



Neutral Citation Number: [2023] EWHC 3312 (Fam)

Case No: BM22C50188

**IN THE FAMILY COURT**  
**SITTING AT BIRMINGHAM**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 12/12/2023

**Before :**

**MRS JUSTICE LIEVEN**

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**Between :**

**BIRMINGHAM CITY COUNCIL**  
**(acting through its agent Birmingham Children's Trust)**

**Applicant**

**and**

**M**

**First Respondent**

**and**

**F**

**Second Respondent**

**and**

**AA**

**BB**

**Third/Fourth Respondents**

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**Mr Nick Goodwin KC and Ms Elisabeth Wickham (instructed by Birmingham City Council) for the Applicant**

**Miss Kristina Brown and Ms Naomi Dean (instructed by HRS Family Law Solicitors) for the First Respondent**

**Ms Louise MacLynn KC and Ms Yolanda Pemberton (instructed by Harringtons Legal) for the Second Respondent**

**Mr Timothy Bowe KC and Ms Holly Hilbourne-Gollop (instructed by McDonald Kerrigan) for the Third and Fourth Respondents**

Hearing dates: **27 November 2023 – 8 December 2023**

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**Approved Judgment**

This judgment was handed down remotely at 10.30am on 12 December 2023 by circulation to the parties or their representatives by e-mail.

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MRS JUSTICE LIEVEN

This judgment was handed down in private on 12 December 2023. It consists of 177 paragraphs and has been signed and dated by the judge. The judge gives leave for it to be reported in this anonymised form. Pseudonyms have been used for all of the relevant names of people, places and companies.

The judgment is being distributed on the strict understanding that in any report no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by his or her true name or actual location and that in particular the anonymity of the children and the adult members of their family must be strictly preserved.

**Mrs Justice Lieven DBE :**

1. These are care proceedings in respect of two children, AA a boy aged 10 and BB a girl aged 8 (referred to jointly as AA&BB). The First Respondent is the Mother (“M”) and the Second Respondent is the Father (“F”). At the heart of the case lie allegations made by the M’s two older daughters, TT aged 17 and SS aged 16 (whose father is PP), that the F has sexually assaulted them.
2. The Local Authority (“LA”) is represented by Nick Goodwin KC and Elisabeth Wickham, the Mother is represented by Kristina Brown and Naomi Dean, the Father is represented by Louise MacLynn KC and Yolanda Pemberton, and the Children’s Guardian is represented by Timothy Bowe KC and Holly Hilbourne-Gollop.

The threshold allegations

3. The threshold allegations fall into the following broad categories:
  - a. Sexual assault of SS by the F in September/October 2020;
  - b. Sexual assault of TT by F on numerous occasions;
  - c. The fact the M did not believe these allegations and told AA&BB they were lies;
  - d. Inappropriate touching and sexualised behaviour by the F to NN;
  - e. Both parents’ physical abuse of AA&BB largely involving physical chastisement;
  - f. Both parents exposing AA&BB to domestic abuse.

Background Facts

4. The M met PP in October 2004 and TT was born in December 2005. SS was born in February 2007. In 2008 the M alleged PP assaulted her and there was brief LA involvement. In December 2009 a third daughter, RR, was born.
5. In late 2011 the M’s relationship with PP ended and she met the F. There were contentious private law proceedings, including at one point PP alleging that SS had been injured by the F. In November 2012 a shared “lives with” order was made in respect of all three girls.
6. In December 2012 AA was born. BB was born in January 2015.
7. In December 2014 the LA received a referral from RR’s school that RR, then aged 4, had been lifting up another girl’s skirt and putting her index finger between that girl’s legs saying “I am going to put it in now, you’re supposed to cry now”. The police were notified and took no further action.
8. In March 2015 the M took RR to the GP with redness around her anus and vagina. She said she was concerned that there was a member of PP’s family who was on the sex offender register.

9. In May 2018 SS was referred to Forward Thinking Birmingham due to increasing concerns around anger management and suicidal ideation. Concerns about SS self-harming were raised in June 2019.
10. In October 2020 PP sought help from Birmingham Children's Services around SS's behaviour. On 5 November PP told the Family Support Worker that he had found "porn hub" on SS's phone search history.
11. On 7 November SS wrote a handwritten note in her notebook under the title "Story, Fiction, Help" alleging that she had been sexually abused by F in September or October 2020:

*"Help!:*

*Me and my sister was about to start our homework. I had my English to do, it was ment to be due today but my teacher allowed me to have extra time on it. All of my siblings were going to sleep it was about [9]:00 pm and I remember that my mom was ill so she was already in bed, she's always ill anyway so I try to help out as much as I can even though most of the time it goes unrecognised.*

*So that leaves my stepdad who was downstairs playing on the PS4 (at the moment it seem like its his favourite thing to do). I slowly made my way downstairs to say goodnight to him. My big sister followed shortly after. My sister sat on her phone whilst it was on char\_ Soon enough she left, it was just me and my stepdad. Something \_ didnt feel right. He started asking alot of questions about school but he didn't normally do that. I tried to say that I've got homework to do but he didn't really get the h\_.*

*He started to stroke my leg, slowly getting closer to my private parts. At the time I didnt really understanding what was \_ going on. After a bit I saw him [tou]ching himself and kinda adjusting himself. I realized what was going on hes [started] touching me sexually saying really rude things to me I couldn't move."*

12. On 25 November the Family Support Worker visited SS at home and SS told her that she had no worries at home. TT told her the same thing.
13. In November/December M found SS's notebook, showed it to the F and confronted SS. SS said it was not true and she had made it up. SS had written on a separate page, "the last story was false". The M says that this was written before she found the notebook.

## 2021

14. On 14 April 2021 SS wrote a suicide note on her phone that said the F had "ruined my life" and referred to the sexual abuse allegations against the F. A few days later the school nurse phoned PP to say SS had been self-harming.
15. On 29 April the F found the suicide note. SS told the M and F that her note was true. M then sent TT a text and the following exchange occurred:

*“M – Please tell me who you believe your opinion matters to me xxxx*

*TT – I have literally no idea its just so much to handle xx*

*M – but do you think [F] is capable of something like that*

*TT – no*

*TT – [RR] said she doesn’t believe it because she lies all the time*

*TT – But how am I ever going to probe it*

*M – she does lie*

*M – When I was assaulted I didn’t want to leave the house, she’s been back messing around with him, on his shoulders, wearing short skirt, laughing*

*M – you don’t do that if you think that person is a monster*

*M – I think she wants [F] gone*

*M – Do you want [F] gone?*

*TT – I don’t no*

*M – don’t know?*

*TT – I don’t want [F] gone, no xx*

*M – he loves you a lot you know*

*TT – I love him too xx*

*M – Life is so much easier when [SS] isn’t around. I just don’t know what to say, im going to get in debt and cancel holiday she doesn’t care.”*

16. On 30 April 2021 SS left home, she was found by the M and F, and she then moved to live with PP. She has lived there since. In PP’s police statement he said that when the M and SS arrived at his house, SS shouted at the M that she didn’t believe her own daughter and the M said *“I had a seizure yesterday because of all of this”*.
17. On 1 May SS wrote a note at PP’s house setting out what happened. This note was consistent with what SS said in her subsequent ABE interview. PP then phoned the police.
18. On 1 May there was the following text exchange between the M and SS:

