe how everyone he knew was violent. This included his neighbours, the Applicant [mother] and the children. The Applicant's [mother's] behaviour was typical of someone in an abusive relationship. She would sometimes interrupt the Respondent but had to force in what she wanted to say but cowered to the Respondent when he spoke. I was told separately that the Applicant was worried that she would not be believed as to the allegations she made because she was more powerful in the way she spoke alone than with or in front of the Respondent. In the sessions he was the dominant figure. If the Applicant did speak (and I would try and make sure she had the chance to speak) then the Respondent would shake his head, grimace and frequently interrupt. I felt he did this to try and express she was lying or making things up."
142. Miss Parkinson continued, "It is disturbing when a therapist is aware that an individual does not have empathy. This type of individual does not feel emotion but instead they put it on like an act. I witnessed this during one of the sessions. The Respondent's face contorted and looked like a gargoyle. It was a very unnatural expression and was frightening. It appears the Respondent was trying his best to 'cry'. However, it was clear he was not feeling this emotion but instead wanted me to believe he was. The Respondent noticed I was not believing him and he quickly changed back to his 'normal' face. The Respondent's 'normal' face was infused with anger." It is unfortunate that Ms Parkinson used an ill-judged choice of words in her description of the father as looking like a 'gargoyle'. Inevitably, he took offence with this. Nevertheless, Ms Parkinson's description of the father, "trying his best to cry" and, "quickly changed back to his normal face," accurately describes the father's manner when giving evidence to this Court.
143. Having had the unique benefit of seeing and hearing the father give evidence, it was noteworthy that the father on several occasions feigned becoming tearful before immediately then becoming stern and angry. Ms Parkinson's observations about the father shaking his head and grimacing also reflect the Court's own observations of the father during this Fact Finding Hearing, including when the father was listening to closing submissions on behalf of the mother. This Court makes expressly clear however, that it attaches limited weight to the father's demeanour when assessing the overall quality of his evidence.
144. Ms Parkinson continued in her statement, "The Respondent described how his neighbour had tried to kill them i.e. him and the children. He explained that the roof tiles had fallen off one of his neighbour's properties. I noted that this was not strange as the neighbours were having building work done and accidents such as this could happen...The Respondent had acrimonious relationships with neighbours on both sides of his home. The Applicant had had a relationship

with one set of neighbours and their children which stopped due to the Respondent's behaviour. The Applicant did not have anyone to speak to, she was away from her familiar home country and did not have family around her...I had tried setting him tasks to do to work on himself. However, he sent me material from 'Psychology Today' on the internet and asked me for my views. The webpage includes ideas about alienating parents and he questioned whether I was aware of what was happening in his family. The Respondent was fixated with the view that the Applicant was an alienating parent. The Respondent was not able to understand what was happening and this was concerning. I believe that this is because of the way he thinks and he is incapable of understanding how someone else might feel. This was especially emphasised when he wrote a disturbing poem to his son. I was extremely worried by the contents. I question why the Respondent repeats that the Applicant and children are violent to him. The Respondent described his daughter as a 'mean witch' whilst she was watching a movie and when his son playfully grabbed his nose, he described this as an assault...I was concerned that it was not safe for the parties to be in a house together. I was worried that the Respondent could do something quite dangerous to the children and the Applicant. This could then lead to him doing something to himself. I feel the Respondent is quite unstable. I understand that people can appear to be perfectly rational when they are, in fact, anything but. I am not prepared to take the chance that something serious could happen such as a death. I understand the Respondent's sense of reality does not match the reality of most of those around him. I also understand this must be genuinely distressing for the Respondent."

