

ENGLAND AND WALES / JUDGMENT

M v E [2026] EWFC 108 (B) (05 March 2026)

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JUDGMENT

(AS APPROVED)

JUDGE RIGBY:

1.

This is my oral judgment in ZE24P00918/ZE24F00555 at the end of a six day fact-finding hearing in respect of the mother, Ms M's, allegations of domestic abuse. I am concerned with the welfare of A, a little boy of 7; and B, a little boy of 6.

2.

The parties are Ms M, the mother, represented by Mr Cooper, counsel; and Mr E, the father, represented by Mr Holley, counsel. I would like to thank counsel for their assistance in this hearing and for their timely and considerate questioning of the witnesses. The mother was assisted by an interpreter, who I would also like to thank. I will, in my judgment, refer to Ms M as the mother and Mr E as the father. I do so for ease of reference and mean no disrespect to either party. I may also refer to A and B as the child or children (as appropriate).

3.

When the judgment is being transcribed, for the purposes of anonymisation and in relation to potential publication, please change the children's names to A and B, the mother's name to Ms M and the father's name to Mr E.

4.

As agreed on day 5, for the mother's benefit, I will give a short judgment before I give my judgment in full.

5.

This is my short oral judgment at the end of a 6-day FFH - further to various applications by the parties, including the mother's specific issue order and prohibited steps order application, and the father's child arrangements order applications. The court has dealt with various matters during this hearing, including adjustments for the mother. The judgment is being given remotely on day 6, with both parties permitted to have their screens turned off.

6.

The mother has made 8 allegations against the father that he has perpetrated domestic abuse. The father has not sought any findings. This fact-finding hearing has been effective. The court had the benefit of the 444 and latterly from Day 5 459-page core bundle and 388-page supplemental bundle and 4 videos. It heard oral evidence from the mother, two of her sisters, GM and LM and the father.

7.

The court's impression of the evidence is as follows. It found the mother's evidence confused and that, overall, she was not an overly reliable or consistent witness - she gave various different accounts at different times about events, not all that could be explained by

her explanations of

lack of an interpreter or her first solicitor not being as detailed. The court has also borne in mind trauma and the effect that has had on the mother and her recall and memory of events. The court found GM to generally be helpful and clear as it did LM, although was concerned about some parts of LM's evidence, including where the court felt her recall may have been influenced by having discussed things with (and supported) the mother more recently. The court found the father gave short, direct answers, but did not find him overly helpful, given concerns about his credibility, not least as he made blanket denials and his only acceptances, coming as recently as in cross examination, were only when there was incontrovertible evidence and given how he minimised things.

8.

The court, in making its findings, considers whether the allegation is proven on the balance of probabilities and the burden of proof lies with the person making the allegation. I will go into more detail about the relevant law in the full judgment.

9.

In relation to the mother's allegations, on the balance of probabilities, I find the mother's allegations 5 and 8 proven, allegation 1 and 7 part proven and allegations 2, 3, 4 and 6 not proven. I also note there are disclosures in evidence that the mother also hit the children. I am also concerned that the father minimised his actions and that the children's behaviour suggests they have normalised domestic abuse, as professionals observe. I also note that when the children were with the father, they did not want to see the mother and when they were with the mother, they did not want to see the father.

10.

Turning now to my longer judgment, I have had the benefit of reading and rereading a 444 and latterly 459-page core bundle and reading a 388-page supplemental bundle and being directed to relevant parts. I have also watched four videos, the mother's police evidence, two videos of the father's police evidence and a video of the father with two of the children visible and I was also played audio of parts of those videos and shown parts of those videos in court. I have heard the evidence of the mother, LM, GM and the father and I have considered all of the evidence before me and just because I do not mention any particular fact or indeed submission does not mean that I have not considered it.

11.

There are a number of applications before the court. The mother applied for a non-molestation order which is under case number ZE24F00555. Her application for a PSO and SIO is under ZE24P00918 and the father has applied for a child arrangements order and PSO under case number ZE25P00074 which has been consolidated with the mother's Children's Act applications and that case number is no longer live.

12.

A who is seven and B, six, live with their mother in a confidential location and both the parents have parental responsibility. The father has not had any contact with the children since July 2024.

13.

By way of brief chronology, the applicant mother was born on 28 December 1994 and she is now 31 and the father on 24 October 1984 and is now 41. The parties met and were in a relationship between 2017 and July 2024 when the mother reported domestic abuse to the police.

14.

The parties had A in March 2018 and B in March 2019. There has been Local Authority involvement with the family, and the children were on a CPP from 12 August 2024 until early 2025 for emotional abuse.

15.

By way of brief chronology of the proceedings and procedural history, the

matter started with the mother's applications for an NMO, PSO and SIO. Ex parte orders were made by

HHJ Suh on 14 August 2024 and the NMO was made final on 13 January 2025 until 14 August 2025. The father's application for a child arrangements order was made on 21 January 2025 and this matter first came to me at a PTR on 10 June 2025 and a four-day final hearing was listed to start later that month. That hearing was adjourned, with the first day being used for directions and to extend the NMO until the end of the fact-finding hearing on 13 February 2026. It came to me on

16 January at a repeat PTR and was ready to proceed to this fact-find hearing. The PSO that was made on 14 August 2025 remains in force as does the non-molestation order which I extended on 13 February 2026, by consent, to the end of the adjourned fact-find hearing today on 5 March 2026.

16.

On day 1 of the hearing I asked counsel in without the parties present. There were a number of issues including: the non-arrival of the hard-copy bundle which arrived as we were in court (and I caution instructing solicitors not to rely on the DX when documents are being sent to court in a short timescale), issues with the interpreter (despite the PTR order) which HMCTS did address in short order to ensure an in-person interpreter for the mother, there was an oral application for the mother to have with her a comfort pillow in the witness box, issues with the special measures that morning which had not been implemented which meant the parties had come into contact with each other (for which I repeat my apologies) and I liaised with the court staff about that to avoid the parties coming into contact with each other during the remainder of the hearing, but I do understand there was another issue on day 5 with the parties coming into contact with each other first thing. Given the mother's vulnerability, before the lunch break on day 1, mother was shown into the court with both counsel present. She saw me, the judge, before she was left with her counsel to familiarise herself with the courtroom. I was provided with an agreed witness template and it was confirmed that four days would be sufficient. As I will go on to consider, given the way the hearing progressed, the four days were not.

17.

I was also told that GM would be giving evidence now, not from outside of the jurisdiction, but from England, and most likely in person, and we tweaked the order of witnesses to accommodate her.

18.

By the end of day 1, however, given the need for breaks for the mother, who became visibly distressed on many occasions and not only needed breaks from the courtroom but also shorter breaks within the witness box, and on it becoming apparent that she found it easier to give her evidence in her first language and so there was a need for word-for-word translation and not just when she needed it, it became clear the tight four-day timetable was insufficient, so I ordered the hearing be re-listed from the four days (from 10 to 13 February) to five days, and was able to find court time on 3 March. I know that was far from ideal but that was to avoid delay and adjourning and not returning until the autumn.

19.

On the morning of day 2 the witness template was adjusted to hear mother's evidence for all of day 2, and this was needed. Indeed her evidence was not completed in this time and remained incomplete at the end of day 2. It did not conclude until the end of day 3, at which point the court re-listed the hearing for another additional day. That is why this hearing has been heard from 10 to 13 February and on 3 and 5 March 2026. This is partly why the final day has been remote. There have also been participation directions in place, including at one time three screens in court.

The Issues

20.

In summary, the issues before the court:

21.

The mother's position is the father has perpetrated a campaign of serious domestic abuse against her and the children and that this behaviour has included physical violence, neglect, sexual and emotional abuse and coercive control.

22.

It is the mother's case that father's actions were calculated, deliberate and have created a profound risk of harm from which she and the children had to flee and she seeks findings against the father.

23.

Her case is that she is traumatised and has struggled without interpreters at points in the proceedings and this gives rise to inconsistencies and gaps in her evidence. She says her presentation in the witness box is because of her trauma and her position is summed up, as per the Local Authority disclosure, that the father's narrative is one of minimisation, denying domestic abuse towards the children except as a one-off despite evidence to the contrary, and that his explanation that it is a one-off is simply not plausible.

24.

The father's position is he denies all allegations but regrets the way he spoke during a haircut incident and accepts he says "Shut up" to A. He also, on day 5 of the hearing, accepted he hit A in April 2024 during the haircut incident. In his witness statement dated 26 September 2025 he also accepts sending a text message mistakenly but denies intentionally breaching the non-molestation order.

25.

He seeks no findings in respect of counter-allegations he has made previously and he says the mother is raising these issues about him, made up, motivated by love for her children and a desire to keep them exclusively in her life, changing her case to fit the evidence, and that the mother is not honest. The father's case is her presentation in the witness box and inconsistencies

in her evidence are because she has made everything up and does not want to answer questions. It was submitted I do not have sufficient evidence to support any findings and that the court should be careful to find physical abuse where it is lawful chastisement and to be wary about considering the video as representative of father's behaviour.

The Law

26.

Turning to the law I must consider. Domestic abuse has been raised as an issue which engages Practice Direction 12J. Paragraph 29 of that Practice Direction provides that the court should, wherever practicable, make findings of fact as to the nature and degree of any domestic abuse which is established and its effect on the child, the child's parents and any other relevant person. Section 1 of the Domestic Abuse Act 2021 which has been incorporated into Practice Direction 12J defines behaviour as abusive if it consists of any of the following: physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, psychological, emotional or other abuse, and it does not matter whether the behaviour consists of a single incident or a course of conduct.

27.

'Controlling and coercive behaviour' has been defined in paragraph 3 of the Practice Direction as 'coercive behaviour' meaning:

"An act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish or frighten the victim."

'Controlling behaviour' means:

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

28.

Those definitions were further considered in

Re H&N

, paragraphs 29 to 32, which I have firmly in mind, including the endorsed approach taken by Jackson LJ in

Re L

:

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

29.

'Economic abuse' has been defined in the Domestic Abuse Act under section 1(4) which is repeated in paragraph 2(a) of Practice Direction 12J as:

"Any behaviour that has a substantial adverse effect on B's ability to acquire, use or maintain money or other property or obtain goods and services."

30.

I remind myself of guidance given by the court and considerations that have been given to allegations of domestic abuse by the Court of Appeal in

Re H&N

and

Re K

. An examination of principles has also been set out by Cobb J, as he then was, in

Re BB

, in particular paragraph 26:

"(i) The burden of proof lies throughout with the person making the allegation.

(ii) In private law cases, the court needs to be vigilant to the possibility that one or other parent may be seeking to gain an advantage in the battle against the other. This does not mean that allegations are false, but it does increase the risk of misinterpretation, exaggeration or fabrication.

(iii) It is not for either parent to prove a negative; there is no 'pseudo-burden' on either to establish the probability of explanations for matters which raise suspicion.

(iv) The standard of proof is the civil standard - the balance of probabilities. The law operates a binary system, so if a fact is shown to be more likely than not to have happened, then it happened, and if it is shown not to cross that threshold, then it is treated as not having happened; this principle must be applied, it is reasonably said, with 'common sense'.

