

Neutral Citation Number: [2022] EWHC 3238 (Fam)

Case No: WV20C00390

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION sitting at Telford

Telford Justice Centre
Telford Square
Malinsgate
Telford
Shropshire
TF3 4HX

Monday, 7 November 2022

BEFORE:

MRS JUSTICE LIEVEN

BETWEEN:

A

Applicant

- and -

B

Respondent

MS GILANI appeared on behalf of the Applicant local authority
MS MARTIN appeared on behalf of the First Respondent mother
MR HUSSAIN appeared on behalf of the Second Respondent father
MR HUGHES appeared on behalf of the Respondent child
MS POPLEY appeared on behalf of the Fourth to Sixth Respondent children

JUDGMENT
(Approved)

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

1. MRS JUSTICE LIEVEN: This is the judgment after a four-day fact-finding hearing in care proceedings. The case has a tortuous history, both in terms of the allegations and the proceedings. There were four children involved: C, aged 15; D, aged twelve; E, aged ten; and F, aged eight. The local authority applied for a care order on 3 September 2020 on the grounds of parental alienation and FII. An interim care order was made, but the children have remained at home throughout the proceedings with their mother. The mother makes extensive allegations of domestic abuse, including allegations of sexual violence against the father, and D, the twelve-year-old girl, makes allegations of sexual abuse against the father, supported by the mother. I note from this opening paragraph that we are now somewhere around week 110 in this case.
2. I will refer to some details of the procedural history below but note at the outset that HHJ McCabe ordered a fact-finding hearing. That hearing initially commenced in February 2022 and had to be adjourned. It then commenced again in April 2022 and was part heard but again adjourned. All parties agreed that despite the fact the April hearing was part heard, it was appropriate for me to hear the fact-finding hearing and make conclusions thereon.
3. **The facts**

The parents started a relationship in I believe 2004. I note there that Ms Gilani's chronology says 2001, but I do not think that is right. C was born in 2007, D in 2010, E in 2012 and F in 2013. Ms Gilani on behalf of the local authority has prepared a detailed and very helpful chronology, including the dates when the children have attended medical appointments over many years. That chronology runs to 90 pages, and I certainly do not intend to repeat all or even most of it. However, it emerges from that chronology before the key dates of 2018 that there is no possible doubt that the children have been presented to medical professionals on an extraordinarily high number of times. On very many occasions, the healthcare professionals involved have found nothing wrong or the complaints have been no more than trivial. I do not intend to even summarise the individual elements of those presentations.
4. There is also a record of the mother seeking attention for the children, particularly C, for behavioural issues. The mother considered that he and then E both had autistic spectrum disorder. C has had various assessments over the years, and although on one

occasion he was diagnosed by one professional as having mild ASD, most of the professionals who have been involved with C have not considered him to have ASD. He has however been consistently diagnosed as having attention deficit hyperactivity disorder (ADHD). There were also in that chronology before November 2018 frequent references to the mother and the father telling professionals that C was at times aggressive and difficult to control and that he could be very challenging and difficult, particularly with his siblings. The mother has also got a long history of mental health issues, including having been diagnosed for anxiety and depression and having at some stages been prescribed very considerable amounts of medication.

5. The other point from the pre-November 2018 chronology that I need to refer to is that there is a PNC record of two police call-outs in 2008 and 2010 to the house where the parents were then living. These appear to have related to verbal arguments between the parents. The police attended, and on both occasions there was no further action. The father remembered one of the incidents and said that he had gone to stay with his father for the night and then returned home.

6. The case was first brought to the attention of the local authority in November 2018, when C commented in school that his father had hurt him and his mother, that his father had been messaging little girls and that he had been told that his father had shown his mother a picture of his father's private parts. The local authority at that point conducted a section 47 investigation and produced a report. C told the school that he had seen his father assaulting his mother and that his father had assaulted him on a number of occasions. Two small scratches were found on C's chest, but no other bruising or injury was seen on the children. When the mother was interviewed separately from the father, she denied what C had said. She said that the father had had to sometimes physically restrain C when he was out of control but that she had never seen the father hurt C. The mother also denied that the father had sent any nude pictures, whether to her or anyone else, and she described him at that time as being her best friend. The other siblings, when interviewed at school, raised no concerns about the father. D and E were both positive about him but said that C could be very difficult at home, and they referred to the house being noisy and the father sometimes going outside by himself. They all said that it was C who was aggressive and difficult at

home rather than the father. The notes in the section 47 report say that the mother explained that:

"C has threatened to kill himself before and ran out of the house earlier this year. B had to grab him and pull him out of the road for his safety. B has sometimes had to cradle C like a baby and restrain C for C's safety and the safety of others."