145. Ms Parkinson concluded, "I felt early on that the sessions may have to be ended with the Respondent...I wanted to continue having the sessions because it gave him motivation/security and meant the children and Applicant were in a safer situation. It was the Respondent's behaviour and in particular the poem to his son and him trying to force emotions/facial expression that led to the termination of the therapy sessions. I wrote to him by email...This expressed my concerns and why I decided not to proceed with the sessions. I did not receive a reply."
146. Ms Parkinson's observations do not carry the weight of expert evidence. She is not a Court appointed expert. She was not called to give evidence. Her formal, signed statement to the Court is of some evidential value given that she had a role in providing joint counselling support to the parents.
147. The mother produces in evidence a letter dated 30 May 2023 from Ms Davey, who describes herself as a BACP registered counsellor who has worked with the mother since January 2023. Ms Davey describes assisting the mother with support and trauma therapy for emotional abuse. Ms Davey records, "Everything [the mother] is describing on how she is feeling and how she presents herself is a what a victim of abuse would be presenting." Ms Davey is not an independent expert. She was not appointed by the Court. This Court finds little evidential value in this letter when seeking to determine the factual disputes between the parties. The letter is of assistance to the Court, however, to the extent that it informs the Court of Ms Davey's view that the mother has difficulty in remembering certain memories and dates. Ms Davey tells the Court, "This...is very common when a person has been subjected to domestic abuse. Parts of the brain called the amygdala and the hippocampus are damaged due to the abuse and trauma leaving a person struggling to remember things easily...Anxiety and being blamed for everything from the husband (manipulation tactics) (blame shifting) is a mental torture that victims endure daily, it will break their spirit, make them question their sanity and doubt their own thoughts." The Court takes into consideration the mother's vulnerabilities when assessing the quality of her evidence.
148. The father seeks to rely on evidence by way of a letter from Dr Kraft dated 19 August 2021. He describes himself as a registered UKCP Psychotherapist. He is not an independent expert. He was not appointed by the Court. No permission has been given for the father to rely on any expert evidence other than that of Dr Lopez. The letter from Dr Kraft contains no statement of truth nor does it comply with any of the requirements of Family Procedure Rule 25. Far from being independent, the father told the Court during cross-examination that Dr Kraft is known to him as a friend. The father was particularly evasive in his answers during cross-examination as to his relationship with Dr Kraft. Dr Kraft's letter records that the father engaged in psychotherapy sessions. Dr Kraft proffered an opinion that the father, "has experienced long periods of prolonged



trauma due to his partner's behaviour." Dr Kraft recorded, "I believe that the adverse impact on [the father's] emotional and mental wellbeing has mostly been caused by external sources – specifically his partner's behaviour towards him and how she has alienated his children from him...I have been compiling more and more evidence week by week to support this view." In this Court's judgement, the letter from Dr Kraft has no evidential value in these proceedings. Dr Kraft's opinion is plainly based on the father's self-reporting, without Dr Kraft having considered any of the documentation in these proceedings and without him meeting the mother. It is particularly troubling that in his role as a psychotherapist, Dr Kraft would consider it appropriate to "compile" evidence to support the father's view that the mother has, "alienated his children from him." The evidence does not assist the Court in determining the factual disputes between the parties.

149. Finally, I turn to consider the reports from Cafcass, prepared pursuant to section 7, Children Act 1989 in November 2021 and in November 2022. In the first report, the Family Court Adviser, who is now the Guardian in the proceedings, recorded that 'G', "described feeling scared in her home when going downstairs (where her father is)...she repeatedly used the word 'scared' when speaking about her father. She explained that last summer she was watching 'The worst witch' and her father said she was the bad witch. I asked if this was in a 'jokey way'; she said he was 'sort of angry' and 'sort of shouting'...she said there had been 'lots of times' her father has shouted at her...she described that her father would start arguments with her mother, and she could not sleep because of the loud noise. She said her mum had tried to stop her father from arguing with her; she knew this because she heard it from her bedroom." The Family Court Adviser continued, "Having considered ['G's] views, it is my assessment that she has aligned herself to her mother; this is common in situations where children are placed in the middle of parental conflict...She described feeling as though her father does not like her as he shouts at her and is 'mean'...she described feeling as though her father is not 'like a dad'...he had previously put cards around the house (to communicate with her)...She said she feels sad and starts crying on Sundays when her mother leaves the home as she feels lonely but added that it makes her feel worse when he comes to her room...She described her father to be 'a bomb waiting to explode' as she worries that he will get angry at her. She said he was angry in the past and continues to be angry." 'G' wrote a letter to the Judge stating, "I would like the Judge to know what dad did before. He hasn't been very kind to me in the past. He shouted at me and said that I was mean lots of times. It made me feel scared and I didn't like it. I didn't know what was going to come next so I had to get used to it."
150. In the November 2021 report, the Family Court Adviser reported that 'B', "was very keen to tell me that he 'likes his dad the most'. ['B'], just like his sister, feels in the middle of his parents' conflict and a need to align himself to one of them. ['B'] spoke about the arguments between his parents...he said they shout pretty loud so he would go upstairs but he could still hear...he followed this by telling me again that he would like to live with his dad as he is funny and cheers him up...his mum shouts at him 'most of the time' but 'not that much'...he is the person that his mother often shouts at...he said his dad sometimes shouts at ['G']. ['B'] picked the emotion 'angry' and described feeling this was when his mum makes him complete homework 'the whole day'...he said his dad never does and that he likes his dad's car." 'B' wrote a letter to the Judge stating, "I have a wish to know which day I can live with my dad as I really want to live with him, just me and him."
151. The Family Court Adviser informed the Court in her November 2021 report, "Within the context of the parental separation and divorce, there are likely to have been incidents of situational couple violence...it is my assessment that there is no clear pattern of domestically abusive behaviour within the parental relationship. There is no evidence of a high level of emotional abuse or harassment; generalised aggressive or stalking behaviours, no sexual violence, no pattern of coercively controlling behaviour, no escalating abuse or violence and no lethal behaviours, which would indicate a current high risk from ongoing domestic abuse. If the risk of domestic abuse was high it would not be safe to promote contact, however this is not the case. It is, however, my assessment that the main risk factor currently presented to the children from the parental relationship is one of parental conflict...Having considered Cafcass' parental alienation tool,