*“M – Hi [SS] how are you? Sorry about yesterday it’s a lot to take in xx*

*SS – I’m fine. I understand that it’s a lot to take in. How are you? X*

*M – I'm tired x."*

19. The EDT social worker (Ms Parmar) conducted a home visit to the M and F's house together with the police. The M said it was all a lie. TT said that SS was a persistent liar and that SS was going out with a boy called XX. RR said that SS lies a lot, but then gave a rather trivial example about opening the milk:

*"EDT social worker conducts a joint home visit to M and F's home with Police (DS Shah). M and the four siblings are spoken to.*

*M says that it is all a lie, "nothing happened ever" and that she does not believe [SS].*

*[TT] says that [SS] is a persistent liar. She describes [SS] saying that she was going out with a female friend when she was actually meeting a boy called XX who TT believes is having a 'sexual thing' with [SS]. [TT] says F treated her like his daughter and has never touched her inappropriately.*

*[RR] and [TT] say that [SS] lies a lot as she opens a new milk bottle when one is already open and then blames the younger children.*

*[AA] says that M had told him that "[F] had touched [SS] on here" (placing his right hand on his penis over his clothing) and that when M had said this F had said "I am sorry, it was a mistake", 10 or 15 times.*

*[BB] says "sometimes [F] grabs [SS] and gets on top of her, sometimes for a long time" and "When I am asleep in bed, [SS] comes, and cries and I know she has been hurt".*

20. The F was then arrested and bail conditions required him to move out of the house. At his police interview he denied the allegations. The M told the school and the social worker that SS tells lies.
21. On 1 May 2021 SS was ABE interviewed in Birmingham and described a single incident of abuse occurring in the Autumn of 2020. She, then aged 13, came downstairs to say goodnight to the F. He was sitting on the sofa using his PlayStation. He placed her on his lap facing him, talking about school. He heard TT coming in, so pushed SS onto the sofa – *"he didn't want her to see"*. TT left shortly afterwards. The F then put his arm around SS, started stroking her arm, then her *"belly and chest area"* – *"and that's like when it happened cause like when he went further down and I was like froze and I didn't know what to do ... he just started like touching down there, do I have to say the word? ... he just started touching like my vagina and like with his finger and like he went in and then during this he just kept saying, he just repeated sorry"*. SS also describes the F using pornographic language – *"you're so wet for me ... do you want me to make you cum and all that?"*
22. There were a series of texts in July and August between the M and the F where the M made clear her loyalty to the F.
23. On 28 August 2021 TT wrote a suicide note on her phone. OO (TT's girlfriend at the time), said that TT told her in September that she had been sexually abused by the F.

This is contained in OO's statement to the police made the following year. OO had told TT about sexual abuse that she had experienced.

2022

24. On 31 January 2022 the F returned home after his bail ended and he was released under investigation.
25. On 6 March TT wrote a note on her phone for OO referring to the sexual abuse allegations against the F.
26. On 22 March TT wrote a suicide note on her phone:

*"Mom,*

*I'm sorry everything was too much and I needed to be at peace just know none of it was your fault u did ur best as a mom and I loved our bond we had u were like one of my best friends. I love you so much and im so grateful for everything uve done for me. I hope you get better or they find a cure for you. I needed to go a long time ago but I stayed as long as I can. A lot has happened to me that u never know but I couldn't tell u cos itll break you. I'm sorry u had to put up with my moody arse but I appreciate you a lot. We've been through a lot together ur so strong but im not as strong.*

*Thank you for the sixteen years of my life and im so sorry and please still enjoy mothers day ur stronger than you know I promise ill be looking over you.*

*I promise it wasn't you thank you for being there for me as much as you can even though I pushed you away a lot*

*our funny moments and uncontrollable laughter made me forget about my thoughts don't ever stop laughing even when u sort aha*

*I love you so much im just so sorry but this is the only way I can be at peace*

*also can u promise me one thing that u wont have major arguments in front of the kids please I don't want them to have any childhood trauma let them me kids for as long as possible cus I grew up n adapted to 'real life' way too young which wasn't your fault but I need them to be happy*

*tell OO the day we first kissed is the password to her note n please don't read it u gotta promise me that x."*

27. On 28 March TT wrote a further note on her phone:

*"From 11-15 my step-dad groomed me and sa on many accounts stop in like January. My sister also got sab by him and actually did some about him went to the police n everything which made me feel like a coward*

*for not saying anything but I seen how it broke my mom and how they just completely got rid of my sister.”*

28. On 4 May TT told JJ, a teaching assistant at college, that she had been sexually abused by the F and that she believed it happened to her younger sister as well. JJ gave oral evidence, see below at para 53.
29. The police were called and TT confirmed the allegations and wrote down her complaint. Later that day the F was arrested and placed under bail conditions to have no contact with children unless agreed by the LA.
30. On 5 May TT sent a text message to the M at 00.17am asking if the M is ok, that she is sorry, that she loves the M and that she hopes the M doesn't hate her. M responded: *“Of course I'm not OK”*. Text message conversations in relation to TT's allegations continued throughout the day. TT repeated the sexual abuse allegations and told the M that they were true.
31. At 10.29pm TT wrote in a text message to the M:

*“I k all this seems out of the blue and you have a million questions and I also know I had time to speak up about it but I seen how distraught you were and I just wanted to be there for you but on the other hand what if he was to do it to [RR] and [BB] after the [SS] thing he stopped for ages so I thought okay maybe I can just live my life like everythings okay but when he touch me again I felt like I couldn't breathe and I was back at every moment hes done something to me. I couldnt of gone through that again honestly it wouldve killed me. I just hope that you believe me and dont hate me and that you and the kids will be okay cus atm they're my only concerns and I love you a lot and I didn't want to hurt you I'm sorry and I love [AA] and [BB] sm too and I miss them x.”*

32. There were a series of exchanges between the M and TT which are simply extraordinary. The M consistently presents herself as the victim; blames TT for causing trouble; when TT says the F groped her boobs, the M's response was *“You have no boobs”*. The M then said:

*“I'm broken. It's so hard. Why not say anything after all the times? Wish I could go back to 2 days ago my biggest fear is being on my own and now I am. I really can't my head around it and want it all to go away. I'm really struggling to cope with it all and who to believe and why now? I finally get my childhood dream and it's gone again. Losing so much money and being alone. None has even spoke to me really x*

*TT: I'm so sorry mum. Idk if us want to see me or not but as soon as ur ready I'll be with you so ur not alone. And same I would go back to 2 days' again too I would go through it all again if it meant you';; be okay I hate you not being okay I'm sorry.”*

33. There seems to be a complete inversion of the parenting role, whereby TT keeps saying that she is there for her mother. The M seems far more concerned about the



fact she might lose her caravan than the trauma that her daughter is going through (whether the allegations are true or not).