7. There is a crime report of 19 November 2018 where C is reported to have said that "Daddy hurts him every three days and he's hit him across the face this morning and he had to superglue his glasses back together". The report notes that no marks were observed on C.
8. All the family at that stage said that they do not have internet in the home. C is reported as saying this is because the father is watching pornography online, but D says instead that it is C who has been doing this. I note that around this time there are a number of references in the notes to C exhibiting sexualised behaviour at school. When the mother was asked about this incident in her evidence before the court, she said that she did not tell the truth to the social workers or anyone who asked about this incident at the time because she was intimidated by the father into not telling the truth and that this was part of his coercive and controlling behaviour. She said that she feared "repercussions" if she told the truth. On 25 February 2019 the parents attended an ASD review in respect of C but without C being present. The mother said at that review that his behaviour was deteriorating, and she was very concerned about his sexualised behaviour towards his sister. Both parents are recorded as describing C as telling lies, including that he had recently told his class that he had cancer.
9. On 29 February 2019 the parents separated. The mother alleged that she had seen messages on the father's Xbox account from other women and that he had thrown a shoe at C, hitting F. The mother called the police. She also alleged that the father had assaulted her and told the police that over the last six months he had become increasingly dominating and controlling. The father, when interviewed by the police, denied all these allegations, including the allegation that he had coerced the mother into having sex. After this incident, the father was put on police bail with conditions that he did not contact or see the mother. In early March the mother continued to make

allegations against the father, including that he had sexually abused her and, she said, forced her to have sex with him three or four times a day without her consent. She also on 4 March 2019 made allegations relating to D's relationship with her father in which she referred to D having UTIs from the same bacteria as the mother and that the father's relationship with D was "touchy-feely" when he put her to bed.

10. On 8 March 2019 a second section 47 enquiry and report was undertaken. In that enquiry, C alleged having been assaulted by his father and also alleged that his father had hit his mother with a frying pan. He referred to his father having broken his glasses and punched his face. I note that in that report, C is reported as saying that he would like to see his dad again and he would "like him to take me out" and that he liked it when dad used to take him out to play football. D, when interviewed at that time, said that she was really upset about dad having to leave the house and that she wanted him to come home. She said a number of positive things about her father. She did also say, "I've seen dad punch C when mum was having a seizure". I will return to this incident later. E said that he was happier now because dad had moved house, because dad used to shout a lot and there is no more shouting in the house. He said, "There is nothing I miss about dad". F referred to dad pushing him off a stepladder and pushing C off the sofa. In respect of the alleged incident of the father punching C, she said on 8 March that she had witnessed the father hitting C really hard. In her oral evidence, she referred to this incident and described it as being highly traumatic and that she had flashbacks to it and it has been a major cause of her needing to have therapy. It appears that this incident was somewhere around Christmas 2018.
11. On 14 March 2019 the mother reported the father for having come to her house in breach of the bail conditions, drugged her and raped her. C told the police that his dad had come to the house on Thursday night, asked the mother for money and come in. When he, C, had woken up in the morning, dad was lying next to mum asleep with just his pants on. He slept over:

"I woke mum and asked, 'What is dad doing here?'. She said it's okay, he's changed. I woke up dad and he hugged me. I asked him why he'd hurt mum, why he beat her and stuff and he said, 'Didn't do anything'."

12. D also said that she had seen her mummy and daddy in mum's room and that she had started to cry when she saw daddy "as I was happy". There is a reference on 15 March to the police talking to the maternal grandmother, who said she thought that the father had abducted P and that she thought she had been drugged and abducted. The police interviewed two third party witnesses: the taxi driver who had picked up B from the family home, who said that he had seen the parents kissing when they parted on 15 March; and the next door neighbour, who told the police that the mother had said to her that she had let the father into the house because she loved him. On 16 March there is a record of the mother saying to the police that she was asking if she was going to be charged with anything because she was not truthful about her contact with the suspect prior to the incident. She asked if the children would be taken from her because she lied.

13. On 27 March there is a record of C's saying at school:

"Police are trying to get enough evidence to get him [the father]. Did you know the police found illegal drugs at the back of our cupboard? That's where all the money's been going."

14. There is absolutely no evidence for this allegation, and I record it because it does show that C was well capable of making things up. Also on 27 March D is recorded as saying that she would like to see her father. On 28 March there is a record of a healthcare professional, U, informing the social worker that D had been frequently tested for UTIs but they had all come back negative.

15. In March 2019 the children were made subject of a child protection plan under the heading of emotional abuse. By at least early April 2019, the mother was in a new relationship with G, who had moved into the family home. I note at this point that the mother subsequently told Q, the psychologist appointed to carry out a report for the court, that she had entered into the relationship with G twelve months after separating from the father. On 10 April there was a statutory visit to the home, during which C and D both said that they wanted to see their dad. D said, "I do really badly want to see dad". E said he did not want to see his dad and repeated some of the allegations that had been made earlier.