['G's] views suggest some elements of parental alienation, however, when considering Dr Lopez assessment, it is highly likely father has not been emotionally available to ['G'] or provided her with the emotional warmth needed which has influenced her to believe her father does not like her, thus there are other behaviours exhibited by father which also contribute to the dynamic. It is evident that factors, such as fathers' limitations to meet ['G's] emotional needs, have contributed to the currently strained relationship, as opposed to parental alienation being the standalone reason. Furthermore, there is no evidence to suggest current parental alienation in respect of ['B']...It is highly likely that when ['G'] has displayed certain rejecting behaviours towards her father (due to aligning herself to her mother), it has triggered father to become confrontational (for example referring to her as the bad witch), raise his voice and to display coercive anger or frustration which she has interpreted as 'mean' behaviour that has caused her to feel 'scared'."

152. That report was based on the factual findings of the Recorder in August 2021, made within the narrow focus of the Family Law Act proceedings and without the benefit of the plethora of evidence now available. The report concluded, "It is clear that the children have suffered emotional harm, which has been heightened by the circumstances regarding the parental separation and living conditions."
153. In her second report dated November 2022, the Family Court Adviser had the benefit of the Local Authority Child and Family Assessment of May 2022, "following a Police referral in which [the mother] alleged coercive control perpetrated by [the father] and the children being exposed to parental conflict and an alleged physical assault from [the father]. In summary, ['G'] described feeling scared of her father, him calling her mean names. ['G'] was consistent that she did not want to see or speak to her father again despite being offered support from [Children's Services] to re-establish a relationship. ['B'] described [the father] to shout at him and 'boss' him around. He wanted to see his father but wanted to be able to see his own friends and not just dads when they spend time together. He wanted dad to promise to not shout or be angry. The report details the school observing changes in ['B's] behaviour, namely aggression. He presented as torn emotionally between parents; he had said he was not allowed to speak with his mum when it was his dads time (even though mother was in the house). Both parties alleged domestic abuse against the other and harm to the children... The children expressed feeling not listened to and not believed when they describe [the father] to have been 'mean', 'angry' and 'shouting' at them... There were also concerns regarding [the father's] ability to be emotionally responsive towards the children and to accept his behaviours have impacted them."
154. The Family Court Adviser's report continued, "It is understood that since the DRA hearing on 02/12/22 the parental conflict between the parties (who remained living with one another) significantly escalated... Since [the father] vacated the family home, [G'] has refused to see her father. On two occasions ['B'] agreed to see his father (after school) for a very short period and once in the Summer for the day (however it was noted that he expressed a wish to only see father for thirty minutes but then spent the whole day and subsequently expressed he did not feel listened to by adults). [Children's Services] have continued to support the family; [The allocated social worker] verbalised that she has observed [the mother] attempting to encourage the children to spend time with their father in addition to [Children's Services] also encouraging this, however the children continue to decline. [The Allocated Social Worker] commented that ['B'] is 'massively conflicted' between his parents and is upset on a regular basis."
155. The Family Court Adviser recorded that, "[G'] was very clear and consistent in her wishes that she did not want to see her father or spend time with him... She was visibly angry, upset, and frustrated at her father when speaking with me about him. She described her father pushing her bedroom door onto her (when she refused to go downstairs), allowing his friends to observe her upset (when she refused to spend time with father), refused to let her spend time with her friends for Fireworks night and a disco (when she was supposed to spend time with him). She told me she would stay in her bedroom (when it was father's time to see her) as she did not want him to 'shout' at her or 'hurt' her. She described an occasion when he was recording her on a 'body cam' when she refused to go with him; she said he snatched her iPad and phone off her (when she was messaging mum for help) and grabbed her arm, standing over her bunkbed (when trying to get