- (v) Sometimes the burden of proof will come to the judge's rescue: the party with the burden of showing that something took place will not have satisfied them that it did. But, generally speaking, a judge ought to be able to make up their mind where the truth lies about needing to rely upon the burden of proof.
- (vi) The court can have regard to the inherent probabilities of events or occurrences, and the most serious or the more serious or improbable the allegation, the greater the need for evidential 'cogency'.
- (vii) Findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation. It is for the party seeking to prove the allegation to adduce proper evidence of what it seeks to prove.
- (viii) The court must consider and take into account all the evidence available and the court's role is to survey the wider canvas of evidence, considering each piece of evidence in the context of all the other evidence. I must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the person making the allegation has been made out to the appropriate standard of proof.
- (ix) The evidence of the parties themselves is of the utmost importance and it is essential that the court forms a clear assessment of their credibility and reliability.
- (x) It is, of course, not uncommon for witnesses to tell lies in the course of a fact-finding investigation and court hearing, and the court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress. I am conscious that the fact a witness has lied about some matters does not mean that he or she has lied about everything and I have borne in mind considerations set out in

R v Lucas

.

(xi) My function in resolving disputes of fact in the family courts is fundamentally different from the role of the judge and jury in a Crown Court. As it has been made clear in the Court of Appeal:

'The primary purpose of the family process is to determine as best that may be done what has gone on in the past, so that knowledge may inform the ultimate welfare evaluation, where the court will choose which option is best for a child with the court's eyes open to such risks as the factual determination may have established.'

(xii) At all times I must follow the principles and guidance at Practice Direction 12J of the Family Procedure Rules."

31.

Where repeated accounts of events have been given I must think carefully about discrepancies in an account:

"They may arise for a number of reasons. One possibility is they are lies designed to hide culpability. Another is that there are lies told for other reasons. Further possibilities include faulty recollection or confusion at times of stress, or when the importance of accuracy is not fully appreciated, or there may be inaccuracy or mistake in a record-keeping or recollection of the person hearing or relaying an account. The possible effects of delay and repeated questioning upon memory should also be considered, as should the effect on one person of hearing accounts given by others. As memory fades, a desire to iron out wrinkles may not be unnatural - a process that might inelegantly be described as 'story creep' may occur without any necessary inference of bad faith."

32.

I also remind myself of the consideration of coercive and controlling behaviour in

Re K&K

and of coercive control in

Re F&M

.

33.

The court also approaches propensity evidence with some care. However, if evidence is relevant and admissible in circumstances in which there is a pattern of behaviour, conduct on one occasion may be taken into account in going to show that conduct of striking similarity is more likely to be true on other occasions. I also note Cobb J's comments as he then was in

Re B&B

in which he referred to a party being very confused over the dates and the sequence of certain events. He did not hold the same view as the father in that case that this was because the mother was lying, but believed this could be attributed to being genuinely confused, '

possibly because of the passage of time since the events occurred and possibly because of the intense emotional and possibly psychological turmoil associated with them

!

34.

I note the courtroom is an alien environment and contested family proceedings create an emotionally-charged atmosphere and I make clear I do not make an assessment of any witness solely by virtue of their behaviour in the witness box.

35.

I further remind myself it is often unreliable to draw a conclusion from a witness's demeanour alone as to whether they are telling the truth. An approach of that sort may reflect conscious or unconscious bias or prejudice. The objective and reliable approach that the court adopts is to focus on such matters as the internal consistency of the evidence, its logicity and plausibility, details given or not given, and consistency against other sources of evidence including what the witness may have said on a previous occasion and other probable or known facts. However, where facts are not likely to be found in contemporaneous documents, my assessment of credibility does include the impression made on the court by the witness, with due allowance being given for the questions that may arise from the process of giving evidence.

36.

The court is also not bound by the cases put forward by the parties but may adopt an alternative solution of its own. Judges are entitled where the evidence justifies it to make findings of fact that have been not sought by the parties, but they should be cautious in doing so. I remind myself of

Re A (No 2) (Children: Findings of Fact)

[2019] EWCA Civ 1947

, and as to witness credibility,

Re A (Fact-Finding)

[2011] EWCA Civ 12

37.

The issues that the court will ultimately be tasked with in these proceedings is to focus on the children and their needs, and determining questions about their upbringing, and in doing so it is the children's welfare that is my paramount consideration. The concept that domestic abuse is harmful speaks for itself (and if any further explanation is needed it can be found in paragraph 4 of Practice Direction 12J and paragraph 31 of

Re H&N

). The parties and the children's rights pursuant to Article 6 and Article 8 are engaged.

38.

In

Re H&N

the Court of Appeal stated that where one or both parents asserted that a pattern of coercive and/or controlling behaviour existed, that should be the primary issue for determination unless any particular factual allegation was so serious that it justified determination regardless of any alleged pattern of coercive and/or controlling behaviour. At paragraph 71 of that judgment it was

stated that the court should be concerned with how the parties behaved and what they did with respect to each other and their children, rather than whether that behaviour does or does not come within the definition of rape, murder, manslaughter or other crimes.

"Behaviour which falls short of establishing rape, for example, may nevertheless be profoundly abusive and should certainly not be ignored or met with a finding akin to not guilty in the family context. For example, in the context of the family court, considering whether there has been a pattern of abusive behaviour, the borderline as between consent, submission may be less significant than it would be in a criminal trial of an allegation of rape or sexual assault."

My Impression of the Witnesses and their Evidence

39.

I have heard the oral evidence of the mother, GM, LM and the father who gave sworn evidence before the court and each of whom was subjected to appropriate and fair cross-examination. In order to make assessment of the alleged facts I must first consider my impression of the witnesses and their evidence and their general credibility.

The mother

40.

The mother gave evidence on oath. She has given three witness statements, all in English. The witness statements have neither been drafted in her own language nor signed with a statement of truth in her own language and this has led to the mother in oral evidence (for which she used an interpreter) telling the court repeatedly that lack of details or inconsistencies in her account are due to her not giving her evidence in English. I will consider this in more detail in due course but I pause here to remind instructing solicitors of the importance of complying with rules governing evidence to ensure this type of issue does not arise. This ensures the court has the best evidence before it and this is particularly important in Children Act proceedings where the court is determining the factual matrix that will form the basis for a welfare determination for the children.

41.

In evidence-in-chief the mother further told the court that in respect of the serious abuse she describes the father as having perpetrated, she did not report it before July 2024 because every time she said to the father she would report him, he threatened to kill her and the children and he would beat her up so violently she would faint.

42.

I accept the mother was nervous and this was why she had a familiarisation visit to the courtroom before the hearing started. This nervousness was evident from the way she visibly shook and ran into the arms of her counsel when she was leaving the courtroom at one point on day 1, despite the use of three screens in court, thinking she would see the father and pointing

wordlessly towards where he was sitting. She also had to be asked to speak up as her first answers were barely audible. However she gained in confidence during the afternoon of day 1 and it became apparent she was clearly more confident answering questions in her first language so the hearing proceeded in that way, with her answers being translated.

43.

However this confidence in the witness box ebbed and flowed and at various times she became distressed during day 2 and 3 and needed longer breaks, including to allow her time to walk up and down the corridors, which slowed down the pace of the evidence.

44.

When the mother was giving evidence on day 3 the longer breaks she needed were factored in from the outset of each session, and I have borne in mind her nervousness and vulnerability when assessing her evidence, and the court was certainly open to any adjustments needed, for example, turning up the heating and telling the mother she could bring whatever clothes she needed, or a rug or a shawl into court, to ensure that she would not have to borrow clothes as she did on one day, having left her coat in a conference room.

45.

I also note the many inconsistencies in the mother's evidence between the mother's various witness statements, her oral and other evidence. She explained this to the court as being for various reasons which again I will go on to address in more detail shortly, but broadly because of not having an interpreter initially in proceedings, her second solicitor being more thorough than the first and things being mixed up in her head.

46.

Considering the first two reasons, the language issue and her solicitor, in the witness box the mother, when asked about her police interview and specifically the power she said the father used when he hit B, said:

"You need to understand my English. I can understand most of it but it is hard to express complex concepts."

She was then asked if given her witness statements had been given in English they could be relied on, in particular the first two for which she had not had the benefit of an interpreter.

47.

She also had a different solicitor who the court heard did not ask the mother to provide as many details compared to her current solicitor, with whom she went through things in a chronological order and who helped unravel things. In response to this the mother said it was not that her first two statements were not reliable but that some events may be mixed together. This does not assist the court when being asked to make findings about specific allegations.

48.

Considering the third reason that some events may be mixed together, the mother referred at various times in evidence to being so traumatised by events and having so many events in her mind, wanting to talk and struggling to express herself, which is why they ended up being mixed together.

49.

I do accept that these are all reasons which may lead to inconsistencies but some inconsistencies amounted to what were in my view such completely different details about an event, even when the mother was assisted by an interpreter or giving evidence in the witness box to an interpreter, that the court could not fully rely on her evidence of that incident.

50.

In short, I did not always find the mother's evidence internally consistent or externally consistent with the other evidence and I have borne these things in mind when considering what weight to attach to the mother's evidence, and considering in particular whether her trauma from the abuse has led to inconsistencies, led her to exaggeration or if, as put to her, she is forgetting what story she has told or producing new evidence to justify her story.

51.

I also pause here to note that often witness statements in respect of applications for non-molestation orders are drafted in fairly short order, the need being for an applicant's immediate protection, and it is not uncommon for later statements to expand on details. My impression is that this is in part the case here and is why some allegations were not mentioned in detail. But I would urge instructing solicitors to take appropriate time when preparing such statements for clients and I will go on to consider the evolution of some of the mother's accounts of incidents in more detail when considering the specific allegations.

52.

I found many of the mother's answers were in the main not overly helpful to the court. They were very long and repetitive and often did not answer the question. For example, when asked if her sister's account of the incident in December 2021 was the truth, as it gave different facts to the mother about being punched after shutting a pram, the mother did not answer yes or no but told the court she and her ex were arguing about everything so there were lots of different episodes, one on top of the other, and went on to say all the events were traumatising but the events had happened on the same day. The implication seemed to be the sister's account was of a different event on the same day, but it was just not clear to me. The mother simply had not answered in my judgement the simple question of whether the sister's account was the truth.

53.

The court, as did counsel, asked the mother to focus on the questions being asked. She struggled to do this time after time. Another example of a longer-than-necessary answer that was not an answer to the question was when asked if she had taken lots of different incidents from lots of different days and said they were the same day in respect of the incidents said to be on 30 October 2023, later revised to 27 October 2023 when she said she had a miscarriage. She shook her head - a no. But when asked to give an answer for the tape she did not just say "no" but she said:

"No, I did not know I was pregnant that day. You can tell from my body, and I realised from this episode I had a miscarriage."

54.

I also note the lack of medical evidence from the mother, something I will go on to consider in respect of specific allegations.

55.

I also found that the mother could be evasive, such as when being questioned about whether she went to the police to correct information given in her interview when she remembered a date, but said she did not know how the system worked amongst other things and had to be repeatedly asked the question before she gave any sort of clear answer.

56.