16. On 24 April the social worker, H, visited the home, and D is reported as saying:
- "When dad lived here, he would sometimes try to come into my bed. He would touch my back in the way that boyfriends and girlfriends do. He would say, 'Babe, it's time to get up', as he would to manipulate me to get up and fall in love with me, but I wouldn't let him."
17. When H asked D what she meant, D said, "Because C, mummy and me sat down on evening, we went to the text messages in the PS4 and they were messaged from dad that said pretty girl", and then there is a few more things that D said, and then D said no one has touched her under her underwear other than her mum when she was young because her mum was applying some cream in the area. She also said that dad has not made her do anything to him that she did not want to. I do note at this point that the allegations of what certainly in retrospect appear to be sexual abuse made by D, seemed to have got slightly lost in all the things that were going on in this case and perhaps should have been investigated more fully at that stage.
18. On 29 April there is a record of C saying at school that G was going to be "his new stepdad". A month later, the notes record that E was saying that he was going to change his name to J. On 15 June the father's bail ended, and the police decided to take no further action because they had found nothing on the father's phone that they had seized that would justify any further action. On 28 June C gave an ABE interview to the police in which he alleged that the father hurt him when he was at home for a very long time; that the father had kicked and punched and pushed him when he got angry; and that he had seen his dad push his mum and that his dad had bitten his mum's nose. C also made a number of other associated allegations, largely relating to the father being violent in the house.
19. On 6 August 2019 the mother took C to see V at CAMHS and reported that C was aggressive at home, that he attacked her and that he was not coping with school. Later in August, the mother and C raised an allegation against G, and for a short period the mother and G separated, but the mother then retracted the allegation that G had deliberately bruised C. By this stage of 2019, there were considerable concerns raised in the records about the children's school attendance and frequent reference to the

children staying off school for conditions that are not subsequently diagnosed. Those concerns and the frequent medical attendances continue throughout 2020, and I do not intend to refer to the detail.

20. On 7 January 2020 the mother called the police, saying that C had struck her over the head with a small metal clothes hanger. By the next day, the allegation appears to have escalated to the mother saying that C had hit her on the head with a metal bar. C appeared confused by the allegations and denied it and said he wanted to return home. The mother at that stage said she would not have C home, and he went to spend the night I believe with his grandparents. He went home the next day. On 18 January there is a record of the mother being in distress and telling paramedics that she is unable to cope with the children, and she is recorded as being very distressed and discussing health issues and C's behaviour in front of the children. There is a further call to social services on 28 January 2020, with the mother asking for help with the children, and she can be heard shouting at the children in the background. There is a further incident on 29 January, where the mother again is reported as saying that she cannot cope with C and she does not want to take him home.
21. The meeting on 29 January is relevant because the school record is that G attended this meeting with the mother. The mother said in oral evidence that G had never attended school meetings, but the record is in my view entirely clear. It was a prearranged appointment (otherwise known as a meeting) and G was there. There are records at this period of the children all saying that they are sick for various different reasons and the mother refusing to allow the social worker to talk to the children. The records suggest that the mother was highly anxious at this time and essentially not coping. There are frequent ambulance callouts for conditions that are then not confirmed, and the evidence is clear that this was having a very significant effect on the children. There are a large number of "failed statutory visits". There is a record on 14 February 2020 of the mother saying that she will withdraw the children from school if the social worker tries to speak to them. On 3 March the mother called the police regarding C's behaviour and said that he had threatened to stab her and set fire to the house. During that visit, D spoke to the social worker and asked what her father was doing. She said she missed her father, and she said:

"I miss his hugs and his kisses. Daddy always kissed my cheeks and tucked me in at night. Daddy would always give me a hug when he's seen me or after school. I miss this."

22. Once the national lockdown began in late March 2020, the mother did not return the children to school even though I assume that, being on child protection plans, they could have gone to school. There are records of the school calling on a number of occasions and there being no response. There is a reference on 6 May 2020 that the mother had attended A&E 16 times that year just for herself. There is a record on 7 May of D saying when visited by school, "Mummy thinks I'm poorly because I have a genetic condition and it runs in the family". There is, I note, no evidence of such a genetic condition. On 27 May the house was put on ambulance high alert because of the number of callouts, and there was an instruction that ambulances will now not go to the property unless there is an emergency. By June 2020 the mother is recorded as not engaging with school. In July there were five failed child protection visits. The notes drawn up record that since January 2020, the mother had now had 26 attendances at A&E and 76 contacts with GP or out-of-hours medical services, D had had 26 GP contacts, and this pattern continues through the year.
23. In September 2020 proceedings were commenced on the grounds of C being beyond parental control, the children not going to school and exaggerated health conditions leading to emotional abuse. Interim care orders were made on 11 September 2020, but the children remained at home subject to a working agreement. Up until November 2020, the allocated social worker was K. In evidence the mother said she did not feel safe with K and that neither she nor the children trusted K. In November 2020 a new social worker was appointed, L. By this time, efforts were being made by the local authority to re-establish contact between the children and the father. It seems that the mother got on better with L, and she told L that the children were afraid of the father and did not want contact with him. On 23 November 2020 L recorded D as saying, "Old daddy is not safe due to hurting her". She said that he had sexually abused her and that was her main worry in respect of her worry house. L records D as showing no emotion when she said this. The record says, "He hurt her in a way that no one can fix. She said, 'He did sexual abuse to me and F was screaming'". F is recorded as saying he was abusive. E said that his father, who he called by his first name, "hurt and strangled