them). She said she felt 'unsafe' at the time. She described her father as 'angry' and raising his voice...['G'] said she thought she would 'die' if the police did not come as her father would not let her go. ['G'] told me her father had called her 'selfish' (when she told him she did not want to spend time with him and watch ['B'] swimming) and 'selfish & spoilt'...She told me on another occasion he poured water on her when she would not get out of bed. She shared that she has not felt believed by professionals when she tells them what her father has done and how it has made her feel. She described 'huge scary worries and beyond that' about seeing her father.

156. 'G' wrote a second, long letter to the Judge in which she states, "I do not want to see dad. I don't want to live with him. I don't want to talk to him. Don't want any sort of connection with him. I want nothing to do with him. Without him my life will be really nice and calm...after dad left the house I felt relieved because I wouldn't have to see him and I kind of felt like it would be over but it wasn't because we are still here (he still comes to the school and we still have kind of a connection). He is still involved with me and I still get asked if I want to see him...when dad comes to the school it makes me feel sick and I just want to go to my mums car."
157. 'B' is recorded as having told the Family Court Adviser, in November 2022, that his sister, "would scream as his dad would shut the doors 'on her and everyone else'. He said his father would 'argue with everyone' [his mum, sister, and him]...when his dad lived with them he felt 'pressured' because his father would not let him say no and made him feel like he had to go with him somewhere that he did not want to go. He said he did not like to go with his father as 'bad things happened'; he described seeing his dad shout at his sister at swimming and his dad would shout and argue with his mum. He said when he was alone with his dad, his dad would say 'bad things' about his mum and that she is 'a bad person' and take him to places with his dad's friends who are 'strangers' to him. He told me he would tell his dad that his mum was not saying 'bad things' to him [about his dad] but his dad would argue and shout. He told me his dad would shut the door on his mum when she tried to help him ['B'] and his dad argued with her. He said he felt 'sad' when he could not speak to his mum when it was 'his dad's days'. He said he felt 'scared' when he could hear his sister screaming and 'stuck', and 'lonely' in his own room as he would stay in there to get away from it. He told me that his dad moved his mum's bed out of his bedroom so he could not sleep near his mum. ['B'] told me he did not want to spend time with his dad because he will say bad things about his mum and would take him places he did not want to go...and that if he saw his dad then his dad will think that 'he can do bad things more'...his dad will continue and things will get worse."
158. The Family Court Adviser reported that she asked 'B' what made him change his mind when he previously agreed to see his dad: "He said he was unsure. He told me that when he has fun it makes him 'forget about the bad times' and when he forgets 'about the bad stuff' he thinks it is 'alright' to meet his dad again but 'it doesn't turn out good'. He said after seeing his dad he felt that 'everything was going to start again' [in my view he was referring to the conflict he has observed between his father, sister and mother]. He said he felt worried 'the bad stuff will start again'. He said he has 'huge, scary worries' about spending time with his dad. He told me he feels 'nervous' when his dad attends school to see him; he is nervous dad might say or do 'something bad'...he said...his dad took him to the pier and made him 'really cold' and would not let him see his mum to say hi. ['B'] then told me that his dad 'pushed him'. He used figures to show me an occasion when he went to speak with his mum (during his dad's time) and his dad came over and was angry that he was talking to his mum, and his dad pushed him (which made him fall to the floor). He said he hurt his forehead and his dad took him upstairs. He told me he then heard his dad argue with his mum. He heard his dad say, 'why are you trying to go to him ['B'], it's my day'. He then acted out another occasion when his dad wanted him to go somewhere and 'forced' him to go. He said his mum tried to come into the room to 'help' him and his dad said, 'why are you coming in here' and shut the door on mum's foot. He said they argued and then added 'I mean my mum would be trying to explain, not arguing too.' He said it was his dad arguing. He said he felt 'scared' when he heard arguments."
159. In his updated letter to the Judge, 'B' wrote, "I want to stay living in my house with my mum and ['G'] because when I said I wanted to live with my dad, things changed and everything became