Many times the same responses were given to questions at great length. For example, that she knew what counsel was doing, she did not want to be rude, or saying it was not right for counsel to ask the questions, as she knew what happened, it was clear in her head, or that the father is lying, he knows what he did. Many of her answers already mentioned referenced the inconsistencies being explained by not having an interpreter for her first two witness statements, having the different solicitor, and her not understanding or being traumatised, what father's counsel referred to in submissions about the mother's credibility as an "all-purpose rejoinder". As I said, I accept in part this may have led to some inconsistencies and will consider this further in respect of specific allegations; however the way the mother answered did not assist the court and impacted considerably on time.

57.

The mother also said she did not want to answer questions any more at one point when being asked about the allegation of B being punched in the mouth, and at one point said to counsel he looked and sounded like her ex, and said to him he wanted her to fall apart, then said: "I am so traumatised." I, however, felt that was not the case and that the questioning was fair and I did intervene as appropriate.

58.

Of particular concern regarding mother's evidence and credibility was when asked about the December 2021 breastfeeding incident and the different accounts in her witness statements and accounts she had given in oral evidence, and she was asked to look at photographs of B and the alleged injury. It became clear in cross-examination that the two photographs, which did show different injuries to B's lips, were not both photographs of the injury alleged to have occurred in December 2021 but were from different incidents. The mother explained she provided many photographs to her solicitors to show a pattern of similar abuse, as she explained to the court it being the 'modus operandi' of her ex. That is noted but there is a significant issue with photographs attached to witness statements being said to support an allegation when those photographs are not actually photographs that relate to that allegation.

59.

Also, given the mother told the court that photographs were sent to her sisters by phone as a record and then returned to her, the court was unable to rely on dates on photos to know that they had been taken on a particular date. The court accepts the mother no longer has access to the photos: the mother told the court this was because the father deleted photos and destroyed her phone.

60.

When put to the mother whether, if she could not reassure the court that every photo linked to the relevant allegation in respect of which it was exhibited, could the court rely on any photos, again I found the mother's answer long and unhelpful. She did not answer that question specifically and talked, for example, about the marks on her back, saying:

"You cannot say they never happened. You cannot say I fabricated it. It is clear from the photographs that a pattern can be deduced."

61.

I again repeat that when the court is asked to make specific findings it is important for the court to understand when photos were taken and that they relate to a specific allegation of abuse rather than being caused by some other incident.

62.

I briefly raise here, having already made the comment about preparation of statements in NMO applications, I would be concerned if the wrong photographs being attached to statements stems from the preparation of the case and those involved not explaining the importance of the accuracy of witness statements, exhibits and the effect of a statement of truth.

63.

There was also an issue of consistency as to when photographic evidence was taken. The mother told the court that photographs at M1 at C33 were taken on A's birthday in 2024, but her sister refers to them being sent in October 2022. I did not find the mother's answer satisfactory as to the

inconsistency. She said her sister's statement is correct; however that would mean her evidence is wrong, as she could not have taken them in 2024. My view is that the mother is mistaken and this is another example when photos allegedly showing a type of injury have been exhibited to support an allegation of an injury when they are not that, and I found the mother's evidence around these photos very confused.

64.

That said, I found the mother honest when asked about the photos exhibited in support of her allegation of rape. Although one is of her son, the other photos do show injuries including, in my judgement injuries consistent with the injuries she alleged were caused by a rape the night before she travelled abroad, and which she told the police she had sustained, specifically bruising to her upper arms which would be consistent with being held by the upper arm, and a bruised upper lip consistent with covering her mouth. There are also photos with a cut to her neck, or seeming cut to her neck and marks around her neck.

65.

The mother, however, did not suggest, as she could have done, that any of these photographs were of the injuries from that day and which, if she had made the allegations up (as was submitted to her by father's counsel), she could have done to try to support her allegations. But I found she was honest and she said they were injuries from other incidents and I bear this in mind, and also note the allegation is of a rape on a specific date and regularly throughout their relationship.

66.

I also note the various evolutions of the mother's accounts of various allegations, for example the breastfeeding incident evolving from its first mention in paragraph 22 of her first witness statement, or the evolutions and versions of the October 2023 incident. I will go on to consider these again when considering the allegations but mention them here as examples of the issues with her various accounts.

67.

I noted that the mother was asked at various times about different accounts, for example, of the breastfeeding incident. I observe that even with an interpreter it still took time for her to give her answers on this topic rather than use this opportunity to be clear as to what happened so far as she can recall. My view was that the some of the statements could have been consistent with a slightly confused overall account of the mother's breastfeeding incident - stopping, the child getting down, running back and then the mother trying to pick him up and soothe him - and I accept why there were not the details initially. However, I certainly do not hold the same view about the different accounts of the October 2023 incident and do not think that the various accounts could be a slightly confused overall account of one event; there were just too many versions. The court does look at internal consistency when considering if a party has met the burden of proof of an allegation and I will weigh this all in the balance.

68.

I was also concerned that there might be a slightly performative element to the mother's presentation at some times, in particular perhaps exaggerating her responses. Given what I saw were her noticeable changes to demeanour, for example, how she was when she gave evidence, which was in my judgement different to how she was when she listened to the father's evidence, albeit her demeanour seemed to alter again when she noticed me looking at her, and another change in demeanour when wanting to make a point about the father's evidence on the text she had exhibited and which I raised with counsel, given her behaviour was so distracting to the court.

69.

Overall there are gaps and inconsistencies in the mother's evidence, and inconsistencies between the mother's evidence and other evidence. The way in which evidence was given did not always clarify things for the court as clear answers were not always given, so her evidence was not always reliable in that respect (and father's counsel put this to her: whether she could tell the court she was reliable). This meant she was not overall a helpful witness. However, although in some respects her evidence has not been reliable and consistent and I will not be able to make some of the findings sought on the basis of the mother simply not meeting the burden of proof, I did find her to be honest in respect of certain questioning, as I have mentioned in relation to the photos in support of the sexual abuse allegations when she could (if she was making all the allegations up as is the father's case) have claimed some of them to be pictures of her injury. My view is that the mother believed what she told the court.

GM

70.

The second witness was the mother's sister, GM, who affirmed and gave evidence on the morning of day 4. In examination-in-chief she expanded on what she meant by "things" when she said in written evidence the mother "always turned to the father for permission to do things". She confirmed this included if it was time to eat or telling her not to eat without him and then coming home later, when she could go out with friends or family or have family visit.

71.

She also clarified what she meant by the father "came home to hover around us". She explained it was because the father had a routine - taking the children to school, he would then come back, take his gym bag - but on days when he knew the sister was visiting he would change this routine and find any excuse to stay near them.

72.

She also told the court that her saying the father never contributed to grocery shopping meant he never wanted to spend money on the kids and so she and her other sister were financially supporting them and she explained he would say to the mother: "Where's your card?" as he needed to use it and would always say to her: "I need your card."

73.

In cross-examination she confirmed she was close to her sister and although living abroad for the last five years they spoke daily and regularly, but there were instances when the mother would disappear for a couple of days and then tell her sister when she picked up the phone that the parties had had an argument and the father had taken her phone for a couple of days and that this happened more than five times.

74.

She was asked about visiting the mother and children and the father changing his routine to be home. I accepted GM's evidence that this was not a usual case of someone changing their routine to see an in-law, but that she was shocked because she had come understanding he would stay with his own family so she could be with her sister and nephews in their small one-bedroom apartment and would otherwise have stayed with her father.

75.

GM was honest that the father, by the time of these visits, knew she had a negative perception of him and that everybody did not like him as they had done at first, but their perception had changed because they did not like the way he was treating the mother and the children.

76.

She was asked about the injury to the mother's back. She did not see the injury happen but visited shortly after. She said when she was showed it and saw skin missing and infection and given the mother had a small fever, she knew it was caused by the father because of the way the mother looked at the father and shouted at him, saying he would get into trouble.

77.

It was put to her that this was at odds with what she had told the police, including that she had not said about the mother shouting at the father, and at the time that she had thought nothing of the injury until she was told two weeks later. She was also cross-examined about how she could tell from a look.

78.

GM was clear it did add up to her and explained she told the police about the shouting but the policewomen said not to go into depth in her statement. She was asked about this, having confirmed to the court what she said in her police statement was accurate when it did not then mention this, and she said she did not know she had to go into super depth. I accept this and how in her head the statements do add up.

79.

She was also cross-examined about what she has seen, including the father checking the mother's phone, and said she had seen him with the phone sometimes but could not see what he was doing (which I found honest) and that her sister had told her that the father took it and she would delete conversations as he was going through her phone. GM accepted she had not seen him take the phone, but my view is there is no reason otherwise for the mother to delete conversations and give her sister this reason.

80.

I found GM answered the question she was put clearly and was thoughtful in her answers, for example taking time when asked about the father being verbally abusive towards her sister, and said he called the mother "greedy", that she was dying for money and things like this, although those texts are not attached to her statement.

81.

She did not see the father demanding money for holidays, but did see him demanding the mother's card to go shopping for clothes and shoes for himself, not just groceries, and once she saw him take the mother's card from her wallet when the mother had said she did not have any money on that card. I found her very clear when being asked about this, and when asked if the reason she had not told the police about the father taking the mother's card without permission was because it never happened, she was clear: "No", she said, but she had given us details because counsel had asked her the question. The sister was clear this was not an innocent occurrence of one partner asking the other for money when struggling financially, which as counsel suggested she had turned something sinister given her negative perception of the father. She said it was a case of her sister always being asked to pay. However, she did accept she was not living with them, and it was a possibility that both were asking each other for money.

82.

Overall I found GM a helpful, clear, reliable witness and generally was satisfied with the reasons she gave for any inconsistencies in her evidence.

LM

83.

LM gave evidence on the morning and early afternoon of day 4. In examination-in-chief she confirmed how often she had seen the father abuse the children, as set out in paragraph 11 of her witness statement. She said when she went to the house that he slapped both children during or after dinner time. She had been at court for the hearing, supporting her sister, who she said she was close to, and had gone round to her home most weeks. I also did find it of note that she used the word "hovered" to refer to the father waiting around to see if the mother said or did anything before he would leave when the sisters visited, a word GM was asked about. It was a specific word and given the father's position regarding the sisters' evidence, I have considered if this is because they are shoring up each other's accounts. However my view is it is a word used within their family and it was a word that accurately described the father's actions, and so I attributed no specific meaning to this.

84.

I had a concern that as LM had discussed the proceedings with her sister (as we heard in cross-examination although she said she had not since the hearing started) that she was remembering things, tinged with more recent knowledge, in particular confusing injuries, referring to seeing a back injury when the mother was abroad in May to July 2024, when the details and other evidence of this back injury relate to an incident in October 2023. LM was clear she had no doubt the injury was from summer 2024.

85.

She also seemed to be confused by some of the questions and did ask for clarification. I stopped at one point to check her understanding. She had said she did not need an interpreter and this had been specifically raised with counsel on day 3 to allow time had the court needed to book one, and given she did ask for clarification, particularly on the longer questions, I am content she understood what she was asked and the answers she gave.

86.