me". On 15 December G was seen wearing a t-shirt which said "I'm not stepdad, I'm dad who's stepped up". That Christmas, the father sent Christmas presents for the children. There was an incident recorded when the mother put on Facebook that the children were giving away presents which included presents from the father. However, the mother said in oral evidence that there was only one present from the father that was given away, and I am not going to make any findings on this particular issue.

24. By late December/early January 2021 the social worker had changed again, and it became M, who has remained the social worker since that time. He visited the home on 8 January 2021 and records D as having referred to sexual abuse by her father, and he records that when she told him about this, D was tearful and emotional. I note at this point that I am very loathe to put greater or lesser weight on D's reports of sexual abuse depending on whether she was or was not tearful or "emotionally appropriate". It seems to me that a child may well respond differently in different circumstances, and it would not be safe to take D's emotional response at any particular time into account. I do however note that when M gave evidence in court, he said that D had always seemed reasonably comfortable speaking to him and had remained effectively equally comfortable throughout the time he had known her, so it does not appear that D was more constrained in what she said when she first met M than she would be now.
25. N visited the family home on 13 January 2021 and interviewed D about the allegations. Her record of the conversation says:

"Father would come into her bedroom in the middle of the night around 1.00 am to 3.00 am. He would get into bed with her and touch her around her hip area and on her chest area. D demonstrated with her hands where he touched her, which was above her breasts. D said that when her father living in the family home, he would call her names, calling her fat, for instance. D repeated that her father threatened to kill her if she told anyone about what he did on a night time, and this is why she did not tell anyone else, including her mother."

(Quote unchecked)

26. P told N that D was panicky over men and should have therapy. There was then a further police visit to see D on 12 February 2021 in which she effectively repeated the allegations she had made to N. On 4 May, pursuant to a court order, a psychological

assessment of the mother and the children was carried out by Q. D repeated the allegations of inappropriate touching to Q, although she does appear to have recounted them in slightly different terms to Q. On 14 May the social worker reported D as having said, "If I go into foster care, will my dad come and take me away?". She said she had overheard her mother and G having a discussion about this.

27. On 17 May, at an interim resolutions hearing, the court determined that a fact-finding hearing was not necessary. On 28 May C undertook an autism assessment with R, and R reported:

"Based upon the assessment I undertook, although I recognise some characteristics associated with a neurodevelopmental disorder, it is my view that these are insufficient to warrant a diagnosis of autism and that developmental and relational trauma provide a more useful explanation for understanding and addressing C's behavioural dysregulation and social difficulties."

28. There continued throughout that year to be a number of occasions when the children were off school as being unwell when no doctor's letter was presented and the school see no evidence of ill health. On 28 June M attempted to organise contact with the father, but the children said they did not want to see him. M recorded at that stage that the mother seemed to give limited encouragement to the children seeing their father. On 25 July there was a final analysis by the children's guardian recommending that the children move to foster care.
29. By 15 October the case had been reallocated to Judge McCabe, who decided to list the matter for a fact-finding hearing to determine those facts not agreed. She also listed a *Re W* in respect of C, although that then could not proceed because of a forthcoming ABE interview. There were then a series of adjournments of the case for various different reasons. On 20 January there was a *Re W* hearing in respect of C, and Judge McCabe decided that C should not give evidence. On 14 February the fact-finding hearing commenced before Judge McCabe. However, the mother sought to amend the Scott schedule to include allegations of inappropriate touching in respect of D, and the fact-finding hearing had to be adjourned. There was then a *Re W* hearing in respect of D, and Judge McCabe decided that D should not give evidence. That occurred on 14

February 2022. That date had been listed for the fact-finding hearing, and on the way home after the adjourned hearing the mother entered into a discussion with D about the allegations of sexual abuse. I note that this was despite a clear recording in the recital, but more importantly an expressed statement during the hearing on 14 February, that the mother was not to discuss the allegations with D. However despite this, on 14 February the mother recorded on a WhatsApp video allegations by D in respect of alleged rape by her father when she was much younger. D said that this had only happened once, that he had come into her bed and got on top of her. D said that she had bled both in her pants and onto the bed. D said that she was having nightmares because of this.