worse and worse. He pretends, he goes a little bit kinder and then he then makes me think I want to move in with him but then he would just be making everything worse. When my dad was there I could hear ['G'] screaming and he moved my mum's bed so I couldn't see her...I would only want to stay with my mum and ['G'] so my dad wouldn't be shouting. I don't want to see dad because he will say bad things or try to take me somewhere when I don't want to even go."

160. The Family Court Adviser concluded, "Since the Section 7 report was filed (November 2021) the situation within the family home significantly deteriorated and despite there being no evidence (at that time) that parental conflict continued (with the parents describing the situation to have 'settled'), this very quickly changed...both children have aligned themselves with their mother, verbalising strong views that they do not want to see their father. It is understandable why they have aligned themselves to their mother; she has consistently been their primary carer and they have repeatedly seen her upset and distressed due to the parental conflict. They have also observed their father to become angry, particularly when he perceived mother attempting to undermine him and speak with the children (during his time). The children have described feeling like they were not allowed to speak with their mother and that they would get in trouble for this. They both described the home as 'calm' since father left, where they present as a lot more settled (observed by professionals). It is therefore understandable that they associate [the father] as the reason for the conflict and the distressing experiences they have been through (due to the parties' conflict). It is clear, particularly when considering ['B's] wishes, that he is scared to see his father again as he believes the 'bad things' will happen again. The children have learnt that if they do not see their father, then their life is happier, calmer, and safer."
161. The Family Court Adviser continued, "Of significance, [Dr Lopez] described [the father's] attachment strategy to use 'coercive anger' to force attachment figures to attend to his needs and that he had the capacity to be more confrontational and controlling in relationships with women, in addition to having difficulty thinking reflectively about the children. Dr Lopez described that he would have greater difficulty interacting and connecting with the children in a way that would promote their security or attachment, where he will struggle to prioritise his children's needs above his own without appropriate support...It is my opinion, (particularly when considering the children's verbalised experiences and their views), [the father's] responses towards them and mother (whether intentional or not) have demonstrated his limitations in being able to keep the children in mind. He has been unable to place the children's emotional needs above his own needs and feelings (particularly his very strong and fixed feelings in respect of mother alienating him from the children). This has caused him to respond in ways that have been emotionally harmful to the children, such as making the children feel they could not speak with their mother."
162. The Family Court Adviser observed that despite the recommendation in the earlier Section 7 report in November 2021 for the father to engage with a 17-week 'Caring Dads' programme to enhance his parenting capacity, in particular his ability to meet the children's emotional needs, "this remains outstanding. He verbalised that the course describes fathers having to accept their abusive behaviours and therefore he was not willing to engage as he does not accept his is a perpetrator of domestic abuse. In my opinion, (regardless of the reasons that led to his behaviour responses), his role and behaviours witnessed and experienced by the children have been emotionally damaging and have caused them significant distress. In my view, [the father] needs to recognise and acknowledge these abusive behaviours with support from Caring Dads intervention. Given that his view is strongly fixed on parental alienation being the only reason for the children's views, he has not demonstrated that he can be reflective or consider his role in this. This view is mirrored by [Local Authority Children's Services]...The children's descriptions suggest [the father] has displayed elements of control towards mother (by way of trying to micromanage his time with them and ensuring mother does not communicate with them)."
163. The Family Court Adviser wrote, "The mother's role in this remains unclear...in respect of parental alienation...there continues to be elements of this due to the children being so strongly aligned to their mother. It is unclear whether [the mother] has instructed the children on what to say about the father or whether her own views of him have influenced them to shared the same views as her."