Overall I found some of her evidence could be confused. As mentioned, I do not think this was deliberate; it was just from having discussed the proceedings and matters with the mother over time. She did mention when she was confused or used the wrong words, such as in cross-examination where she said the father hit the children and where. Although I have approached her evidence with caution given this confusion and had this in my mind when considering what weight to attribute to it, I felt she was overall an honest witness and she has had more immediate involvement with the family than GM, witnessing recent incidents. I found she was honest about having concerns about the relationship with the parties, but also about not seeing any abuse between the mother and father, so in that respect it was not simply shoring up her sister's case and I accepted her explanation as to why she did not report abuse, and in particular I accepted her detailed evidence in relation to the children's showers and why she intervened in them given the father's behaviour as I will go on to consider.

The father

87.

Before considering my impression of father and his evidence, I do note that on day 1 of the hearing, when the mother was first upset and had to have a break, the court was concerned as to the father's reaction to her being upset. I could not see clearly given the screen and him moving behind that screen but he seemed to be smirking or amused in some way. As a result, following the break the court reminded all parties in court to be respectful of each other and asked that the small table screen be moved slightly so the court could see the father clearly at all times and not just part of him or when he was moving and standing up behind the screen.

88.

I mention this given a theme I find running through the evidence of the father not treating things with the seriousness they deserve and him minimising things. The court is, of course, an alien environment and parties react in various ways throughout hearings which are stressful, and after the reminder the father did continue throughout the hearing to look generally straight ahead and I was pleased there was no similar issue again.

89.

The father has given four statements (some headed "Position Statements") in proceedings and his response to the schedule. The most recent schedule is not as detailed as his earlier response to a previous one. In examination-in-chief he confirmed that he regretted some of his language in the haircut video and he also confirmed what he was doing to A at 1 minute 10 seconds of the video and said it was a little slap on the face. He also confirmed there was nothing in his hand when he did this.

90.

The father told the court it does not feel nice watching the video; it is upsetting and disappointing regarding his behaviour towards his son. He further confirmed he had edited the parties' original Marriage Certificate, saying it was so the mother's father did not know the mother was pregnant before their Islamic marriage. He also confirmed he had never sedated the children by pills, never said to A about putting his penis inside his brother, and did not send a video shaking either child or baby and had not shaken either child.

91.

I found the father could be quick to answer questions, sometimes answering before Mr Cooper had finished. He did generally stop this after the court raised it. For example, this happened when asked about LM's witness statement and how he treated the mother. I also found he gave very brief answers and his answers were generally:

- a) denials, such as regarding the passport return, and I found he did not want to accept any allegations put to him, even when other documentation was inconsistent with his position or suggested he had held a different position in respect to the same incident when talking to professionals at other times.
- b) the father minimising things, for example regarding the slap to A, or what I found quite a caveated answer about asking for money, when he said: he '

asked if he did not have funds in his account, would ask if it was possible to transfer if there were funds available, and if she would possibly transfer funds

', making it sound a gentle, caveated request - a stark contrast to the tone in the text the mother exhibited where the father tells her to start cooking abruptly and without any pleasantries.

- c) evasive, for example not wanting to answer the questions about why B would disclose at school his father had hit him if it had not happened, or about what happened with the passports when being asked about cancelling them and whether this was controlling.
- d) excuses or reasons for things and his actions, for example, not returning the clothes despite a court order, and I found his oral evidence simply not consistent with evidence of what he had said at the time as recorded by professionals. I note the submissions made on behalf of the father about the weight to attach to professional statements when not called as witnesses, but note they are professionals and I do not accept that they would record things that the parties are said to have said or done unless they had occurred, and that they are unlikely to have got the context wrong.

92.

In my view, it seemed the father did not answer anything other than with a denial unless there was firm evidence to the contrary, and there was only one piece of evidence that the father seemed to me to deem incontrovertible: the haircut video. He had denied hitting A in his statements but then in evidence on day 5 confirmed it was "a little slap", in my view an admission only because it was clear from the video.

93.

I was also concerned about his answers in relation to the questions he was asked about this incident. In my view, if it was a one-off as the father said, he would remember it, and presumably, as a parent who had such a loss of control on this one-off occasion that he had slapped his child, would be so appalled by it he would know it happened and when it happened. He would not, in my judgement, need a video to jog his memory.

94.

I was also concerned he would not accept what he said in the video, despite the transcript, until he watched it again in court, despite that transcript never having been challenged. I did find this was another example of the father trying to minimise the event. I will go on to consider this further when considering the specific allegation.

95.

I also found inconsistencies in father's other evidence regarding the return of the passports. I found this of some note, and the reasons he gave for refusing to give them to the social worker. I found he was massaging the evidence to fit his narrative, explaining in cross-examination, rather than accept his evidence was inconsistent, that he refused to return the passport as he was losing the children gradually, saying this was the same point as refusing to return them as he did not want the children taken out of the country, which I do not agree. My view is that may arise from him having little insight in relation to his actions, why he does things, and that he sees matters all through his own lens. This included suggesting the evidence of professionals ostensibly supporting the mother's case was wrong, or that they had taken it out of context, specifically at page 158 of the supplemental bundle. He said he was not blaming the social worker for what was written but what he said was taken out of context when the social worker had written that after watching the haircut video:

"At this point Mr E tried to divert his attention to Ms M by questioning why she had not been held to account for her part in also abusing the children."

96.

I also did not accept some of the issues that father said he had, such as returning the clothes and not complying with court orders, arose from him being a litigant in person.

97.

I also found his oral evidence inconsistent with the school disclosure, for example, his oral evidence was that the children had never made safeguarding disclosures whilst living with him, although they had in December 2023. When this was put to him he qualified his statement saying: "Apart from that time. I am not sure what happened." The father seemed to minimise it and again suggest it was a one-off.

98.

I now mention two areas of great concern that impacted on my assessment of the father's credibility and reliability as a witness. I have already mentioned it in passing but the first - the father having given a blanket denial about hitting A but then saying at the start of his oral evidence it was actually a little slap, as seen in the video. Without that video, my view, given how I find the father denies or minimises things, is that he would not have accepted even this. His oral evidence is at odds with a very clear statement in his witness statement at C214 where he stated: "I did not hit A".

99.

The father accepted in cross-examination that a slap is a hit. I also note he did not say in response to the allegation regarding rubbing clippers in A's face, "I did not", and, for example, give an explanation saying: "I did rub his face, it was a brush" as we later heard in oral evidence. By not doing this, I come to the conclusion that the father was not being truthful about this event by omitting saying what he actually did. That plays into the overall concern I have that the father minimises incidents and if they do not show him in a good light, goes so far as not to tell the court the whole truth.

100.

I was also concerned about how when questioned about the video and his ensuing shock, the answer focused on his shock of being recorded rather than the shock of what he had done to his son (although I do note he ultimately conceded the shock was because his behaviour was wrong that day). But in my view that was a secondary point for him. Indeed, the answer he gave when asked "What was that shock feeling?" was : "Shock of not knowing I was being recorded and that my behaviour was wrong that day."

101.

This leads me to my second concern: consideration of the text at M15 at C125 where the father seemingly sends messages to the mother that support certain details of mother's allegations. For example, the messages refer to smacking a child, refer to the children in a derogatory way, apologise to the mother and demand the mother starts cooking. The father said in cross-examination, for the first time, that he had not sent these messages. Even though it was put to him that the person writing the message seemed to know lots of information about the children and had insight into the children's life, for example, referring to them behaving as they had done on holiday at the Minamark and so overwhelmingly seemed to be messages between the two parents, he said he had not seen them. He said he was not saying the mother had made them up and he could not accuse her of that and that he could not say who made them up.

102.

I pause here to note that in his statement at C145, where he does go through the mother's second statement, he states about the text at M8, which is a text exhibited about his mental health and suicidal thoughts: "I do not recognise these messages at all. Seems to me rewritten," although he does not go so far as to suggest that he had not sent the message. The father goes on in this witness statement to list issues with facts in 14 of the paragraphs of mother's witness statement, this being the same witness statement that exhibited M15 and the text he now says he does not send. However, he did not mention in relation to paragraph 44 or exhibits M15 that they are made up, not his or rewritten.

103.

I further note the name of the person sending the message is Babu, the father's name with two hearts by it, and an icon showing a scenscape with a figure in it who could be the father. The father says he was referred to as "husband", not "Babu" in the mother's phone, and I pause here to say if he knows how he is programmed into the mother's phone, it suggests he did look at the mother's phone, which in cross-examinations he categorically said he did not.

104.

I do not accept the father's evidence that he did not send these messages. Given the content and the fact it has not been raised before (although he raised the validity of one other text exhibited to the same witness statement) and given he has not sought for there to be expert evidence on this point, on the balance of probabilities I find that these texts are texts sent between the father and the mother.

105.

The father has (as per evidence from the Local Authority after showing him the haircut video) seemed to lack insight in relation to his behaviour. I also note his police evidence video, which I did watch in full, where he answered no comment to almost every question including seemingly non-controversial questions about his sons. I note he did not raise welfare concerns about the children at this stage when he could have done. I found this approach to giving minimal answers similar to the stance he took in the witness box.

106.

Overall, I did not find the father credible. He did give focused evidence and did not attempt to obfuscate as counsel submitted on his behalf. But I found significant inconsistencies in his evidence and was very concerned about his updating oral evidence, seemingly following him having seen the haircut video. From saying he had not hit A in a witness statement signed with a statement of truth, to accepting he slapped him. I was also concerned about him only raising in oral evidence that he had not sent the messages and his minimisation of events. I do not find he tried to assist the court by being candid and open in his evidence, and overall did not find him a helpful witness.

The Allegations

107.

Turning to the allegations, I stand back and I do look at the evidence overall and re-evaluate some of the provisional views I have expressed in relation to my assessment of the witnesses. There are a number of conclusions that I reach and they impact various parts of what I find to be the factual matrix. It is necessary of course for me to articulate findings in a linear way, but in reality the strands of information which inform my decisions are intertwined and each of the answers I give is informed by the whole context.

108.

I am considering the allegations as part of a wider narrative and I am going to consider the allegations regarding physical abuse of the children and the mother first. These are the allegations Mr Holley approached first in his cross-examination and some of the observations I make in respect of them are relevant for my consideration of the other allegations and related evidence. So I am going to consider allegations 5 and 6 first, then 1, 2, 3, 4, 7 and 8.

Allegation 5: That between 2016 and July 2024 the father used physical abuse and threats of physical abuse to the children.

109.

It is broken down into five subsections and there are five specific date allegations. These unhelpfully do not correspond completely. The subsections are:

-

That the father used and threatened violence against children, including pinches, slaps and punches. Date-specific incidents include winter 2021 (referred to in the date column as "A punch"), and May 2022 ("pinch").

-

The father struck B as he was being breastfed in winter 2021.

-

The father threatened with objects including a metal spoon, knife and made them drink chilli sauce and put pillows over their head, the date-specific incident being the metal spoon, December 2023.

-

March 2024: "punched A".

-

April 2024: the haircut and pillows.

-

Plus the detail column also references a knife incident and that father threatened to sedate and father hit and shouted at A while cutting his hair and forced him into the shower.

110.

I have considered this allegation mainly by reference to the incidents set out in the date-specific allegations. I have not been able to deal with them all, obviously, in detail.