34. On 5 and 6 May there are two attempts at ABE interviews with TT in which she is unable to answer any questions (she sits in silence twisting her hands).
35. I set out the following part of the chronology in full because it is important in understanding the level of distress TT was in and her emotions through this incredibly difficult period:

*“6 May 2022*

*At 11.36pm [TT] sends a text message to M in response to a message from M saying how upset F is “He shouldn’t have done what he did then, like ik he wouldve have been such a good stepdad if he just didnt do what he did like I wish it never happened I feel bad for him even though he hurt me so much I still just feel bad like maybe he just needs help or counselling or medication cus he needs to know what hes done isnt right. I’ve meant to do a video interview statement twice now but everytime I’m in there I cant do it, it’s not fair tho cus I didnt ask for any of that to happen to me but it did and I need you sm but I feel like your never gonna believe me like I wish it was possible for you to just borrow my brain for a bit and see that I am telling the truth and see that it did happen, ik it’s hard for u and that u feel like you have to choose I’m sorry for that I am x*

*10 May 2022*

*[TT] tells school she needs to see M and needs her to believe her before she does the interview.*

*11 May 2022*

*[TT] presents as stressed and very unsettled at college after being told M tried to have F’s bail conditions changed.*

*At 10.31pm [TT] sends a text message to M: ‘ik u don’t believe me but I also know that it must be hard to believe me I get that and like I don’t blame you for not I promise you everything is saying is true and I swear I wouldn’t put everyone though sm pain if it wasn’t I honestly wish I just died instead I’m sorry, I’m sorry ur hurting I’m sorry [BB]’s hurting I’m sorry [AA]’s hurting I love you all so much, ik I probably dealt with this in the wrong way but it was the only way that I thought would keep us all safe idk just know I’m telling the truth I am x.’”*

36. TT seems to have self-harmed on a number of occasions in late May. In late June she wrote another note saying she wanted to die.
37. On 11 July TT gave an ABE interview with the help of an intermediary and wrote down her answers. She maintained her allegations:

*“(a) At the start it was small things like smacking my bum for no reason, but he said he was just playing;*

*(b) Then he started to do more worse stuff, like quickly touching my vagina when no one was looking, no matter how many times you would tell him to stop he wouldn't. He used to finger me a lot, sometimes happened in his bed, sometimes mum was right there but she was never see, when she was there I couldn't say anything or tell him to stop because I was scared of him. I tried to push his hand away or move but he was too strong. Sometimes it was downstairs to but only when no one was around and if someone did come downstairs or walk in, he would pretend he was play fighting with me. When I got older I started to realise, uh, what was happening, so if he tried to do anything I would try to get him off me but he was heavy and much stronger than me. After he did anything he would say I love you or you're beautiful and I tried to get away or not come to me when he called me he would say that I didn't love him or would offer to buy me stuff like food or treats;*

*(c)[A]round Christmas time 2019 he would beg me every night to sleep in the bed with him. I never stayed in his bed overnight because I didn't want to but most nights he made me be in his bed for a few hours and on two of the nights he tried to rape me and I don't know ... I don't know what nights, I managed to get myself off both times because he put me on top off him, all I remember is that it really hurt and it hurt to wee for a day afterward. After mum stopped working nights it was just mainly touching when no one was around. I don't remember when this was but one time he was trying to undress me and mum came in but, again, he just pretended he was play fighting with me. I don't know how my mum never realised or seen.”*

38. Throughout this period the M made her support for the F entirely clear. There was an incident on 9/10 July where the LA say the M allowed the F to see AA&BB at the family caravan. On 14 July AA&BB were removed from the M's care and placed under police protection with the paternal grandmother.
39. An interim care order was made on 22 July 2022.
40. On 9 September AA told the school that his sisters can't live with M and F due to them *“making things up about Dad hurting them”*.
41. In October there are a number of references to TT needing mental health support, and her raising concerns that the M is placing pressure upon her.
42. On 1 November in a drawing and talking therapy session with LL at the primary school, BB made allegations about physical abuse by M and F.
43. On 22 December SS had a second ABE interview at which she maintained her allegations. She told the police that she wrote in her notebook that the story was false because:

*“I wrote that after they like accused me ... like after it got brought up the first time ... just so like no one would say anything about it again. Cause like I didn't want it all brought up again, cause they were try ... my mum was trying to say like well maybe you just want that to happen to you or like, it's like your imagination, so I just wrote that then.”*

## 2023

44. On 20 January BB alleged to LL that she and her siblings were hit when they were naughty, by M with a wooden plastic spoon and by F with his hand. BB repeated these allegations on a number of further occasions both to the foster carer and at school.
45. On 15 February TT alleged that AA&BB got hit a lot for not sleeping or not staying in bed. She also alleged there were frequent occasions of verbal and physical abuse between M and F. SS supported these allegations.
46. TT gave a further ABE interview in which she alleged exposure to domestic abuse between M and F.
47. On 30 March AA said to LL that the parents argued and would hit each other.
48. There is an ABE interview with BB in which she said the M hit her once with her hand.
49. On 5 July at a contact session the M alleged that the F had raped her that afternoon. The M has now retracted this allegation and says she made it up because she had been sexting a contact centre worker and she was trying to deflect attention from this. On 7 July the M attempted an overdose. On 8 July she told the police that she made up the rape allegation.
50. Up until 4 December 2023, during the F's evidence, the M had consistently said she did not believe SS and TT's allegations. However, mid-way through the F's cross examination the M changed her position and put in a witness statement stating that she now did believe the girls, but she continued to deny all allegations of physical abuse or domestic abuse.
51. However, the following day the M put in a further statement saying that she was no longer sure whether she believed SS and TT or not.

## Evidence

52. **JJ** was the teaching assistant who TT spoke to on 4 May 2022. She had given a police statement and a Family Court statement in July 2023. There were some discrepancies between what she had said in her original written statement and what was said later. She said that she thought she had not checked her written police statement closely enough and accepted that there were some omissions in it. However, overall I felt JJ was doing her best to remember the sequence of events. I suspect that she did give TT support and perhaps tacit encouragement in her allegations. However, in the circumstances of this type of case I think it is virtually impossible for someone not to do so.

53. She described TT before 4 May as being very up and down and “*not comfortable in her own skin*”. She had had a conversation with JJ about wanting to go to her father’s (PP’s) wedding but being worried about telling her mother. On 4 May she was very upset and crying. JJ said a number of times through her evidence that she did not understand why TT had made the allegations at that point given how much she had to lose in terms of her relationship with her mother and being in the run up to her GCSEs. JJ inputted her information into the school MyConcerns log.
54. She said that the safeguarding lead, KK, had told her to have no more involvement with TT after the conversation on 4 May in case the matter went to court, but JJ had helped persuade TT to go with the police to the police station on 4 May when TT was very reluctant to do so.
55. LL is the pastoral lead at AA&BB’s primary school. She had conducted drawing and talking sessions with both children. During the course of these sessions BB has made various “*allegations*” of physical abuse. I have no doubt as to LL’s good intentions and efforts to help the children. However, the process is supposed to be “non-directional” but, in practice, having read her statement and the contemporaneous notes on MyConcerns, many directional questions were asked.
56. LL was adamant that BB was a truthful child who would not have made things up because she had been nudged in that direction.
57. NN is the M’s niece. She has given a police statement and a Family Court statement. She has known the F since she was 12 years old. Her evidence covered a long period. When she was about 13 the F messaged her almost daily for a period, although she accepted the family did message each other frequently. The F used to playfight a lot with tickling and picking her up. At the time she felt this was alright, but looking back now feels it was inappropriate. She began to feel increasingly uncomfortable about it.
58. Around 2014 the M and F started making jokes about vibrators and this became a running joke which made NN feel very uncomfortable. She said that from when she was 12/13 other family members would warn her to be careful around the F. When she was 16/17 she would avoid speaking to the F and having contact with him.
59. There was an incident in 2018 when she was at the grandmother’s house when the F started tickling her side and then grabbed her bum. In cross examination she said this was definitely not “*accidental*” it was a “*full grab*”.
60. In February 2019 there had been a family outing to an event at the NEC. The F had helped out by driving people back and forth. NN’s mother had developed a serious migraine and had gone to bed upstairs whilst the F was waiting downstairs for a taxi home. NN said he sat on the sofa and insisted that she sat next to him. He squidged up to her and she felt intensely uncomfortable. She said in oral evidence that she had called her boyfriend from the kitchen and asked him to stay on the call because she did not feel safe. She felt trapped on her own and unable to escape. She messaged her WhatsApp Group of friends that evening because she had felt so unbelievably uncomfortable.
61. She said she had not said anything about the 2018 incident because she was a coward and too scared. She had thought perhaps she was “*overthinking it*”. She did not think

that she would be believed, and possibly would break up a family and cause the devastation that had now come to the family.