164. The Family Court Adviser recommended that the children be joined as parties to the proceedings. As a consequence of that recommendation, the District Judge ordered that the children be made parties, through the Family Court Adviser, who became their Guardian.”
165. This Court takes care not to conflate welfare issues with factual issues in this Fact Finding Hearing. The Family Court Adviser was placed in a difficult position being required to provide two welfare reports against the background of limited evidence and a judgment by the Recorder made in the vacuum of Family Law Act proceedings. This Court has since had the benefit of a plethora of evidence not available to the Recorder. This Court has had the unique opportunity in these current proceedings of exploring the relevant evidence and thoroughly testing it. The Family Court Adviser expressed uncertainty, “as to the mother’s role in respect of parental alienation” and “whether the mother has instructed the children” to say negative things about their father. This Court can now confidently dispel all those uncertainties. Having the benefit of all the evidence, this Court can clearly and definitively make the finding that there is no reliable evidence of the mother instructing the children to speak negatively about their father.
166. This is a mother who deposes to serious domestic abuse and sexual abuse. Her evidence generally is not without some inconsistency as to detail. In this Court’s judgement, however, her evidence is nonetheless compelling and convincing as to the central core. This Court is left with the powerful conviction that on the essentials, the mother is telling the truth.
167. This Court undertaking an impartial, objective consideration of all the relevant evidence, must conclude that there is no evidence of the mother undermining the children’s relationship with their father. On the contrary, there is clear evidence of the mother trying to promote the children spending time with their father. Further, there is clear evidence of the mother attempting to engage positively with the Paternal Grandmother, inviting her into her home and involving her with updates regarding the children. She received no response from the Paternal Grandmother to those communications. There is no reliable evidence of the mother engaging in alienating behaviours.
168. On the contrary, looking now at the whole picture, the evidence before the Court leads to the clear conclusion that the father has sought consistently, systematically and falsely to manipulate the mother, the children, professionals and the Court into believing that he is the victim of domestic abuse perpetrated by the mother. His pernicious actions alone have resulted in both children rejecting him. Both children are now refusing a relationship with him for reasons that are justifiable. The children have both aligned themselves fully with their mother, with whom they are living, by way of a normal and justifiable response to the father’s negative attitudes, communications and beliefs that have sought to denigrate, demean, vilify, malign, ridicule and dismiss the mother, persistently seeking to convey false beliefs about her. It appears to this Court that the children have quite understandably adapted their own behaviours and feelings towards their mother and against their father. The Court is satisfied that the children have made clear their own feelings and needs based largely upon the effects they were bound to feel from their father’s actions. This Court finds that the mother has been no more than properly supportive. This is not a case where the mother has been emotionally abusive. On the contrary, the father has sought, wholly incorrectly to reframe the mother as a liar who emotionally abuses the children.
169. On all the evidence, the Court finds that the father has not proved any of the allegations he makes against the mother. The Court finds that in respect of each of the allegations the mother makes against the father, with the exception of the ‘sextortion’ allegation relating to the email of 7 August 2020, the individual facts have been properly established. The mother has discharged the burden of proving the facts alleged to the requisite civil standard of proof.
170. In respect of allegation 6(b), that on 7 August 2020, the mother received an email threatening to publish a sexual video of her online if she did not send £500, the Court finds that the mother did receive such email. The mother’s concern, however, that the email was sent by the father is based on suspicion or speculation. In the context of the father’s behaviours generally, in the context of the father accepting that he held sexualised images of the mother and in the context of his

knowledge of I.T. it was not unreasonable for the mother to have held those suspicions. However, the type of sextortion email received by the mother was, as the police noted, a common phishing scam at the time. There is no evidence to link that email to the father. Notwithstanding his apparent admission in oral evidence that he sent the email, which he later told the Court was sarcasm and not an admission, the Court must conclude that the mother has not discharged the burden of proving that the father sent that email nor instructed or encouraged any other person to do so. The Court finds that allegation not proved.

171. On all the evidence, the Court must conclude that both children are refusing, resisting or reluctant to engage in a relationship with their father, that the refusal, resistance or reluctance is not consequent on the actions of the resident parent (the mother) towards the children or towards the non-resident parent (the father). The Court must conclude that the non-resident parent (the father) has engaged in behaviours that have directly or indirectly impacted the children, leading to the children's refusal, resistance or reluctance to engage in a relationship with him.
172. Having made those findings, the parties and the Court have a proper factual matrix upon which to proceed to consider welfare determinations.
173. The matter is listed for formal handing down of judgment on 3 April 2024 when the Court will consider any application for costs and give consideration to further directions leading to final welfare determinations for the children.