111.

So taking one of the first date-specific allegations, that in winter 2021, the breastfeeding incident, when the mother said the father punched B as she breastfed him, I have already mentioned the evolution of the mother's accounts of this incident which in my view quite markedly evolve.

112.

In paragraph 22 of her first witness statement the mother said the father was shouting at her when breastfeeding. She tried to put her son down but he was upset and crying and ran back towards her, and the father punched him in his mouth that split his lip. She said she did not report it or leave as the father said he would kill her. I note what she told the court in written and oral evidence regarding the father's sister's husband being a policeman and her being scared and that this is a recurrent theme of her and her sister's evidence, what the father would do if she reported an incident.

113.

The mother was clear in cross-examination that the punch was not an accident. She was asked if the father was trying to punch B or trying to punch her and accidentally caught B. She was asked about the difference and was referred to her third witness statement, paragraph 14, where she said when the father punched/struck B while she was breastfeeding she did not believe he wanted to hit B and says: "He went to hit me and caught B." This is quite a different focus to her first statement, which states he punched the child.

114.

She said when she gave the first statement she remembered the day really well, and then when asked if she had a clear recollection of the day she repeated she remembered what happened. This did not clarify things for the court, because her recollections were different.

115.

I found her answers about this incident very confused and was unclear about what actually was happening when she said B was hit. This was even having switched to answering in her first language and having the benefit of an interpreter. She also added details about her son being ill and teething and her other son being present, about the parties arguing and that the father asked: "Why are the children crying?" and shouted: "Shut your fucking mouth up." She was asked multiple times if she was breastfeeding her son when he was punched or was he running towards her and in my view counsel was trying to have some certainty on this, but at one point she said she did not want to answer questions anymore. This was her opportunity to be clear as to what happened and she did not in my view take that opportunity.

116.

In oral evidence the mother said B was running towards the two parties having an argument, she picked him up to breastfeed him and the father punched him because he was crying his eyes out. Then she said she was actually breastfeeding when he was punched. So even her oral evidence was not consistent with itself.

117.

Also the clarification in the third witness statement that I have mentioned, although some of the detail could be considered expansion on the incident (and I do accept as I have said the mother's position about not giving every detail to her solicitor and the language issue in part) some of these aspects are really important details in my view, such as did the father intend to punch B, and why? Was it because he was crying when teething? About A being next to the mother and witnessing it, which in my view would not be in his welfare interests. I would have expected the mother to include this type of detail in her third witness statement, which, on her own evidence, she provided having been asked for more detail, going through things chronologically and in her words unravelling things.

118.

I also note, if there were issues with her statements that she was aware of, she could have corrected that on oath but she had confirmed all her statements were true.

119.

I do understand the mother's position that what she says is, 'it is everything that happened together', it is all, for her, mixed up together; however there is certainly in my view inconsistencies in her written accounts and between her written and oral accounts that cannot in my view only be explained by the reasons she gave or her trauma or vulnerability. My view is that, on balance, this is not simply a case of slightly confused overall statements and she has both mixed up and amplified in her mind more than one incident.

120.

I am also unable to rely on the photographs at M1 as being photographs of the injury said to have occurred. Mother explained initially the reason the two photographs seem to show different injuries is because they are different, and that they are different pictures relating to different events to show a pattern, or as mother said, the father's modus operandi.

121.

I was concerned she could not give a straight answer when asked if there were any other photos that do not link to the allegations in her statements and I mentioned this in relation to considering her credibility. She did say some of them refer to incidents that are stated and some refer to something else but show a similar pattern. This is not how they have been exhibited, but it means the court can put little or no weight on these photos and the court accepts Mr Holley's submission about the court not being able to put any weight on any of the mother's photos, although where relevant the court will go on to mention other matters relating to the photos as

appropriate.

122.

I note that in GM's written evidence she states that these photos were sent to her on 31 May 2022 and that the mother told her they were photos of when the father had punched B because he opened the pram, even though they do look like, in my view, two different injuries. The mother said at the time she was sending them just in case one day and she always said that phrase: as always feared the father was going to kill her. However, given they were sent on a specific date to GM, some six months after the breastfeeding incident, with a description of being as a result of the father punching B on a different account for a different reason, I find they were pictures relating to that different incident, in respect of which the court has no other evidence and is not asked to make a finding about.

123.

That said, I do not accept, as counsel put to the mother, that if the incident happened as mother said it would necessarily have injured her breast, and I also do not accept that the reason she had different versions of events is that they did not happen, but I am concerned that various events may be conflated and amplified and I am being asked to find, on the balance of probabilities, on the evidence before me, this breastfeeding incident happened as an example of physical abuse against a child.

124.

The father does not accept this incident happened and he also said he could not remember an argument between him and the mother when B was present. He seemed in evidence not to accept anything that may paint him in a bad light and indeed he said he always spoke to the mother respectfully.

125.

I mention here I disagree with the father's evidence. His evidence in his first witness statement is that the injury of a spit lip does not match being hit or punched in the face and the father suggests it is a result of the toddler not being steady on his feet. It could, in my view, be either. In his later statement at C211, he said the small mark on his lip followed a fall running outdoors, and he again refers to a punch from an adult producing a far more significant injury.

126.

In any event, as the father said in his later statement at C211 and as the court had determined, these photos are not of the injury said to be caused following this incident. But I do note the father provided detail at a later date that I felt should have been provided initially if this were the case, and felt this was an example of the father minimising an incident (or specifically here an injury) which is something that the Local Authority observed him doing in respect of having shown him the haircut video when they commented on his lack of insight.

127.

I also note the mother said to the police the father punched the children with a 10 out of 10 force. In oral evidence she said she meant 10 out of 10 in a child's eyes and it is not the same power as a 10 out of 10 for an adult. Whereas I find the father minimises his evidence, I find that the mother tends to amplify hers. However, on the balance of probabilities and in particular given the inconsistencies in mother's evidence, and given I cannot rely on the photographs exhibited in respect of the injury alleged to have been caused, I do not find that the father struck B as the mother breastfed him.

128.

Next, considering the May 22 "pinch" incident. Mother's first statement mentioned LM has seen pinching but I could not find that in her statement although she mentions slapping, pounding, grabbing and punching, and so find she must mean GM, who does mention it in her statement. It is then not mentioned in her written evidence but she was asked if the father pinched the children in cross-examination and said he did.

129.

GM's evidence is she saw the father pinching B on the inner thigh in May 2022. She did not report it to police or professionals until she told the police in July 2024 and gave details about it being when B needed to go to bed and made him cry.

130.

I do pause here to say there seems a theme in the evidence that the father wanted the children to sleep, whether thinking about giving them camomile tea or in the video commenting on A waking up, but they talked about it as a family, and GM said the father's behaviour was escalating, but the mother did not leave him back then in 2022. Her sister GM's evidence was this is because she gave up and accepted her situation.

131.

GM said although she did not tell professionals, which was put to her would have been in the children's welfare interests, she did try to do things to placate the father and protect them, helping them with groceries so he did not focus on the children and sending the mother money if they wanted to go on holiday so he would always been in good mood. I accept the sister's evidence on this and her reasons for not reporting the abuse.

132.

The father denies pinching the children in discreet cases such as the inside of their legs as a form of intimidation, and said he never pinched, hit or harmed the children to stop them from reporting anything. In cross-examination he said he did not pinch B as GM states. On the balance of probabilities, however, considering the evidence before me and in particular that of GM having witnessed the event and it being a very specific thing, and she has not elaborated on it happening at other times, I find it proven that in May 2022 the father pinched B's inner thigh.

133.

Next, considering the metal spoon incident in December 2023, which the mother says in her first statement at paragraph 27 that on or around 14 to 16 December 2023 B told the teacher about him and his brother being beaten by the father with a metal spoon, that the school called the mother and she put the phone on speaker and the respondent heard the teacher, and the mother denied the incident as he told her to. A referral was then made to the Local Authority.

134.

The mother was cross-examined about why she did not mention in her statement she had witnessed the event, and I know early in her statement at paragraph 19 she says father hits the children with spoons, although she did not say if she had actually witnessed this. She also did not give further details that would help pinpoint the day, for example it was the day of "the Christmas concert".

135.

Having seen a video of a haircut where father picks up an item and rubs it back and forth across A's face, picking up utensils from the table to hit them would be consistent with the father using what he finds to hand to chastise the children, i.e. items on a table.

136.

The school disclosure (and I appreciate we do not have CPOMs records but excerpts set out in a letter) in my view would have recorded exactly what B said, and so if he had disclosed being hit by a spoon it would say so. However, it does not refer to the children disclosing that, or mention metal spoons, or the school calling mother to report that to her. Instead, it refers to the child falling off a chair when in the child's words: "Daddy pushed me, then he hit me" and that he fell, banging his head on a hanger.

137.

In respect of the account that the children gave to the school of this incident the mother was questioned. Initially she was evasive as to whether this chair incident happened, but then accepted in oral evidence that it had. However, she was very confused about the hanger, asking counsel to clarify what was meant by "hanger". I accept that if she had seen the incident she would have described what she had seen and what had happened and explained what B had hit himself on. She then told the court this incident had happened because B had gone to the school and reported it. This, in my view, evidenced she had not seen it. I felt she wanted to just agree

with the evidence that was in support of her case, even if she did not have first-hand knowledge of it, and this did not help the court.

138.

Returning to the incident, as I have said, my view is that if a child had disclosed at school being hit, and if it was as the mother had said with a metal spoon, the child would have said that and it would be recorded in the school disclosure. It is a very specific item to be hit with.

139.

The school evidence is inconsistent with the account in mother's statement. However, I do not accept, as counsel put to her, that she would necessarily say she had witnessed the event, given what she states earlier in the statement, which suggests she may have, but I do accept it is not explicit. It is a case of a lack of detail.

140.

I further note the Local Authority disclosure at page 10 of the supplemental bundle which refers to B on 18 December 2023 saying: "Daddy pushed me off a chair and then hit me." The Local Authority disclosure also states that A confirmed that mum and dad do hit when naughty, saying mum with an open palm while dad hits with a closed fist and sometimes with a metal spoon. Although A said he felt sad when him or his brother get hit, he was not scared of going home. This is of concern as seemingly he accepts physical abuse and chastisement; it has been normalised. I will comment on this normalisation again when I come to consider the haircut video.

141.

Mother did not accept she had used physical chastisement and said the children were scared and the reason they said they had been hit was because the father told them to say that, because of the marks on them. I did not find she could give a convincing reason as to why the court should give weight to the children's account to the Local Authority regarding physical abuse by the father but not physical chastisement by her. My view is the children disclosed being hit by both parents because they had.

142.

I pause here to mention that the mother in her third witness statement at paragraph 33 first mentions an incident where she states B went to school with a red mark on his cheek. This red mark is mentioned in the school disclosure. The mother said it was left by a metal spoon after the father hit B for refusing to eat his breakfast and that her son was lying when he told the school, as per the school disclosure, he had bitten the inside of his cheek. I am not sure that would have left the mark seen as it is described, and it was also not mentioned by the mother until after the school disclosure had been received. The mother said the children lied about this as they were scared of the father and father's counsel put to the mother she only included details in her third statement of a red mark on B's cheek as a result of having seen the school disclosure.