62. NN was a totally believable witness. She did not exaggerate her evidence and she repeatedly said that she had questioned herself. Her evidence as to feeling very uncomfortable with the F and her fear during the incident in February 2019 completely rang true.

TT

63. TT and SS both gave evidence from Mr Bowe's chambers. He asked the questions and I was in the room. The evidence was livestreamed to the locations of the other parties. Both children had the benefit of an intermediary. There was some difficulty for those who were not in the room hearing TT's evidence, but we drew up a comprehensive note of what had been said and that was circulated.
64. TT had previously given an ABE interview as referred to above.
65. She started her oral evidence very very nervously, finding it very difficult to speak, and there were a lot of answers along the lines of "*I don't know*", "*I don't think so*" and "*I don't remember*". There was one occasion when she wrote down her answers, but in the main we did not need to use this method. As her evidence went on, she slightly warmed up and became more forthcoming.
66. A constant theme of her evidence was her strong need to protect her mother. She spoke about not wanting to upset her mother and not wanting to cause trouble. She seems to have played a significant caring role for AA&BB, generally either taking or collecting them from school, even though that often meant she was late for school.
67. When asked why she had not supported SS when she made her allegations in April 2021, TT said "*I was trying to be supportive, my mother was ill at the time having seizures daily. I didn't want to leave her. She was sad. She said she didn't want to have the children taken off her and I was trying to be there to comfort her*".
68. She said she was relieved when SS made the allegations because she would be "*safe*". She said the trigger for her speaking to JJ was that RR was coming up to 12 and she didn't want "*him*" to touch her. She was plainly speaking about the F.
69. When asked why she had not spoken to the M at this point, she said she did not think the M would believe her and wouldn't understand why she was worried about RR.
70. She said that she and the M had been really close and now they felt like strangers. Although at first she had not thought it had all been worth it, now she felt it had been because "*everyone*" is safer now and AA&BB seem much happier.
71. She said that in August 2023 she had been at her grandmother's and the M said she had left the F and did believe her, but then she later took that back.
72. Overall TT seemed like a child overwhelmed by responsibility, to the point that this almost stops her from speaking. She worried about her M and feels intensely concerned about her and the impact of the allegations upon her. This impression is

entirely borne out by the text messages referred to above, particularly those on 4-5 May 2022.

73. In my view TT was telling the truth. Her extreme reluctance to speak about matters did not suggest someone who was making things up. She did not embellish the allegations, whether in the ABE interview or in her oral evidence. Nor did I have any sense that she had fabricated allegations after discussion with SS or anyone else.

### SS

74. SS had given two ABE interviews. She had wanted to give evidence in court in front of all the parties because she said she thought this would make her evidence more "*believable*". I had ruled earlier that it would be better if both girls gave their evidence by the same format.
75. SS was more forthcoming than TT, and at least superficially a more forceful character. Although I am sure she loves her mother, she did not have the same level of overwhelming worry and concern about the M, as did TT.
76. She said she wrote in the notebook in November 2020 because she "*wanted to get things out of my head*". When asked why she said it was false, she said "*I didn't want to ruin anything*".
77. She had written a suicide note on 14 April 2021 because she wanted to write everything down and was "*not feeling ok*". The F had been in the room and said nothing had happened and the M had not believed her.
78. Again I found SS a believable witness. She was clear and straightforward in her answers and there was nothing in her evidence to make me disbelieve her.

### The Mother

79. I do not doubt that the M loves all the children. However, her oral evidence entirely reinforced the impression from the chronology and documents set out above. She put her devotion to the F above any interest of the children, and she was incapable of seeing beyond her own interests. She was striking, both in the many messages set out above and in her oral evidence, in her inability to empathise with the children or put their needs before her own.
80. She was clear in her written evidence, and did not shift at all in oral evidence, that she did not believe SS and TT's allegations and had never done so. She said there had been a conversation at the contact centre when she had told them she believed them, or at least implied it, but she had only done that because the contact worker with whom she was having some form of sexting relationship, had suggested that if she said she believed the girls she would get the children back. It was clear from her evidence that short of photographic or medical evidence she was not going to believe them.
81. She had very little explanation as to why SS and TT would have made up the allegations. She suggested that SS had remained upset about the whole "YY" situation

and had been unhappy when the M reverted to having a closer relationship with TT, but she either could not, or would not see, that that made little sense given that SS had written the allegations in a notebook and on a phone which she said were private and she did not intend people to see. She then said that SS liked writing stories, but accepted that none of her stories had been explicitly sexual.

82. She said that she had not believed SS's allegations in April 2021 because SS had immediately said that the story, in the notebook, was untrue. However, when she later found SS's suicide note, that restated the truth of the allegations, she did not even think again whether they were true. It was clear from the M's account that she did nothing to support SS through this period. Even if the allegations were not true, any responsible parent would have supported and helped their daughter, to try to understand why she was making such serious allegations about her step-father. The M did nothing except think about herself and the impact the allegations had upon her, in terms of her health and of the cost of getting a lie detector test.
83. The M said that she did not go to the police after finding the phone message because she wanted to save SS from embarrassment. She failed to accept in cross examination that she was protecting her own interests and those of the Father. It is particularly notable that even after all the work the M has undergone, she still refused to either accept or even acknowledge the degree to which she had been acting to protect her own interests.
84. Importantly on 26 November 2020 the family support worker, Ms Jones, phoned the M, but the M made no reference to SS's allegations. Again she said she thought she was protecting SS from embarrassment.
85. When the M was challenged about why she had said to SS "*thanks you've put me in debt*", she said that her thought processes were not in the right place, and that when something difficult happens it looks as if she is being selfish. She did acknowledge that she had been acting selfishly and tried to suggest that she had learnt now to respond differently. She took a similar approach to the text messages on 29 April 2021 to TT when she asked TT to challenge SS. She did not agree that she was pitting one daughter against the other and said that she "*wasn't thinking straight*".
86. She accepted that after SS's allegations she told AA&BB that SS had been lying, but she said that she had not repeated that later. She could not remember whether she had ever challenged the F about SS's allegations.
87. In respect of TT's allegations she again said clearly that she did not believe TT. She said there were lots of reasons TT was angry; wanting to go to Carlisle to see her girlfriend but the F saying it was too expensive; that when the F had been on bail the M had been more lax and TT didn't like it when the F returned to the house and enforced more rules.
88. She said she did not believe TT because of inconsistencies in what she said as to which room it was in and where the Playstation was. She initially said F was never alone with the children, but she quickly accepted that he was alone when she went to bed, but said he would put on headphones and play on the PlayStation.