His Honour Judge Middleton-Roy  
28 March 2024

#### Costs

1. This costs judgment is made on 3 April 2024 at a hearing following the formal handing down of the Court's fact finding judgment.
2. The mother applies for an Order that the father pays her costs of the proceedings after the appeal against the District Judge's decision on 30 August 2023 to date. The application is opposed by the father. The Children's Guardian properly takes a neutral position.
3. The mother pursues her costs application, in summary, on the grounds that the father's conduct was unreasonable in pursuing a lengthy, contested Fact Finding Hearing, that his conduct was unreasonable and reprehensible in lying about his abusive conduct, including rape, accusing the mother of lying, accusing the mother of parental alienation and accusing the mother of having mental health problems, resulting in the mother being required to submit to cross-examination, by using the professionals and the Court to further his agenda in belittling the mother, by accusing the children of lying and exaggerating and by accusing the children of harming him.
4. Family Procedure Rule 28.1 provides that the Court may at any time make such Order as to costs as it thinks just. The Court retains a wide general discretion as to costs.
5. In deciding what Order, if any, to make as to costs, the Court must have regard to all the circumstances, including the conduct of all the parties and whether a party has succeeded in part of their case, even if they have not been wholly successful. In respect of the conduct of the parties, this may include conduct before, as well as during, the proceedings. Further, when considering the conduct of a party, the Court may take into consideration whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue and the manner in which a party has pursued or defended a case or a particular allegation or issue.
6. Although proceedings of this nature under the Children Act 1989 are adversarial in form, they have many inquisitorial features. An application cannot be withdrawn without the Court's consent (Family Procedure Rule 29.4). In such proceedings there are no adult winners and losers. The only winner should be the child. Furthermore, it can generally be taken for granted that each of the persons appearing before the Court has a role to play in helping the Court to achieve the best

outcome for the child. It would be difficult for a Court to decide how to secure that the child has a meaningful relationship with each parent without hearing from both parents. Further, it would be difficult for a Court to decide the best way of protecting a child from a risk of harm without hearing from their parents. No one should be deterred by the risk of having to pay the other party's costs from playing their part in helping the Court achieve the right solution.

7. This costs application comes at the conclusion of a lengthy Fact Finding Hearing over six days. This is a case where the father has complied with all directions and Orders of the Court. His litigation conduct in that regard cannot be criticised.
8. The mother has succeeded in proving each of the allegations she made against the father, save for one subparagraph, relating to the allegation of sextortion. Even in respect of that subparagraph, the Court determined that the mother's suspicion was reasonably held. Each of the findings made by the Court on the mother's allegations are central to issue of the welfare of the children.
9. Conversely, the father has not succeeded in proving any of his allegations against the mother.
10. The father asserts that his financial circumstances are so dire that he should not be required to pay any of the mother's costs. In this Court's judgment, the financial circumstances of the father, the paying party, is not a factor the Court should properly take into account when considering the principle of costs. It is a factor that may be more relevant to the question of enforcement of any costs Order.
11. In this case, the Court is compelled to conclude that the conduct of the father has been reprehensible and unreasonable, the father making false claims and false denials to Court over a prolonged period. The Court must conclude that it was not reasonable for the father to raise or pursue his allegations against the mother nor to contest the mother's allegations. The father sought unreasonably to pursue a case that laid blame on the mother entirely. This is case which is of fundamental importance to the mother and to the children.
12. Having regard to all the circumstances and looking, as this Court must, at the overall justice of the situation, exercising a discretion in accordance with overriding objective under Family Procedure Rule 1.1, the Court is compelled to conclude that the father should meet the mother's costs of the proceedings from 30 August 2023 to date, for the reasons given and for the reasons articulated by Dr Proudman on behalf of the mother.
13. Turning to the quantum of costs, the Court must properly proceed to summarily assess costs on the standard basis. Although no statement of costs in form N260 has been filed, the mother has provided a full breakdown of the legal costs she incurred, which comprise essentially Counsel's fees and a small sum in respect of the fees of a paralegal. No solicitor's costs have been claimed, the mother acting as a litigant in person, instructing Counsel on a direct access basis. In this regard, the costs schedule is simple and easily digestible and the information presented is not difficult to discern.
14. Where the Court assesses the amount of costs on the standard basis it will not allow costs which have been unreasonably incurred or are unreasonable in amount and will only allow costs which are proportionate to the matters in issue. Costs which are disproportionate in amount may be disallowed or reduced even if they were reasonably or necessarily incurred. The Court will resolve in favour of the paying party any doubt which it may have as to whether the costs were reasonably incurred or were reasonable and proportionate in amount. Having considered the reasonableness of the costs claimed, the Court must consider the proportionality of the total figure considered to be reasonable. Costs will be proportionate if they bear a reasonable relationship to the complexity of the litigation and any additional work generated by the conduct of the paying party.
15. Having regard to those principles, this Court determines that Counsel's fees incurred by the mother have been necessarily incurred, are reasonable in amount and are proportionate to the matters in issue. The Court assesses Counsel's fees in the sum of £41,467 plus VAT of £8,293.40. That sum