143.

I do not accept that mother changed her evidence to fit around the new disclosure quite as put to her by father's counsel, but I note she would have had new advisors and an interpreter and seen that disclosure and that could have led to her giving details of such an incident. As I say, I found her quick to confirm any evidence that supports her case about the father even when she had not witnessed it and only heard about it. The court does not find this approach helpful and I certainly found the overall evidence that mother gave on this muddled. The children later retracted their disclosure but the mother said it was her who retracted the disclosure and this is an example again where I suspect the mother may be confusing different events.

144.

Father is clear he never hit the children with spoons or threatened them with spoons. He also denied hitting the children save for the one-off in the haircut video. On the evidence provided I do not find on the balance of probabilities that on or around 14 or 16 December that the father hit the children with spoons but I do find on or around that date in December the father hit B, leading to the children making a disclosure to school and then to the Local Authority that he hit them both and I do not accept that they made this specific disclosure to the Local Authority about the father and the mother physically chastising them because the father told them to.

145.

Thinking about the March 2024 allegation that the father punched and slapped A in the face, details of this are set out very briefly in paragraph 29 of mother's first witness statement, that the father slapped and punched so hard on the side of his face it left marks as seen in the photograph at M3.

146.

The mother says this was in or around March 2024. I have already commented on the limited weight I am affording mother's exhibited photos. The father says that this happened in February 2024 and was caused by an incident at school when his son was kicked on his face by a friend playing football, which is supported by the school injury report.

147.

Given there is limited particularisation about this event, the issue with the photographs and given the father's plausible explanation for when and why the injury happened, supported by that report from the school, I make no finding as to how this injury happened and when and on the balance of probabilities I do not find it proven as per the mother's allegation.

148.

Turning to the March 2024 allegation that father was so angry he took a knife and hit A on the head with the handle and held it against his throat. This is mentioned in the mother's second statement and there are photographs of the alleged injury. There is not a full picture showing the cut. The mother said she did have one but then the father destroyed her phone and she said this is one she sent to her sister. Counsel queried why she had not sent the other photo and said she had deleted them and these were the photographs sent back to her.

149.

The court is, for the reasons mentioned, affording the photographic evidence no weight but I will mention there was another specific issue with these photos. Mother said they were the same day as the party but a later photograph shows A with short hair. The mother said this was because the father cut it earlier in the day. However, GM also refers to these photos but says she was sent them in October 2022. The mother was unable to answer clearly how, if the photos were taken in 2024, her sister had said she was sent them in October 2022.

150.

In my judgement the photos do not show the injury alleged and were taken in October 2022. GM was asked about these photos and of the scratches and said she had not seen them caused and does not recall if the mother told her they were caused by a knife, but did accept if she had been told that she would remember, so could not safely say he was cut by a knife. She was also clear that although she had heard A saying his father had threatened to slit his throat, she had not heard the threat actually being made. She accepted that at A's age, having initially said he always tells the truth, he may tell lies, but felt he told the truth about this given the way he said the phrase, how specific it was and why otherwise would he say it out of the blue after dinner at his grandparents.

151.

I also note there is reference in the Local Authority's bundle to A alleging not that the father threatened him holding a knife to his throat, but that he cut him on his upper right arm.

152.

Father said when asked about this specific incident of A saying the father took out a purple knife and said he would slit his throat, said it did not happen.

153.

So on the balance of probabilities on the evidence before the court, in particular given the issues with the photographs, I do not find this allegation proven.

154.

In relation to the allegation in 2024 about the chillis, and also the pillows, the mother confirmed in evidence the father force fed the children chilli sauce and not chillis. She could not remember the exact date and said that it was his way of teaching them a lesson. Although she could not remember the date she said she could remember the time as she was sleeping in the living room and the children got up early.

155.

LM's written evidence refers to seeing the father forcing Encona sauce into their mouths, but father denies holding pillows over their faces, forcing them to eat chillis, and refers to using Vicks not up their noses, as is part of the allegation, but on their chests and under their noses when ill.

156.

I note here a theme of his evidence is how he cared for the children when sick. Sometimes those details are given, in my judgement, when not really related to the specific allegations and perhaps as a deflection, similar to the position he takes when shown a haircut video and deflects to talking about the mother being abusive and also to show him in a positive light.

157.

The father said in cross examination he did not threaten to put things in the children's mouth as a punishment and never forced things into the children's mouths.

158.

There is a lack of details from the mother in my view as to these incidents and how the force feeding and pillow incidents happened, and also a lack of details as to when these are said to have happened and how the children reacted. It seems to me just a list of allegations with little substantiating evidence. Notwithstanding LM's evidence, on the balance of probabilities I do not find this proven.

159.

Turning now to the sedation allegation, the mother exhibits texts regarding the father giving the children sleep teas, which I have already said I found was a text sent by the father, and she said in oral evidence he gave them candies from Holland and Barrett.

160.

The mother was asked whether the father did sedate the children or just threatened to. Her answers were not clear here. For example, when asked: "Is it your allegation he threatened to sedate A or actually sedated the children?" She said 'he threatened' but then went on to say 'he threatened and then he gave them those candies you find in Holland and Barrett'. This is consistent with what GM says in her statement to the police and that she saw him giving pills one can buy at Holland and Barrett to help with sleep and that they were for children. She says when she asked him why he gave them pills to sleep in the afternoon he replied that they were too

hyper and he could not handle them.

161.

I note they were on holiday with their family and would have been three and four at the time so in my judgement understandably excited or 'hyper' as the father put it.

162.

The father's evidence is he never made such a threat and was attentive to the children's need and says A was hyperactive and struggled to sleep and suggested he get sleep tea for him. He said in cross-examination he was giving the children multivitamins and that GM had also given them to her daughter, MM, on that holiday. However, I prefer GM's evidence to the father's and do have concerns about the father giving the children pills in the afternoon, even if they were sleeping tablets for children, not because they were having trouble sleeping but because they were hyper and he could not handle them.

163.

I noted in the school disclosure it was said the father had to be spoken to about putting Dioralyte in a child's water bottle and so I am concerned about how he might give them, albeit over-the-counter medications, when they do not need them or should not have them, and there are also text messages as I have mentioned in the core bundle with the father referring to the children's sleep, so it does seem to be an issue for him.

164.

Taking the word "sedation" to mean using a drug to make someone calm or go to sleep, on the evidence before me and particularly in the light of the sister's evidence, I find that on the balance of probabilities the father sedated the children using sleeping tablets for children in May 2022 and noting the words attributed to the father that he did this because they were hyper and the father could not handle them, so he did it not for their welfare but for his own benefit.

165.

Turning to the allegation about the haircut in April 2024, I have seen what I found a disturbing video from April 2024 of this incident, where the father is said to be cutting A's hair. He gets angry and shouts at the child and tells him to shut up. Some parts of the video are hard to make out given the sun is coming in through the window and at about seven seconds the father does move his hand vigorously back and forth across the child's face and then put something down on the table. The father has said this was a brush of the type used by a barber to brush away hair.

166.

The Local Authority disclosure makes reference to showing the father this video and his lack of insight in relation to what happens. Given the mother's oral evidence, his admission and the fact he then picks up the brush later in the video to brush the hair away from the child's face more gently, I do find this was a brush, not clippers as the allegation states, but I do find he used that

brush aggressively to wipe across the child's face when the child is upset. Indeed the child sounds very distressed and I found it a hard video to watch. The father makes no attempt to comfort the child, something in my judgement that is not in the child's welfare interests and the father in my judgement appears to have lost self-control at points. At the start of the video he is shouting, something he does not accept in the schedule although he does accept he told A to shut up.

167.

This was recorded seemingly by the mother from the sofa, but what I found of concern in addition to the loss of self-control and his behaviour, including the verbal and physical abuse toward A, is that the other brother is present. That in itself is a welfare concern. He is present whilst his father verbally and in my judgement, physically abuses his brother and although he starts by lying on the floor behind the sofa, during the video he moves upright and in my judgement he is looking on from the bottom of the video quite calmly. He does not respond as I would expect a young child to do on seeing that kind of loss of control and hearing his father shout in the way he does at his brother, in particular, if it were a one-off as is the father's case. I would expect him to perhaps get upset or have a physical response such as cowering or seeking comfort from his other parent. In my view his behaviour is because this is not an unusual occurrence and it is not a one-off, and that the behaviour of the father has been normalised in the household.

168.

I do not accept, as father's counsel said, it is the only recording because it was essentially such a horrible one-off that it led to the mother recording it. The father at one point does say to the child: "If you don't shut up I'm going to put all this hair in your mouth." This is confirmed in the transcript at C37 by Prestige Network and although the father did not accept he said this at first in cross-examination, even when taken to the transcript, when he was played the video he did accept it. I was concerned he seemed to need to watch the video to recall what he said.

169.

In his schedule father denies hitting and shouting at A while cutting his hair. I do note that father, in written evidence, says he regretfully tells A to shut up, and I also note in cross-examination he has now accepted he did hit A, saying it was a 'little slap'. He still does not reference the shouting and what I view as a clear loss of control. He does not admit it is physical abuse and I do not accept that what I saw was reasonable physical chastisement as was submitted on behalf of the father.

170.

I also note, at page 74 of the supplemental bundle, that the father did admit physical abuse on that occasion and that is an example of his own evidence lacking consistency with the other evidence. The Local Authority disclosure states:

"Mr E denies he slapped or hit the children except the one time he was stressed out and hit A while cutting his hair."

171.

In my view his written and oral evidence is minimising his actions and often offering excuses and reasons, such as he was tired given chores and the school run and in my view in some way blaming the mother, saying the applicant was not helping out because of her ill health. Many parents are tired with chores and the school run but do not react in that way, in particular to a situation which may upset many young children - having their hair cut and getting hair in their faces. I note that even though there is video evidence there is only a partial admission and in my view a minimisation of the event from the father.

172.

The father's approach to the schedule is blanket denial generally, and in his written evidence minimisation and, as I have said, his admissions are only where there is incontrovertible evidence, for example, because of the video or the deleted WhatsApp message in respect of the breach of the non-molestation order which, as I will go on to consider, even if accidental is still a breach.

173.

I also note that the Local Authority Risk Assessment at 158 of the supplementary bundle recorded a concern that after showing him the video, Mr E was not being transparent, and had the video not been shared, it is likely that Mr E would continue to use physical chastisement and be in denial. I agree.

174.

Therefore, on the balance of probabilities in relation to this incident, I find that the father physically abused A when cutting his hair by hitting him. I find that he also aggressively passed a brush back and forth across his face whilst the child was distressed, shouted at him, including telling him to shut up, and threatened to put hair in his mouth. I do not accept in saying: "I am going to put all of this hair in your mouth", given the way it was said and given the circumstances, that it was the father not threatening or threatening to punish him, but saying it so he did not keep crying. I find that explanation given in re-examination was, again, the father trying to minimise how the court would view what was occurring in the video.

175.

I also find that the father behaved the way he did in the presence of his other son and the mother and that witnessing that physical abuse of his brother was not in B's welfare interests and would have had an impact on the mother.