89. Mr Goodwin put to the M the series of exchanges with TT. He asked the M whether she accepted TT was trying to protect RR and BB. In a very striking response the M said that if TT had said this for a long time she would have protected SS, but she didn't protect her either. I could only understand this as the M somehow trying to blame TT for failing to protect SS by not making her own allegations earlier. In the light of the pressure the M placed on TT to say SS was lying, and to retract her own allegations, this was a truly astonishing response in the witness box.
90. Despite the series of text messages the M said she did not accept that she was putting huge pressure on TT. She did however accept that there was nothing TT could say to persuade the M to believe her.
91. In respect of the time in July 2023 when she alleged the F raped her, she said she did this to deflect attention from the fact that she had been inappropriately sexting the contact worker. She said she had been struggling with her mental health.
92. The M denied that there had been any domestic abuse in her relationship with the F. When she had alleged domestic abuse in July 2023 that was again simply to deflect attention off her. She said much of the detail of the abuse she alleged had been from events in her relationship with PP. She also denied that either she or the F had physically chastised the children.
93. The culmination of the M's evidence was her further statements on 4 and 5 December 2023 when she initially said she had changed her mind and did believe the girls, and then reverted.
94. My conclusion was that the M, for whatever reason, would lie to protect her interest, (see the rape allegation), and upon whose evidence I could place very little weight. I will return to her abject failure to protect her children below.

#### The Father

95. The F has consistently denied all the allegations against him. He said that he treated TT and SS like his daughters and he had never behaved in anyway inappropriately with them. He denied any actions which they could have misconstrued.
96. He said that when SS had made her allegations he had come back from work and gone upstairs to find the M and SS in the bedroom. The M had showed him the notebook and said that SS had "*wrote a story*" and that on the opposite page it said "*the last story was fake*". He had asked SS and she had said it was a story in her head and she was sorry and that it wasn't about him. He said it was like a "*normal conversation*". SS had said sorry and given him a hug.
97. I find this version of events simply impossible to believe. If SS's allegation in the notebook had been untrue then the F's passive and unemotional response that SS had simply made it up is very hard to accept. He showed no anger or even real curiosity as to why SS should have made up such horrible lies about him.
98. The only explanation he could give for SS's "story" was that she was angry about his behaviour with YY. He repeatedly described this as his biggest mistake. On his version, what happened with YY was that they sent each other topless photos and



sexually explicit messages. It is, of course, not for the F to provide an explanation or to prove anything.

99. In respect of TT's allegations he suggested that TT had wanted to be the M's carer and stay at home. When he came back to the house after his bail conditions were lifted TT didn't want to help with chores or go to school. He seemed to be suggesting that the reason TT had made the allegations was because she was unhappy with him returning to the house.
100. He was very unwilling to accept that his relationship with the M was dysfunctional or abnormal. When the M accused him of rape he said they didn't speak for a month when he was on bail, but then they started speaking again. He didn't appear to bear any anger, or again very much curiosity, into why she had accused him of rape when he was already facing very serious allegations of sexual abuse by SS and TT.
101. He said their relationship was very strong but denied that the M was dependent on him. He denied, when cross examined by Miss Brown in the very brief period of the hearing when the M was making allegations of coercion, coercive and controlling behaviour of the M. He denied any domestic abuse in the relationship. He said they did sometimes have heated arguments but it was never physical, and generally it was just bickering.
102. He said they would have playfights but there was no scope for the children to have misunderstood and think this was not a game.
103. He equally denied that he or the M had ever physically chastised the children in any way. He accepted that both SS and BB could sometimes be challenging but denied that he had ever hit the children or even picked them up or physically intervened with them.
104. His evidence about SS and TT was slightly odd. He started by saying that he considered them to be like his children. But then he talked about being uncomfortable when they walked around with scanty clothes on, which in my view made it fairly clear that he did not think of them simply as a father would. He then said that was only when they were in the garden and he was worried about the neighbours seeing the girls but this did not ring true. When Mr Goodwin asked whether he thought SS found him attractive, he said he could not answer. This again suggests something very different from a father daughter relationship.
105. He denied grooming TT by "playfighting" with her and getting her used to him touching her.
106. He had no explanation for NN's allegations. He accepted that there was a period when he very frequently texted her, but said it was often initiated by her and it was in a completely family context. He denied joking about a vibrator or ever grabbing her bum. He said he had had no idea that he made her uncomfortable. He had no idea she had been on the phone to her boyfriend.
107. Overall, I did not find the F a believable witness. I expand upon my analysis of his evidence and his behaviour below.

Ms Monger

108. Ms Monger is an Independent Social Worker who carried out a parenting assessment of the parents. She had conducted a number of sessions with the parents, together and separately. She said there was no acceptance during her sessions with the M of the allegations.
109. The M had undergone the Triple P parenting course and the Solihull parenting programme. Ms Monger said there was a material difference between these programmes and work around sexual harm which was much more complex.
110. She was entirely clear that if findings of sexual abuse were found she did not consider the children should be returned to her care. She did not believe the M would really separate from the F and would not be able to maintain such a separation, given the length of the relationship and the level of co-dependency. She thought the Safety Plan that the M had put forward would not in reality be implemented, because the M did not believe the allegations. Her view was that if AA&BB made allegations about the F in the future she was not confident that the M would speak to the local authority or the police.
111. Both orally and in her report she spoke about the M's difficulties, in terms of the abuse she alleged she had suffered, and her physical and mental health problems. She said the M could describe strategies, but when something "*overwhelmed her*", such as the issue with the contact worker, then her mental health deteriorated. She accepted many of Miss Brown's points in cross examination about the M's difficulties, but stressed that does not take away from the need to protect the children.
112. She said the M needed work on understanding sex abuse and the way allegations might be made. She did not feel able to say how long such work would take but said it would be necessary to review the position once the M had undertaken the work.
113. In response to questions from Mr Bowe she said the M appeared to draw a strong distinction between allegations made against a third party, such as a neighbour, where she appeared to know how to deal objectively with such allegations; and allegations against the F where the M appeared to be incapable of being objective about the allegations. She thought the M was not able to weigh up the evidence when it related to the F.

Ms Rushton

114. Ms Rushton is the allocated social worker. She has only been allocated relatively recently, and has had limited contact with the M and has not met the F.
115. She said that AA&BB were well settled in foster care and had a good relationship with the foster carer. She said AA&BB's views were very inconsistent. Sometimes they want to go home and sometimes not.
116. She had the same view as Ms Monger that the M was very unlikely to meaningfully separate from the F and was unlikely to contact the police if the children made further allegations. Although the M had abided by the conditions when the children were

living at home and the F was on bail, Ms Rushton did not think that the M would abide by the terms of the draft Safety Plan if findings had been made.

117. She said the children spoke very highly of the M and were very protective of her, frequently referring to her being ill.

### The Law

118. There is no apparent dispute between the parties on the legal principles and the case law that should be applied in this case. The following represents a distillation of those principles and the considerable volume of applicable case law. I consider that the summary set out below is an appropriate analysis of the relevant caselaw, and it is not necessary to set out the various cases that lie behind this summary. This follows closely the helpful summary of Baker J in *Devon CC v EB* [2013] EWHC 968.
119. The burden of proof is on the LA. There is no obligation on the parents to provide explanations for injuries or ‘memorable events’ although the court is entitled to weigh the absence of such explanation alongside all the other evidence in the case. The civil standard of proof applies, namely the balance of probabilities. If the LA proves that it is more probable than not that a disputed event occurred, then it becomes an established fact for the purposes of these proceedings. If the event in question is not proved, it is treated as having not occurred. That is the binary system that operates in the Family Court.
120. The court must reach decisions in relation to disputed allegations on evidence, not speculation or rumour. It may, however, draw logical inferences from evidence that it has accepted.
121. The court must reach a conclusion in respect of each separate allegation but must also take care not to compartmentalise its analysis – the entire canvas of evidence must be surveyed and each piece of evidence must be considered in the context of the other evidence.
122. Where it is alleged that a person has lied the court must approach this allegation with considerable care, as highlighted in *R v Lucas* [1981] QB 720. First, having identified the alleged lie in issue, it must ask itself whether the LA has proved, on the simple balance of probabilities, that the alleged lie has been told. The court must accordingly seek to distinguish a lie from, for example, “story creep”, mistake, confusion, memory failure or distortion arising from impairment.
123. Once the court has undertaken that analysis it will move to the second stage, by which it will consider why the proven lie has been told. This is important because people may lie for many different reasons - embarrassment, a sense of shame for having caused an injury accidentally, a desire to hide some other wrong-doing or a mistaken belief that lying might improve their position.
124. If a lie is proven, then the relevance of the lie to the court’s enquiry must always be carefully considered. Some lies, irrespective of how unpalatable they may be, will have absolutely nothing to do with the ultimate facts in issue of the case, save perhaps assisting the court with an analysis of the person’s general credibility. The court must

remind itself that just because a person lies about one issue, it does not automatically follow that they have lied about everything.