30. The mother on 15 February made a statement setting out her concerns about D, said that D had had difficulties with bedwetting when she had a nightmare, that she was very anxious, and the mother said that she discussed the case with D on 14 February because "she wants justice for what he did to me". I note that on 16 February the school nurse confirmed that she had received no information that D had been diagnosed with an anxiety disorder. In March of 2022 the student support worker at the school, S, said that neither D nor the mother had raised any issues around social anxiety for D with her, the support worker.
31. There were then further incidents of the children being presented for health conditions which were then either not found or not followed up. On 25 April the fact-finding hearing resumed before Judge McCabe but went part heard. This appears to have been because the social worker had been trying to liaise with the mother about meeting with D to consider this new allegation and the need for further police investigation. The mother at that stage confirmed that she did not seek to add the allegation of rape of D to the Scott schedule. On 26 April the social worker, M, and the police attended D at school, and D described the incident that she had told her mother about on 14 February. Interestingly, during that interview, D said that she knew the word "rape" because she had researched it on Google. She said that the event had happened when she was about six, and she had presumably relatively recently googled parents touching children inappropriately and got the words "rape" and "sexual assault".

32. On 13 May D had an ABE interview with N. I have watched that interview. She repeats the allegations against the father, including the allegation of sexual intercourse. However, she says that she cannot remember the “R” (i.e. rape) word, and I note that N tries to lead her on that at least twice, but she says she does not know the R word. In that interview, she said that there was blood on her sheet and in her pants. She said she showed the blood to her mum but did not say what had happened and that her mum had explained about periods and given her a book about periods. She said that the inappropriate touching was in her bedroom, including on her "lady parts and boobs". He would lift her top and take off her pants. She said this happened every day up to when she was eight.
33. The fact-finding was listed to resume on 27 June for four days, however was adjourned yet again, I think this time because of police disclosure issues. On 30 September the case was re-allocated to me, and all parties agreed I could proceed with the fact-finding even though there had been some evidence heard at the April hearing. At the current time, the children remain in the care of their mother at home under an interim care order, and they have not had contact with their father since he left the family home in February 2019.
34. **The evidence**
I heard evidence from the mother, the father, M and N. Much of the mother's evidence and father's evidence is clear from what I have set out above, and I do not intend to repeat it. The mother said that her memory was sometimes poor, partly as a result of anxiety, and that she often got muddled up with dates and precise details. The mother's evidence was that the father was coercive and controlling throughout the relationship. She said that she was scared of him and that she had spent much of the time just trying to keep the peace. That is why she in November 2018 had not told the truth about what was happening in the family home. She portrayed the family home as being extremely unhappy for much of the time and that she and the children were scared of the father.
35. The mother accepted a good part of the threshold as amended in respect of FII and accepted that she had some continuing anxiety over the children's health. However, she made clear that she felt that in 2019 and 2020 she had been in a very bad place, but that she was now different and had learnt to deal with her anxiety. She blamed

whatever continuing anxiety she had on the lack of therapy. She did not accept in her evidence that she had alienated the children against the father. She supported D's allegations of abuse against the father, although she did not suggest that she was aware of the abuse at the time. She made a number of allegations of assault against the father as set out in the Scott schedule. She rejected the father's evidence that she had spent much of the last two years to 18 months of their relationship in bed or lying down during the day whilst he did most of the caring. She said she did at least 50 per cent of the caring including all of the cooking. She denied that she went out of the house three or four times a week in the evening, as the father had suggested.

36. In my view, the mother was an unreliable witness. Her evidence was strongly focused on putting herself in the best possible light at every point. She portrayed herself as the victim throughout her relationship with the father. She portrayed herself as the protective mother who was trying to keep her children safe and that she was the loving mother who stuck up for her children.
37. There were a number of times when she said one thing to one person and then something quite different in evidence. Merely one such example is telling Q that she had only started a relationship with G a year after she separated from the father when that plainly was not true. She suggested in evidence that she and C had a very close and loving relationship, and she was a fiercely protective and loving mother. She made no mention in that evidence of the times in 2020 when she is clearly recorded as saying that she could not cope with C and indeed the occasion that she suggested he should be taken into foster care. She told R that there was no conflict with the father till six months before the end of the relationship but then told a wholly different story to the court in subsequent statements. Even if I were to accept that she was coercively controlled by the father, which I do not, there was no reason not to tell R the truth given that the relationship was long since over.
38. When pinned down on a point, the mother would frequently either assert that the professional had mis-recorded what she had said or indeed that the professional deliberately lied because they did not like her. She was quick to portray professionals who she did not get on with, such as K and T, the schoolteacher, as having deliberately taken against her and mis-recorded material. She also in my view just made evidence

up in order to support her case. When being cross-examined about the allegation of the father raping D, she said she remembered noticing blood from D's vagina as a baby, thereby implying that the father might have sexually assaulted D as a baby, a suggestion that has never been made before and is an extraordinarily serious allegation just to make up on the hoof. The mother said she had a poor memory and because of the trauma of the domestic abuse there were things that she had forgotten and would then come back to. However, she did have a perfectly good memory for some things such as what drugs she was taking. I do however accept that memory is an unpredictable and often unreliable guide to veracity. I will return to my assessment of the mother when I come to my conclusions.