176.

Certainly, I feel that Cafcass would be assisted when making recommendations by seeing that video in full, if they have not already.

177.

I also noted the text from the father at C126 in which the father says: "I smacked his hand." That text sees him admitting he had used physical abuse against one of the children on another occasion, and as I have mentioned, I find those texts are between the parties. That is another piece of evidence that I have considered when reflecting on the father's position - that he said the haircut slap was a one-off.

178.

I also note LM's evidence and the part I found compelling in respect of her and SM visiting and taking over showering the children (one overseeing that and the other doing dishes) given their concerns about the father smacking the children in the showers. This is a very precise and practical response to a concern. I have also borne in mind LM's evidence about what she actually saw. I found she was honest about saying she could not always see how the father hit the children and he could be in the way, but she acted out the way he punched them with a fist on the back or a hand on the back (and there are various references in the supplementary bundle to A's disclosing being slapped on the back). There were differences between LM's statement referring to the punching being on the back of the head and neck and her oral evidence as between the shoulder blades, but overall I found her evidence consistent in relation to them being hit somewhere on the back area, and do find she witnessed the father physically abusing the children.

179.

Therefore, considering the evidence before me, in particular the video of the haircut, the Local Authority and school disclosure and LM's evidence, I find on the balance of probabilities in relation to allegation 5 as a whole, that the father used and threatened violence against the children. Specifically I find he used and threatened violence against the children by threatening to put hair in A's mouth if he did not shut up, telling him to shut up, brushing his face aggressively when he was upset, slapping him, pinching B on the inner thigh in May 2022 and hitting both children.

180.

I pause here to note that although I have considered it in support of the allegation (and it is not the only evidence I have considered in making this finding) the Local Authority disclosure also mentions the children disclosing the mother hit them with an open hand. The mother explained the father had told them to say this because of the marks on them and that she had not, but I flag this here for the author of the Section 7 report and it should be recorded as a recital in today's order, in case the transcript is not ready, so that that can also be considered by Cafcass.

181.

I also find the father gave the children sleeping tablets. Not for the children's benefit; for his own.

Allegation 6: That between 2016 and July 2024 the father used physical abuse and threats of physical abuse against the mother and threatened to throw acid on her, and said he would slit her throat, and threatened her with a knife, causing several cuts, dragged her to the front door and pushed her outside and caused her injury, including causing her to miscarry, and the children saw all this.

182.

The mother gives the date of a specific event when she says the father dragged her to the front door and caused her to miscarry, being on 30 October 2023, which in her third witness statement she states was misremembered and was actually 27 October 2023, remembered after the father flagged up that on 30 October her sister was visiting. I also note she gave various dates to the police for this incident, February to April, March, October, Halloween, November, and December. This is perhaps due to her mixing up incidents in her memory as a result of her trauma and vulnerability but is an example of the significant lack of consistency between the mother's own and other evidence.

183.

The incident is said to have arisen because the father had sent an inappropriate text, sexual in nature, to the mother's 15-year-old sister, SM. That text is not in evidence, the mother saying her sister has changed her phone and also that she does not have it because her phone was broken. If there was that text in evidence, the court would have the date and clear evidence to support what the mother is saying. I do not accept that the mother can be 100 per cent confident that the words of the text were as per her witness statement given the issues with the first witness statement already considered, her confusion about so many events, and also as her reason for stating she was 100 per cent confident was she had proof on her back that the father beat her up.

184.

The mother was then questioned about why the text was on her phone and explained it was a misunderstanding and it was on her sister's phone. She told the court she did not report this to anyone, albeit a sexual offence against a child, saying:

"Where would she go? This is not my country. You can see it in colour, the damage. He even broke my phone."

But she did say she was going to expose the father to his family. She also raised her concern about his sister being married to a policeman as to why she did not report it to professionals. However, she then went on to say she had told her sister she would go with her to report what happened but her sister was terrified, given the policeman and the terror the father caused with abuse and assault and concerns he would kill the mother. This is another example of the mother in the witness box being inconsistent with her own earlier oral evidence. On the one hand she said she would not report it, but then she said she would go with her sister to report it. Those details are

also not in her written evidence.

185.

The situation is said to have escalated, the mother saying the father got a knife and put it to her throat, drawing blood (which in later statements was referred to as a small cut like you would get from a scratch and there was a little blood but not dripping) and cut her finger and pushed it at her chest, making a hole in her jacket and causing her to bleed. The mother has not exhibited photos of that or indeed exhibited the jacket in evidence.

186.

The mother gives details of serious physical abuse occurring - that father put his hands around her throat, dragged her to the bathroom, strangled her, punched her and she was dizzy, passed out, and when she came to, there was the incident outside the flat on the staircase. This is an incident where there were various inconsistencies between the mother's written statements, the evidence she gave the police (and the court was shown the part of the video where the mother acts being dragged up the stairs, not something that was in her written evidence), or thrown down the stairs twice (to Cafcass she reports being thrown from the second floor three times (I query if this is meant to be that same incident?) and she does not mention miscarrying after that to Cafcass but mentions to Cafcass being punched when pregnant in March 2024 and that she miscarried, which is not an allegation elsewhere. So again, this seems to be another example of the mother confusing events for whatever reason, or it not being clear why she sought findings on some allegations and not others.

187.

Indeed, in cross-examination, she was asked why she did not include a serious allegation mentioned to the police at 213 of the supplementary bundle, when the mother said the father had said to the older brother about putting his penis inside his younger brother, and she said it was because there were so many things, but she did not seem to appreciate the serious nature of what she had said to the police, and the point about the mother not having sought findings about serious allegations was also made by father's counsel in respect of the mother stating in cross-examination the father was trying to kill her by giving her pills, which would be attempted murder and very serious.

188.

There are photographs exhibited in support of this allegation and my view is that although the picture is of poor quality the first picture does show bruising to the mother's upper arm that could be consistent with being grabbed, and I note the mother got very distressed looking at these photos. But for the reasons already considered, the photos that are in evidence cannot be relied on as photographs of the injuries alleged to occur, although I do note that there are two showing the mother's back, and in my judgement that injury seen could have been caused by any of the various explanations, of which there are several, for this injury given at different times by the mother.

189.

Indeed, the mother gave various different accounts, both to the court and also to different people about the injury to her back, including it was a scald, she was dragged on the floor and it was a carpet burn and she was thrown into the bath, that she hit her back on the stairs, and then a skirting board, and she was asked if in fact it had been caused when she fainted, which is the father's case as to what happened. But the mother told the court she only fainted as a result of the father's abuse and the vitamins he said he gave her to make her strong. But in oral evidence, the mother was clear that the injury had been caused to her back from the fall on the stairs and hitting herself on the skirting board.

190.

GM also gives an account of this injury in her witness statement and details the cause to the police. The mother said that her sister was aware as soon as she saw the injury that the mother said was a scald, that it had actually been caused by the father, and GM's witness statement echoes this at paragraph 15. However, the sister's statement to the police is quite different. That witness statement said she thought nothing of it at the time. GM also gave oral evidence about thinking it was something, by the way, when she saw it, the mother had shouted at the father and what she had then said to the father. But going back to GM's police interview, she also states that the mother told her it was caused not by a scald but being dragged along the floor of the flat and thrown into the bathtub, not an incident on the stairs. GM states she was only told this account two weeks before her police interview.

191.

This is one example where I have not found GM's oral and written evidence consistent with other evidence and the police statement, even if she feels it adds up for her. She did tell the court about why the police report does not contain some things, and I accept that, but I do prefer the account that she gave to the police, given that her knowledge of the incident, that is to say, when it was fresh in her memory, and do not accept the account in her later written evidence, supported by her oral evidence, given five months later, and my view is that this account was influenced, albeit unintentionally, by the discussions she had with her sister, and as she knew more about what her sister had said occurred in her relationship, attributed perhaps more knowledge to herself at the time of past events.

192.

LM commented she had not seen abuse between the parties, but she did say if it happened to the children she queried what prevented him from doing it to her sister.

193.

The mother also got so confused in her own accounts that in respect of her confusion the interpreter at one point told the court she was confused by what the mother was saying and what she was actually being asked to translate. I do wonder if sometimes the mother, by not listening to the question put carefully, found herself in some difficulty, answering something else, or using the opportunity to tell the court something about her case and her position, and became even more confused.

194.

The mother, despite the various inconsistencies in her evidence, nonetheless said in cross examination she recalls exactly what occurred. The text incident, the argument, being pushed downstairs twice, she was dragged up, but as mentioned, her written evidence refers to her crawling back to the flat and also using the handrail. In my judgement, if she recalled exactly what occurred, there would not be as many significant inconsistencies in her evidence.

195.

There is no medical evidence about this incident, or the alleged miscarriage, although I note her case about not wanting to go to professionals, but note that she did go to seek medical attention at other times.

196.

The father denies this incident occurred and he also denies threatening to have people throw acid on her, holding her by the throat and dragging her to the front door, threatening her with a knife, cutting her, bruising her, giving her a bloody nose and causing a miscarriage.

197.

Given the many different inconsistencies arising from the many accounts given by the mother and to various other people of the event, not least the date - and I note here that counsel for the father said the accounts of this event were an illustrative example of the many themes of mother's evidence, her reliability and undermined her credibility - on the balance of probabilities I do not find this specific allegation of physical abuse proven.

198.

In relation to the other occasions of physical abuse or threats, which are all denied by the father, I do not find them sufficiently particularised. For example, in paragraph 47 of her third witness statement about hurting the mother in front of the children, or slapping her in paragraph 48, or threatening her with a knife in paragraphs 48 and 49, or find them supported by other evidence.

199.

I also note the allegation in respect to throwing acid is mentioned at paragraphs 35 and 75 of her witness statement for a non-molestation order, which the father denies, but then is not expanded on with details such as when, in what circumstances, how the threats were made, which on the mother's evidence about being asked about more details by her current solicitors is something I would have expected to see.

200.

So considering all the evidence before the court, and in particular given the many different accounts of how the alleged injuries occurred as a result of alleged physical abuse, and the various inconsistencies in the evidence, the issues with the photographs, the confusion, and in relation to non-specific incidents, given lack of particularisation or details, I find the mother has not discharged the burden of proof and I do not find allegation 6 proven on the balance of probabilities.

201.

I now return to the allegations in chronological order.

Allegation 1: That between 2016 and July 2024 the father subjected the mother to coercive and controlling behaviour. The mother's position is this was by way of making threats of harm to himself, the mother needing permission from him and him controlling what the mother could wear and other aspects of her life, that he checked her phone, isolated her from friends and family, drugged the mother and controlled her spending.

202.

I have considered the broad category of coercive and controlling behaviour but singled out some individual allegations for discrete determination.

203.

The mother was cross-examined in relation to financial abuse, which is also the basis of allegation 3. In brief summary, the court heard she had her own bank account, bank cards, she bought flights using her card (and her written evidence was inconsistent with this). She said she hid money received from her sisters as presents in her wardrobe in cash and the court also heard she did go abroad (although said it was an instance the father could not refuse because her sister had come to the home), and she did see her family, in particular LM, regularly on Thursdays and Fridays save, on LM's evidence, when the mother said not to come.