125. Ms MacLynn submits that some of the children's evidence and allegations should not be relied upon because it was not elicited in accordance with the ABE Guidance. She places reliance upon the Court of Appeal case of *S (A Child: Findings of Fact)* [2023] EWCA Civ 346, where Lord Justice Peter Jackson endorsed the guidance given by Mr Justice MacDonald in the case of *Re P (Sexual Abuse - Finding of Fact Hearing)* [2019] EWFC 27, and referred to the guidance as to interviewing children in the context of sexual abuse allegations set out by Lord Justice Baker in *Re JB (A Child) (Sexual Abuse Allegations)* [2021] EWCA Civ 46. Both of those Court of Appeal judgments endorsed the guidance of Mr Justice MacDonald in the case of *AS v TH and Others* [2016] EWHC 532 (Fam) which was set out in the opening note on behalf of the father:

*“34. Next, as has been said many times, including by MacDonald J in Re P (Sexual Abuse - Finding of Fact Hearing) [2019] EWFC 27: “... it is well recognised that it is important, forensically, in a case of alleged sexual abuse, to examine the first point in time at which a child gives an account or accounts of alleged sexual abuse, the precise circumstances in which the account or accounts arose and how those were treated subsequently by those to whom they were made. It is therefore necessary, as I have noted, to consider not only what each of the children has said but also, and importantly, the circumstances in which they said it.” ...*

*“36. Fourth, and crucially, I consider that the conclusions the judge drew about the ABE interview process undermine his overall assessment. The ABE process is there for a reason. It is designed as a safeguard against unsound findings based on accounts that are unreliable or misunderstood. Of course, the fact that the guidance has not been followed does not mean that findings of abuse cannot be made where the evidence as a whole justifies it. But the worse the breaches of guidance the more careful the court must be.*

*37. In Re JB (A Child) (Sexual Abuse Allegations) [2021] EWCA Civ 46, [2021] 1 FCR 574, Baker LJ drew together the principles from the ABE Guidance and the authorities:*

*“11. The importance of complying with the ABE guidance, which is directed at both criminal and family proceedings, has been reiterated by this Court in a series of cases including TW v A City Council [2011] EWCA Civ 17, Re W, Re F [2015] EWCA Civ 1300, Re E (A Child) [2016] EWCA Civ 473, Re Y and F (Children) Sexual Abuse Allegations) [2019] EWCA Civ 206 and in the judgments of MacDonald J in AS v TH and others [2016] EWHC 532 (Fam) and Re P (Sexual Abuse: Finding of Fact Hearing) [2019] EWFC 27. It is unnecessary to repeat at any length the extensive comments set out in some of those judgments. For the purposes of this appeal, the following points are of particular relevance. (Save where indicated, the paragraphs cited are from the ABE guidance.)*

*(1) "The ABE guidance is advisory rather than a legally enforceable code. However, significant departures from the good practice advocated in it will likely result in reduced (or in extreme cases no) weight being attached to the interview by the courts." (Re P (Sexual Abuse: Finding of Fact Hearing), supra, paragraph 856)*

*(2) Any initial questioning of the child prior to the interview should be intended to elicit a brief account of what is alleged to have taken place; a more detailed account should not be pursued at this stage but should be left until the formal interview takes place (paragraph 2.5).*

*(3) In these circumstances, any early discussions with the witness should, as far as possible, adhere to the following guidelines.*

*(a) Listen to the witness.*

*(b) Do not stop a witness who is freely recalling significant events.*

*(c) Where it is necessary to ask questions, they should, as far as possible in the circumstances, be open-ended or specific-closed rather than forced-choice, leading or multiple.*

*(d) Ask no more questions than are necessary in the circumstances to take immediate action.*

*(e) Make a comprehensive note of the discussion, taking care to record the timing, setting and people present as well as what was said by the witness and anybody else present (particularly the actual questions asked of the witness).*

*(f) Make a note of the demeanour of the witness and anything else that might be relevant to any subsequent formal interview or the wider investigation.*

*(g) Fully record any comments made by the witness or events that might be relevant to the legal process up to the time of the interview (paragraph 2.6, see also AS v TH, supra, paragraph 42).*

*(4) For all witnesses, interviews should normally consist of the following four main phases: establishing rapport; initiating and supporting a free narrative account; questioning; and closure (paragraph 3.3).*

*(5) The rapport phase includes explaining to the child the "ground rules" for the interview (paragraphs 3.12-14) and advising the child to give a truthful and accurate account and establishing that the child understands the difference between truth and lies (paragraphs 3.18-19). The rapport phase must be part of the recorded interview, even if there is no suggestion that the child did not know the difference between truth and lies, because "it is, or may be, important for the court to know everything that was said between an interviewing officer and a child in any case" (per McFarlane LJ in Re E, supra, paragraph 38).*

*(6) In the free narrative phase of the interview, the interviewer should "initiate an uninterrupted free narrative account of the incident/event(s) from the witness by means of an open-ended invitation" (paragraph 3.24).*

*(7) When asking questions following the free narrative phase, "interviewers need fully to appreciate that there are various types of question which vary in how directive they are. Questioning should, wherever possible, commence with open-ended questions and then proceed, if necessary, to specific-closed questions. Forced-choice questions and leading questions should only be used as a last resort" (paragraph 3.44).*

*(8) Drawings, pictures and other props may be used for different reasons – to assess a child's language or understanding, to keep the child calm and settled, to support the child's recall of events or to enable the child to give an account. Younger children with communication difficulties may be able to provide clearer accounts when props are used but interviewers need to be aware of the risks and pitfalls of using such props. They should be used with caution and "never combined with leading questions". Any props used should be preserved for production at court (paragraphs 3.103 to 3.112).*

*(9) "The fact that the phased approach may not be appropriate for interviewing some witnesses with the most challenging communication skills (e.g. those only able to respond "yes" or "no" to a question) should not mean that the most vulnerable of witnesses are denied access to justice". It should not be "regarded as a checklist to be rigidly worked through. Flexibility is the key to successful interviewing. Nevertheless, the sound legal framework it provides should not be departed from by interviewers unless they have discussed and agreed the reasons for doing so with their senior managers or an interview advisor" (paragraph 3.2).*

*(10) Underpinning the guidance is a recognition "that the interviewer has to keep an open mind and that the object of the exercise is not simply to get the child to repeat on camera what she has said earlier to somebody else" (per Sir Nicholas Wall P in TW v A City Council, supra, at paragraph 53)."*