already includes a deduction made by Counsel. Additionally, the small sum in respect of paralegal fees was necessarily incurred, reasonable in amount and proportionate. Those costs are summarily assessed in the sum of £685 inclusive of VAT. The total costs payable by the father to the mother are assessed summarily in the sum of £50,445.40.

16. As a general rule, a paying party should be ordered to pay the amount of any summarily assessed costs within 14 days. The father asserts that payment of these costs would impact his ability to meet his liabilities to the mother arising from the Orders made in financial remedy proceedings. He asserts that it would take him one year to raise funds to meet this costs Order. This Court rejects those submission as not amounting to satisfactory reasons to delay payment of this costs Order. The mother, reasonably, seeks payment in 21 days. In this Court's judgment, payment of the total sum of £50,445.40 in 21 days is just in all the circumstances. If payment is not made in respect of this judgment sum within the time specified, interest will accrue. The mother would be entitled to seek to enforce any outstanding judgment debt.

His Honour Judge Middleton-Roy  
3 April 2024

#### Schedule of Findings

- (1) From 2020 onwards, the father used coercive controlling behaviour towards the children and towards the mother:
  - (a) The father used force and threatening behaviour towards the mother when the children were present and was using force and abusive behaviour towards the children causing them upset and fear;
  - (b) The father was obstructive with the children's contact with their mother and with the relationship between the mother and the children and he also used force to achieve his obstructions creating fear;
  - (c) The father would speak in a derogatory manner to professionals about the mother to damage her reputation and influence them negatively about her;
  - (d) The father made an application for a mental health assessment of the mother, despite there being no concerns or evidence of issues with her, her mental health, or her parenting;
  - (e) The father encouraged people who never met the mother to damage her reputation, to create a negative narrative about her and further provide it to the Court, CAFCASS and authorities as evidence;
  - (f) The father consistently sent the mother intimidating messages criticizing her and her parenting and continuously accused her of alienation from 2020 to the present in order to distress, confuse and frighten her;
  - (g) The father persistently video recorded the mother and the children which created an atmosphere of control and intimidation;
  - (h) The father regularly spoke in a derogatory manner to the mother in front of the children. This caused them upset and fear;
  - (i) The father would warp the mother's perception of reality and accuse her of things of his own making to gain control;
  - (j) The father would undermine the children in front of each other, warp their perception of reality and would scapegoat them;
- (2) In February 2022 the father neglected 'B's medical needs;
- (3) Over various unspecified dates, the father exerted financial control causing the mother financial distress and consequences;
- (4) From 2020 onwards, the father made major decisions about children's lives without the mother's consent, including giving notice to schools without securing and providing



alternatives and withdrawing money from the children's accounts. He then gaslit the mother stating that she had withdrawn the money from the children's accounts;

- (5) From 2020 onwards, the father did not follow recommendations, provided misleading information to the Court and used proceedings to emotionally torment the children and the mother;
- (6) (a) In July 2020 and in August 2020 the father raped the mother while the family was on holiday in the mother's country of origin...(c) the father was voyeuristic and took many sexual photographs and videos of the mother without her consent.