39. The father was a difficult witness to judge. He seems to have been highly passive, very incurious and in my view slow to protect the children during the relationship. I am not convinced he was telling me the whole truth about some of the incidents, but that may have been more because he simply did not fully engage with the evidence. I note that the father has been assessed as having below average functioning, and I fully accept that that may well have affected his evidence. When asked what he had done about the suggestion that C was watching pornography on the internet, he effectively said he did nothing. When asked where he thought the mother had gone when she went out so often he said in the evenings, he said he did not know and he did not ask. He did say he regretted not having done more for C and said he blamed himself for that.

40. **The parties' positions**

I can summarise the parties' positions very briefly because they are clear from the history and from what I will say in the conclusions. The local authority continued to advance the entirety of its threshold. In closing, Ms Gilani initially said that the local authority did not take a view on the allegations raised by D. However, when pressed, Ms Gilani on instructions said that the local authority did not support the findings of inappropriate touching or rape made by D in the Scott schedule. The mother accepted the threshold as amended in respect of FII and accepted some continuing anxiety over the children's health, but other than that she rejected the threshold and advanced the allegations of abuse against her and the children in the Scott schedule. Although the rape allegation in respect of D is not in the schedule, the mother made clear that she believed it, and all parties agreed that I needed to consider it.

41. Ms Martin in closing placed extensive reliance on C's allegations of abuse by his father before the parents separated and the copious references to C being punched and the mother being bitten on the nose. She also referred to the fact that F had also before the separation referred to dad hitting mum. The father denied all allegations of domestic abuse, and Mr Hussain advanced on his behalf that there was overwhelming evidence that the mother has consistently sought to alienate the children from the father and has encouraged D to make up false allegations. The father has always accepted that there were heated arguments between the parents and that relations had deteriorated over the two years before separation. He accepted that he had had to physically restrain C when he had meltdowns in order to protect himself and the other children. Mr Hussain in closing pointed to the fact that the mother's allegations have escalated significantly over the course of proceedings. Ms Popley on behalf of the guardian set out a summary of the evidence and the law. Her summary, although not expressly coming down on one side or the other, plainly supports the findings sought by the local authority and does not support the allegations in the Scott schedule.

42. **The law**

This is not a case where it is necessary to set out the law at great length, this case involving questions of fact rather than law. The correct approach to a fact-finding hearing is helpfully summarised by Baker J (as he then was) in *Re L and M* [2013] EWHC 1569, and I do not intend to set out the paragraphs there where he summarises the principles.

43. The additional points that have some relevance in this case are that the local authority must not only prove on a balance of probabilities the facts on which it relies but must link the facts to the assertion that the child is at risk of significant harm. I note the considerable case law referred to by Ms Popley in respect of the need to be careful when assessing oral evidence on the basis of demeanour. The case law stems back to the remarks of Leggatt J (as he then was) in *Gestmin SGPS SA v Credit Suisse (UK) Ltd* [2013] EWHC 3560 (Comm) and have been applied frequently in the context of family law.

44. There is case law in respect of parental alienation, but I have to say I do not find it terribly helpful, nor indeed do I find the label of parental alienation particularly helpful.

Ultimately, such allegations are a question of fact, not law. It is for the court on the evidence to determine whether one parent has wilfully sought to alienate the children from the other parent by asserting a false narrative and/or by persuading the child not to see the other parents. This may be done in numerous different ways and to different levels of seriousness, depending on the facts of the case.

45. **Conclusions**

I will set out my overview conclusions to cover the matters raised in the threshold and the mother's schedule of allegations. Most of the issues turn on whether I believe the mother or the father. There is very little contemporaneous third party or documentary evidence that relates directly to the allegations. Such evidence, as Leggatt J pointed out, is usually the most valuable in determining where the truth lies. As I have made clear already, I do not accept much of the mother's evidence, as I do not consider her to be a reliable witness. Her evidence was extremely self-serving to support the narrative that she had created. I note that my conclusions about the mother and the accuracy of her report closely align with both those of Q and R in respect of the mother's reliability of reporting.