126. Plainly these comments are made by judges highly experienced in this field, and the Court of Appeal judgments are binding upon me. I would however wish to insert one word of caution. When a child first makes an allegation, commonly in these cases of a highly distressing nature and where the child is themselves very upset, it would be both unrealistic and inhumane to require the person who hears the allegations to fail to give the child some emotional support. The court should be slow to then place less weight on the allegation, simply because the child has received such support.
127. Miss Brown, in respect of the allegation of failure to protect by the M, refers me to King LJ in L-W Children [2019] EWCA Civ 159 at [64]:

*“Any court conducting a Finding of Fact Hearing should be alert to the danger of such a serious finding becoming ‘a bolt on’ to the central issue of perpetration or of falling into the trap of assuming too easily that, if a person was living in the same household as the perpetrator, such a finding is almost inevitable. As Aikens LJ observed in Re J, “nearly all parents will be imperfect in some way or another.” Many households operate under considerable stress and men go to prison for serious crimes, including crimes of violence, and are allowed to return home by their long-suffering partners upon their release. That does not mean that for that reason alone, that parent has failed to protect her children in allowing her errant partner home, unless, by reason of one of the facts connected with his offending, or some other relevant behaviour on his part, those children are put at risk of suffering significant harm.”*

128. On the welfare stage of the analysis, I must apply the welfare checklist in the Children Act 1989.

#### The parties’ cases

129. These largely follow from the evidence set out above. The LA asks me to make all the threshold findings sought; to make a care order with the children remaining in foster care; and to limit contact to fortnightly until the Looked After Children Review in February 2024 at which point the LA will consider whether to retain that frequency or to reduce it to monthly in line with the care plan.
130. The M, as is set out above, changed her position during the hearing, to one of believing the allegations, and then changed again to say she would leave the findings of fact to the Court. She accepts that the children should stay in foster care for 6 months whilst she undertakes work.
131. Miss Brown submits that there was no reason for the M to suspect sexual abuse before the allegations were made. The M has not been found to have breached the safety plans that were in place when the F was on bail and that she has abided by requirements as to supervision.
132. The M denied that she had told AA and BB that TT’s allegation were lies, although I note that it is extremely difficult to know where AA got this information from, if not the M.
133. In respect of the physical abuse allegations, Miss Brown submits that BB is a child prone to making things up, and she was led by LL to make allegations. She says I should discount LL’s evidence given the leading nature of the questions and sessions. She also relies on leading questions in TT’s ABE interview in respect of the alleged physical abuse.
134. She relies on the fact that neither AA nor RR makes any allegations of physical abuse within the household.
135. Ms MacLynn emphasises the importance of considering the genesis of the allegations, and those of SS and TT in particular. She placed reliance in her closing submissions

on the background of the M's evidence that domestic abuse was a feature of her relationship with PP. This included police call outs; the private law proceedings; and PP having pursued allegations against the F when he commenced a relationship with the M. There was a statement from a school teacher about the impact that the separation had had on TT and SS. She also referred to the referral to the LA in 2014 about RR displaying sexualised behaviour.

136. Ms MacLynn made clear she was not making a submission that PP or his partner, QQ, had deliberately encouraged the girls to make allegations, but that their difficult family history, perhaps (my assumption) with PP's concerns about the M, may have inadvertently led them to make allegations.
137. In respect of SS's allegations, she relies on the fact that SS was a child who had been dishonest in some respects, such as missing school. She had been upset about the YY issue between the F and the M and had a history of emotional instability.
138. She placed particular weight on the first account of the abuse, see *Re P (Sexual Abuse - Finding of Fact Hearing)* [2019] EWFC 27 and the fact that SS had called her story "fiction" and had told the M it was not true. She also places, in my view, undue weight on the fact that the account in the notebook refers to the F touching himself, twice, but this is not repeated in the second written account. I do not find it in the least surprising that a child who has gone through this form of intense trauma should then not have a precise recall on each subsequent occasion. The Court is told to be sensitive to the vagaries of memory in cases such as *Gestmin (Gestmin SGPS S.A. v Credit Suisse)* [2013] EWCA 3560), but in the context of evidence of sexual abuse by a child, her lack of detailed recall of the details of sexual abuse is suggested to undermine her evidence.
139. Ms MacLynn then says SS's allegations were reinforced by PP and the police interviews. She then argues that SS may have become trapped in her lies making it harder for her to withdraw her allegations.
140. In respect of TT's allegations, Ms MacLynn submits these must be seen in the context of SS's allegations, about which TT was aware. She also similarly referred to OO (TT's girlfriend) having told TT about her own sexual abuse, which may have led TT to make the allegations against the F. This was the first time TT made the allegations, and therefore Ms MacLynn puts particular emphasis on OO's role. She also suggests that JJ reinforced and supported TT's story. She points to errors in the recording and process of the various police officers, including encouraging TT to speak.
141. This is another point in this saga where I do ask myself what the Family Justice System expects a police officer or professional to do. They were faced with a teenage girl who had made serious allegations but was very reluctant to speak. The Guidance upon which Ms MacLynn places such reliance does not mean that the police should be so concerned about not "encouraging" allegations that they cannot help a potential victim of abuse to speak. There needs to be a nuanced and proportionate response to such situations, which may well not be uncommon.
142. In respect of the physical abuse allegations, she relied on the fact that all the children were spoken to by the social worker and police officer after SS made her allegations,



and none of them mentioned physical chastisement or domestic abuse. AA specifically said that he felt safe at home and he had never seen the F hit anyone.

143. She submitted that no weight could be attached to what the children had said to LL given the degree to which she led them towards answers.
144. She pointed to the fact that TT only made allegations of physical abuse after QQ had asked her if *“anything had happened towards the children”* on 13 January 2023. She would have felt under pressure to protect her siblings. I have to say I find it difficult to understand why TT would have made up allegations if none of this case was true. In my view Ms MacLynn’s submission does not accord with the evidence.
145. She submits that TT’s ABE interview of 28 March 2023 was of “very poor quality”, with no rapport building, and directional questioning. She makes similar points about BB’s ABE interview of 30 March 2023.
146. Mr Bowe, on behalf of the Guardian set out a very useful analysis of the evidence. Much of that analysis is incorporated into this judgment and my conclusions.

### Conclusions

147. This case concerns very serious allegations of sexual abuse by SS and TT, and further allegations of physical abuse, largely by BB, but supported by TT, and to a limited extent AA.
148. The determination of the allegations largely depends on whom I believe. There is no medical evidence and very little supporting documentary evidence in the form of electronic communications.
149. The burden of proof is on the LA, and the parents do not need to prove anything, and do not need to provide an explanation for why the allegations were made.
150. In respect of SS and TT’s allegations my analysis is as follows. SS herself was a believable witness, both in her ABE interviews and the evidence she gave to court. Her allegations have been consistent, from the handwritten note in November 2020, to the phone note in April 2021, her note to PP on 1 May 2021 and then the ABE interviews and oral evidence. I reject Ms MacLynn’s suggestion that SS’s failure to mention the F touching himself in her second written account undermines her evidence.
151. The form of the allegations is clear and detailed. The handwritten note does not read as a “story” but rather a specific description of an incident. This is the first account and it is compelling in its description and detail.
152. There is no real evidence of SS being encouraged or led into making the allegations, and then feeling trapped into maintaining them. There is also very little or any explanation as to why she would have made them up and then stuck by them. The F suggested she remained angry about his relationship with YY. But this seems to have been more of an issue in Summer 2020, so it is difficult to see why she would have been so angry about that in November.

153. SS had an enormous amount to lose by making the allegations. I can just about accept that she might have made an original allegation out of anger, but to maintain it when she was losing her main home, her mother and her siblings, seems very extreme. Further, her initial retraction of the allegations is wholly explicable by the level of pressure she was placed under by the M and the F. I accept that the M left her alone with the F after the finding of the notebook (in itself a dereliction of proper parenting) as was SS's account recorded in the RASSO log.
154. It is also in my view extremely important to appreciate that neither the handwritten note nor the phone note was intended to be found. This would be a very odd anger response, or cry for help.
155. There may have been some support, hardly surprisingly, from PP and the police in the subsequent process, but there is nothing to support a conclusion that would undermine the truth of TT's allegations. TT has not wavered since April 2021 as to the truth of her allegations, and she wished to give evidence to support them.
156. Similar points can be made in respect of TT. Her presentation in both the ABE interviews and her oral evidence is of someone totally overwhelmed by her sense of responsibility and the enormity of what she was disclosing. In non-psychological terms, she seemed to be rendered almost mute by what she was saying. In my view this was because of her extreme sense of responsibility for her mother, an emotion forced upon her by extraordinarily poor parenting over the years and her sense of responsibility for her siblings. It also makes sense that she should feel very guilty about failing to support SS in April 2021.
157. Her allegations were clear and consistent across the various pieces of evidence.
158. The timing of TT's allegations in this context makes sense. In April 2021 she felt that to support SS would be to betray her M and destroy the family. The need to protect RR then trumped her loyalty to her M.
159. Again, TT's note on her phone in March 2022 was not intended to be read, and therefore makes no sense as an attempt to remove the F from the home and get the M to herself.
160. I do not accept that TT was led or encouraged into making allegations by JJ or the police. There may have been an element of supporting her, which perhaps overstepped some part of ABE Guidance, but it is important to apply this Guidance with some humanity. If there is a deeply distressed child who is making allegations, then it is only human to give them some support, which might later be interpreted as encouragement. It is a matter of judgement whether such support stepped over a line, and in my view that did not happen in this case.
161. Similarly, there may have been some minor failings in following the ABE Guidance, both in terms of the PCs not writing down the questions and some "rapport building" at the start of TT and BB's interviews, but in my view that did not impact on the weight to be attached to their evidence.
162. TT and SS's allegations are strongly supported by NN's evidence. She was a palpably truthful witness, who nobody has suggested had a motive for lying. Her narrative of

sensing that the F was someone who overstepped boundaries and posed a threat, rang entirely true. It was evidence which would resonate with any young woman who has had to learn to identify men who pose a threat from their “low-level” conduct. Her evidence of the F acting inappropriately and her feeling he was a threat is strongly supported by the fact that she rang her boyfriend on the evening of the NEC concert and kept him on the phone because she was so worried about the F. I accept that the F did not, save for grabbing her bum, assault her. However, her evidence of the sense of threat he posed is, in my view, important because it shows a course of conduct of not respecting sexual boundaries, and of behaviour towards teenage girls and young women, which I would describe as “grooming”.

163. The F’s evidence was of total denial of the allegations. He did not accept that there was any possibility of any of the girls misunderstanding playfighting or any other actions by him. There were some parts of his evidence I found hard to accept, or at least to understand. He said that he thought of SS and TT as his children, but the way he spoke about them did not suggest to me that that was true. Further, his lack of response to the allegations, particularly that of SS, seemed false. If he had truly never sexually assaulted her, and he had read the content of the notebook, then I would have expected him to be angry or at least utterly bemused and questioning. Instead he suggested he had been largely passive and life had gone on as normal. That in my view is highly unlikely. I conclude that he lied to the court on the key issues of abuse, and what was happening in the household.
164. The M’s evidence in respect of the truth of the allegations is largely valueless. She spent three years completely rejecting the allegations and then after Mr Goodwin’s cross examination did a volte face, even though the F admitted nothing. She then did a further volte face the next morning. Given the M had previously made an allegation of rape against the F and then withdrew it, I do not find her a reliable witness.
165. Emerging from all the evidence, including the texts between the F and M, is a pattern of controlling behaviour by the F, and a pattern of grooming. This is shown by his behaviour around TT and around NN, and in the texts to the M, which go well beyond showing love and support and rather are indicative of coercive control.
166. Taking all the evidence together I find the allegations of sexual abuse against SS and TT, and of his conduct to NN, made out.
167. The M’s failure to protect the children is palpable. Even assuming, which I do for these purposes, that she had no reason to suspect sexual abuse before November 2020, she wholly failed to act in a protective manner after that. She chose to believe the F over her daughters. Even if she was justified in doing that, which I do not accept, she did not provide her daughters with the emotional support they so obviously needed. I find she is unable or unwilling to put the protection of her children before her relationship with the F.
168. I find that the M told the children that SS had lied and subsequently that TT had lied. I do not think the parents were truthful to the court about what they had said to the children. The only explanation for what AA said to DS Shah about the M telling him about SS’s allegation and the F saying “sorry it was a mistake”, was that the M had indeed told him this and the F had said it.

169. The allegations of physical abuse are in some ways more complicated. They have largely come from BB, but later supported by TT. BB's allegations have come out in a piecemeal and somewhat inconsistent way. I am also concerned that she has to some extent been encouraged to make allegations, albeit inadvertently. LL's drawing and talking sessions were undoubtedly to some degree asking directional questions and steering BB into further allegations. BB is a lively and imaginative child and she may have felt encouraged to expand and embellish what she said.
170. Further, there is no physical evidence of abuse. There are no GP records, but that is hardly surprising. There is also no record from the schools of either any bruising being seen, or the children ever mentioning physical abuse.
171. However, I am conscious that BB has consistently said that she wants to go home, albeit with greater or lesser strength. She has also been protective of her parents and the M in particular. There is therefore little obvious incentive for her to make up allegations.
172. BB has made the allegations to LL, the social worker and the foster carer and they have been largely consistent. They were quite detailed allegations of being hit with a spoon, that indicates against them being made up. There is little exaggeration in her account. I also note that the Guardian thought that BB was working out what had happened to her at home, and she did not come across to him as exaggerating.
173. I find the parents' evidence as to the conditions at home difficult to accept. This was a household which had five children in a relatively small house. SS and BB have both been described as challenging at times, and the M has said she believes AA has ADHD, although I note he has not been so diagnosed and the foster carers do not appear to have such concerns. The M was often ill. So on any analysis this was a household with high stress levels. I do not think the parents were being honest about what was happening in the house.
174. I note the M, even when for the brief period she accepted SS and TT's sexual abuse allegations, did not accept any physical abuse. I discount the M's evidence because as far as I can see, it is, and always has been, entirely self-serving. In other words, she is prepared to accept, at times, allegations against the F, but never against herself.
175. On the balance of probabilities I find that BB's allegations of physical abuse are true.
176. On the domestic abuse issues, the allegations are denied by the parents. I do not need to determine that part of the threshold for the determination of the relevant orders. Given the dysfunctional nature of the parental relationship and the complexities therein, I do not consider it proportionate or necessary for me to determine whether there was domestic abuse, and if so in what forms and between whom. I make no findings in that regard.
177. On welfare, in the light of my findings, the conclusions are obvious. It is plainly in the children's best interests to be subject to a care order and to remain in foster care for the foreseeable future. With regard to contact, the LA has agreed to keep contact with the parents twice monthly until the review in February 2024 and to further consider the issue of sibling contact. I do not consider this to be an appropriate case for the court to try to impose any greater control or direction over contact.