46. In the main, I do accept the father's evidence, although I suspect he underplayed some of the conflict in the household. He did not strike me as a particularly insightful or curious man and probably simply did not realise the impact that the shouting both at the children and probably at times at the mother had on the children. He also probably underplayed the degree to which his physical interventions with C and at times the younger boys affected them and was open to their interpretation as being at times abusive.

47. In terms of the ill health issues, both of the mother herself and the children, the mother formally accepted the threshold in respect of FII. However, I am not convinced that she really did accept that she had exaggerated and at times made up alleged conditions. When asked in oral evidence about these acceptances, she would cling on to one small piece of support, such as the one time when D was given antibiotics for a UTI, and use that to support years of exaggerated illness. She consistently described C as being autistic even though most of those who had assessed him did not support this diagnosis. A pattern of her evidence was to try to manipulate the evidence in order to paint herself

as being the good, responsible and protective parent and the victim in her relationship with the father. The relationship plainly was characterised by a high degree of conflict. This may well have gone back right to its start. There is evidence on the PNC of verbal conflict in 2008 and 2010, and the children all speak, and always have spoken, of lots of shouting and verbal aggression within the household.

48. It is hardly surprising that there was a lot of conflict in the two years before separation. C had ADHD, and the evidence is very clear both from home and school that he was extremely difficult and sometimes violent, particularly at home and particularly around D. There were two young children in the house, and the mother was not well, with quite frequent non-epileptic fits. She was also frequently very tired, perhaps in part from the amount of medication she was taking. The evidence is also very clear that the father had to physically intervene relatively frequently. As he said, he was not restraint-trained, and the physical interventions may well have been very disruptive. It is noteworthy that he is a large man, and C at the time was around ten and even at the time of his ABE interview not a large child, so the father's physical interventions may have seemed very threatening to C. There is plentiful evidence that C was highly dysregulated at times. This is recorded at school and by CAMHS. It is not surprising that C focused much of his anger on the father, who was the person in the household who acted to control and manage his behaviour. The conflict between C and the father is noted well before the separation, and at the time mother supported the same narrative; that is, that the father was simply trying to manage C's behaviour. That C then focused much of his anger and resentment on the father is perfectly understandable.

49. Ms Martin places much weight on the fact that C made allegations against the father before the separation and that the other children refer to the father assaulting C, again before or just after the separation. However, given the stresses in the family and the fact the father had to physically intervene with C and at times with the other children, it may well be the case that the children perceived the father as, for example, punching C in the one incident when the mother was having a non-epileptic seizure. Equally, it is possible that the father was more physical with C then he is now suggesting, but I do not accept that the father intended to assault or physically abuse C. I therefore reject those parts of the Scott schedule.

50. The mother now says that the relationship with the father was abusive and that he was coercive and controlling. She alleges that he physically hurt her and frequently forced her to have non-consensual sex. There is no objective evidence of coercive control. Coercive control is by its nature something that may be to some degree a matter of perception. This is particularly the case where a relationship has broken down in acrimony. The mother may feel in hindsight that she was subject to coercive control by the father, but the objective evidence does not support such a finding. There is no supporting evidence that the father stopped the mother going out, stopped her seeing her friends and family or controlled her finances. Indeed, the evidence points in the opposite direction, because the mother formed a close friendship with G whilst the father was living at home. I cannot tell if she went out as often as the father suggested, three or four times a week, but she plainly did have independent friends and frequently saw her family. I therefore reject any findings of coercive control.
51. The mother alleges that the father forced her into non-consensual sex on a highly regular basis. That the mother did not complain of rape at the time is itself not surprising. That is a very frequent pattern in abusive relationships. There may be an element of the mother having looked back on the relationship in hindsight and seen it in a wholly negative light. What was at the time a consensual relationship has now been reframed by her as having happened without consent. Given that I consider the mother to be an unreliable witness, and given her tendency to paint everything in the most favourable light to her perception of herself as a victim, I do not consider the evidence supports a finding of non-consensual sex.
52. In relation to the very specific incident of 14 March 2020, the objective evidence points strongly against the father having raped the mother. The taxi driver made a police statement that the mother had kissed him when he left. The mother expressed concern to the police that she would be arrested because she had lied, and this only makes sense as her being concerned that she had fabricated the allegation of non-consensual sex. I therefore find that there was no non-consensual sex on 14 March.
53. I next deal with the allegations that the father inappropriately touched D at night on frequent occasions between the ages of six and eight and raped her on one occasion. The mother relied on the history of D being presented with UTIs. However, firstly on

many of those occasions the doctors found no evidence of UTIs; secondly, when they did, the medical records refer to the most likely cause being poor hygiene and the fact that D continued to wear pullups at a late age; and thirdly, the mother continued to present D with alleged UTIs after the father had left. In respect of the alleged rape, the mother refers to D having had a mini period, which she now ascribes to the time when the father allegedly raped D. I note that there is no reference in the medical records to any such "mini period". In any event, I find the mother's evidence in this regard not believable. I do not believe the mother's story about having thought D had a mini period and giving her a book about periods. If D, aged between six and eight, had had what looked like a period and bled sufficiently to leave blood on the sheets and on her pants, that would have been extraordinarily early for a girl to have a period, and I have no doubt that the mother would have been seriously and appropriately alarmed. However, as I have said, there is no mention of this in the medical notes. I am confident that the mother has made this suggestion up.

54. In respect of D's evidence, I have watched the ABE interview and the WhatsApp video. It is very difficult to glean the truth or otherwise of the allegation from the ABE. N conducted a largely exemplary interview. However, it was in my view a clear mistake to have the mother as D's supportive person waiting for her outside the room and let D go to the mother twice during the interview, given that there was an allegation that the mother was alienating D from the father, and it followed that the allegation of rape might have been fabricated. Allowing D to go out to see her mother during the interview and thereby placing D under enormous pressure to stick to the story to gain her mother's approval was clearly a mistake. Quite beyond that, it is simply not clear if D is telling the truth in the interview. She is quite unemotional, but one needs to be very careful about placing too much weight on demeanour or to the expected standard responses. But I do note that when talking about the "rape incident", N had to lead D to a very considerable degree, where D had said only a few weeks earlier that she did know what "rape" meant and used that word. I also note an extreme oddity of the ABE interview, that D says that after the incident and the bleeding on the sheet, she had "had a nice chat" with her mum, albeit she did not tell her about the rape, and her mum had bought her a book about periods. If D aged somewhere between six and eight had been raped by her father in the way that she now describes, I cannot believe that she sat down and had a "nice chat" with her mother about why she had bled on the sheets. In

respect of the WhatsApp video, in my view that definitely feels staged. The timing, being straight after the court hearing where the mother was expressly told not to ask D about the allegations, is in itself highly suspicious. So is the fact that the video appears to start mid-discussion, which suggests to me that D was being “teed up” or encouraged to make the allegation.

55. But in my view the strongest indicator against the truth of the allegations now made is D's behaviour and actions before they were made. There is not the slightest hint in the school records of her being a disturbed or unhappy young child, but it is now said that she was being routinely sexually abused by her father by what is described as inappropriate touching. There is not a shred of supporting contemporaneous evidence for the allegations now made. Further, when the father first left the family home, D was clear that she missed him and she wanted to see him. There was no sense of relief that he had gone. That is extremely odd if he had been regularly abusing her. There is also no evidence of her being scared of him or worried about being left alone with him. The mother told Q that D could be panicky over men, but when G was introduced into the household, there is again no suggestion that D was worried about being with a new adult male, which one might have expected if she had been the victim of prolonged sexual abuse. I therefore do not find that the father sexually abused D or that the rape allegation is true.
56. I also do not accept the allegations that the father had pornography of young girls between eight and ten. The police took at least some of the electronic devices but found nothing suspicious upon them. The mother now says there were other devices that they did not take, including a PlayStation where she says she found sexual images of young girls. However, I note that there is no evidence that the mother brought this to the police's attention at the time.
57. In my view, the evidence is clear that the mother has sought to turn the children against the father. Shortly after he left, the children, certainly D and at times the other children, were all saying that they wanted to see daddy. They all had positive things to say about him. But within a short time they were expressing very negative feelings about him and became highly resistant to seeing him. I am confident that these negative views came from the mother and that she has fed a narrative of the father

having been abusive to the children. There is also evidence of her introducing G into the household very soon after the father left and encouraging the children to call him dad. Even if C did buy G the t-shirt, the mother plainly thought it was appropriate for him to wear it when it obviously was not. There is no example of the mother saying to the children that their father looked after them when she was ill and that they should see him because he was a loving dad. Further, the history of the allegations is that the mother has made more and more serious allegations as time has gone on. This culminated during the hearing in an insinuation that the father had sexually abused D as a baby, something that had never been alleged before and for which there is absolutely no evidence.

58. The evidence is overwhelming that the mother has exaggerated the children's medical conditions and at times made them up. That is to some extent accepted in the threshold response. Whether this is a product of extreme anxiety or attention seeking is beyond my expertise and not necessary to find. The evidence of an extraordinarily high number of medical appointments with very few findings of illness is clear. There is also a pattern of the mother making appointments and then not keeping them. This behaviour will undoubtedly have caused the children significant harm, because it has caused them to become highly anxious, led them to be medicated for conditions they generally do not have and may well have led them into a pattern of exaggerating illness and being overanxious, which may impact on them for the rest of their lives.
59. Those are my findings.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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This transcript has been approved by the Judge