204.

The mother said she did go to the gym alone but that it was only after A's birth as the father forced her, and she said that although she paid for groceries, the father used her card and if she shopped gave her the exact money.

205.

GM told the court, as mentioned when considering her evidence, that the father would take the mother's phone after an argument and return it after a couple of days. She also told the police this and that there were instances of the mother going off the radar for a couple of days and thought nothing of it, but she now knows the father was taking the phone away.

206.

I also note both sisters' evidence about what the mother could do and what permissions she needed for things and how later in the relationship the father would modify his behaviour, including to hover around when they visited to see if the mother said anything or not, and if she did not he would go to the gym. I have also commented on the evidence from GM about the father using the mother's bank card and bear in mind what I have heard about them helping financially. Certainly the mother's bank statements that I have seen from January and March 2024 do show transactions of money coming in from LM and the mother, and a healthy income each month of high £4,000s,/low £5,000s.

207.

I also note the mother's position in respect of the father threatening to harm himself and the father's denial of this, but note the text message at C108 where he says the situation made him feel suicidal. I note the father's position is this was rewritten, in written evidence, and it is not his text, although this was not expanded on in detail. I further note that even if, as on the mother's case, it was for the mother's benefit, the father has himself changed documents, the Marriage Certificate, so editing evidence is something within his contemplation. The documents in the supplemental bundle do refer to his mental health issues, which he says started when he was accused of sexual assault by a previous ex-partner. The mother also told the police at page 326 of the supplemental bundle he would threaten to commit suicide and would go to the train station and text me.

208.

So considering all the evidence before me, on the balance of probabilities I find the father did text the mother to say he was suicidal.

209.

The mother was cross-examined about the father drugging her and I note, as I mentioned regarding the Local Authority disclosure that father did have to be spoken to about putting Dioralyte in a child's water bottle, so there is an instance where he put drugs into a drink. However, the mother said he did not put drugs in her food or drink. The mother said after father hurt her he said she needed more vitamins to make her better. The mother said the vitamins were actually Tramadol, a painkiller that she was prescribed, and she says that father gave them to her to try to kill her, as if he murdered her he would end up in prison but not if she died as a result of this, and it was not, as counsel for father submitted, giving her the medicine she needed.

210.

There is no medical evidence that the mother's hospitalisation abroad was as a result of taking Tramadol. The mother said in oral evidence that the father had forced her to swallow pills. This was not in her written evidence and is to me a significant point that would have been mentioned if it had happened. She said her sisters witnessed it, but it is not in their written evidence. Again, there was no medical evidence about this, including whether when she was hospitalised abroad it had anything to do with being given Tramadol that made her sick.

211.

Father said in cross-examination he did not expect standards of behaviour such as the children not using marker pens, did not accept he was dominant in the relationship, notwithstanding his physical stature (as put to him by mother's counsel), did not isolate the mother, financially abuse her, delete things from her phone and check it and did not give her Tramadol, and did not speak about taking the children away and has not spoken about harming himself (although I note that the Local Authority had concerns that when risk assessed Mr E responded "no" when asked if he had any mental health issues, but that this was not consistent with what he had mentioned in 2016 during a Children and Family assessment when he reported suffering a mental health decline and the Local Authority records that they questioned the father's honesty and transparency).

212.

Given the very detailed account in the third witness statement about other matters and the very serious detail about being forced to swallow pills (a detail that in my view should have been included in witness statements and not just given in oral evidence, it is more than just expansion) I do not find that the mother has met the burden of proof in respect of this allegation regarding the pills. This was another example where the mother's evidence was confused and inconsistent (such as whether she or her sisters noted the vitamins were Tramadol) or expanded on with a significant detail for the first time. Further, I note the father's counsel submitted she included this in her third witness to explain her jumbled memories. She says in her written statement that this drug had affected her memory and her ability to recall but in oral evidence she says her memory of facts is not affected, it is just dates.

213.

I do not think she did include this to explain her jumbled memories. I note the mother's case is her brain is mixed up from the trauma, as was submitted on her behalf, and that she is not doing it on purpose when she stumbles, but I do find, as I have said before, there are many gaps in her evidence and overall it is quite poor when it is her who needs to discharge the burden of proof.

214.

Thinking about the specific allegation of coercive and controlling behaviour and the findings sought by the mother, I find on the balance of probabilities, in particular in the light of GM's evidence and the other evidence before the court including various texts, that the father displayed coercive behaviour by using a threat to frighten the mother, specifically when he texted about feeling suicidal, and controlling behaviour towards the mother in taking her phone after arguments and checking her phone, meaning she deleted conversations with her sisters, and the way in which he remained, or hovered around the sisters and family when visiting, so on occasions isolating from her family and support, and although I will not go on to make a finding of financial abuse, thinking about the specific definition of economic abuse, there was an element of control when he took her bank card and used it when she said she had no money, and her sisters were having to provide the family with money.

215.

However, given her trip to her birth country, which it seemed the father encouraged, although the father says it was to remove her from her sons, and lack of particularisation and details around the other allegations, I do not find on the balance of probabilities that the other parts of this allegation are proven, including that she needed permission from him, that he controlled what she would wear, and other aspects of his life, or that he drugged or controlled her spending.

216.

Given the range of examples of coercive and controlling behaviour that this court sees, this is, in my view, one of the less egregious examples of coercive control. The behaviour was, in my view, quite subtle. However, in my view it nonetheless would cause harm and have a cumulative effect, making the mother over time feel subordinate and isolated.

Allegation 2: That between 2016 and July 2024, there was emotional and psychological abuse by father threatening to take the children away from the mother, and that he made false reports about her, attacks to her confidence and self-esteem through constant denigration.

217.

The mother says the father threatened her that if he could not have her, no one will, and she told this to Cafcass, that he threatened to take the children away (which she does not tell Cafcass specifically but does apply for PSO, regarding him not removing the children from her care), and she also says he made referrals on her behalf and exhibits letters regarding self-referral at M14 to her second statement, which she also mentioned to Cafcass. She also refers to him telling her she was ugly, sick, and made references to her being anorexic and bulimic. She does mention to Cafcass that the father did not use her name and treated her like a slave, but does not mention the verbal abuse in the same or similar terms. The mother's sisters do not mention witnessing this either.

218.

I do note that the father could use terms like "idiot" and "coughs like a dog" about his children in texts, but there is no evidence of this type in support of the specific type of verbal abuse alleged, against the mother.

219.

The father denies this but does say he emailed West London NHS regarding advice about her weight loss, and exhibits this. Her exhibits regarding malicious referrals seem to be mainly from East London services.

220.

Given the lack of particularisation, for example as to when he said things, how often, and a direct link between the father and the referrals and a lack of supporting evidence, I do not find this proven on the balance of probabilities.

Allegation 3: Financial abuse

221.

I have already considered much of the evidence in respect of this when considering coercive and controlling behaviour, but in my judgement I do not have enough evidence in relation to whether the father made the mother give him her benefits. I can see transfers of money from her to him but there is no link to her benefits, eg by dates or amounts, and I do not have enough evidence to find that he controlled how she spent her money.

222.

He may have used her bank card (something that was relevant in relation to my finding for allegation 1) but she had two others and she gives very minimal details of this at paragraph 12 of her statement, which in my view, even if proven does not amount to economic abuse, thinking of the definition. It did not have a substantial effect on her using or maintaining money or acquiring services, ie, him getting angry at her buying formula milk, or on one occasion taking her bank card, telling her if she needed to buy something to ask him, and withholding money and bank cards. He may have used one bank card but she had others and there seemed to be many payments in and out of her account which, from what I saw in evidence, usually showed a healthy balance.

223.

Father said when he did not have funds he would ask if possible for mother to transfer some money to him, and his case was this was normal couple behaviour, and I have already mentioned this when considering him as a witness, the way he answered the questions on this. However, considering all the evidence, on the balance of probabilities I do not find allegation 3 proven.

Allegation 4: That in May 2024 and numerous other times, sexual abuse, and that the father raped mother regularly throughout the relationship.

224.

Mother gives details in her first witness statement of a rape on 21 May 2024, the night before she went to her birth country. I have already commented about the issues with the photos exhibited in support of this allegation at M6. On mother's oral evidence, none of these photos are of an injury caused by this rape. In her third statement she refers to the father raping her in May 2024, the night before she went abroad, and that he came home angry, started shouting and then they were arguing and he held her by the wrists. She was crying but he covered her mouth and said: "You are my wife. I can do what I want." He called her "disgusting" and said no one else would want her. The statement says that afterwards he told the mother that if she said anything to anyone he would kill her and no one would believe her.

225.

Mother was cross-examined on this as she told the police about a rape in July 2024 and also in April, which she confirmed was actually the incident she refers to as the day before she went abroad. She had told police she passed out during the rape and he must have left. She explained that when she said in her witness statement about what he told her afterwards, when it was put to her how could she know if she had passed out, she meant when he returned. There were also references in her police interview to being dragged by her hair, but this is not what she says in paragraph 60 at C179. The two accounts, if relating to the incident on the same day as the mother says they do, are inconsistent regarding the details.

226.

The mother said to police she had bruises on her arms and legs and vagina. She says she was bleeding and she says when she went to her birth country, the hospital noticed them. Neither sister did, although LM said her arms were covered and she only saw a back injury. The mother told neither sister about the bleeding. She mentions in paragraph 61 there were multiple incidents when the respondent forced her to have sex with him, but there are no further particulars.

227.

I have already commented on the photo regarding the types of injuries. The mother told the court the father had another victim before her who had to endure what the mother had to endure and that he had done the same things to her. The father indeed refers to his previous ex-partner who accused him of rape in the Local Authority disclosure at page 31 of the supplementary bundle. The mother was asked if she had witnessed that and said how could she? It was his previous partner that had ended up in court. Indeed, the Local Authority disclosure refers at page 125 to the father referring to his mental decline being triggered in 2016 when he was arrested from his home he shared with the previous ex-partner who had accused him of sexual assault. The mother was asked if she accepted that no findings were made and that he was not convicted of any offence and said the fact he was not convicted does not mean he was innocent.

228.

The mother did not provide any medical evidence of the bruises or of bleeding from her vagina and the reason she gives for not having medical records from abroad when doctors noticed the injuries, on her case, is because she said she would have had to physically go to obtain them and could not appoint someone else in writing as the hospital would not release that kind of information to them.

229.

She was asked, given what important evidence the records were, why she did not go to her birth country and she said she did not want to leave her children given her concerns, but it was pointed out to her she had left them to go to the same country in 2024. In my view that medical evidence might have been conclusive evidence and I also pause here to note that the mother did not rush back to the UK after the concerning call she said which led her to believe the children were at risk of harm, and I also do not accept her oral evidence that there were no flights to London for four days or that phones do not work from her birth country to London as she said at one point.

230.

I have mentioned before my view that, whereas father minimises matters, the mother amplifies them, which in my view is what happened here regarding that call. The call with the children had alarmed her but not as much as she now says it did, which is why she did not find some way to get back before four days or get a message to the police.

231.

Turning back to the allegation of sexual abuse, father says he did not have sex with the mother when she did not want to and given the evidence before me and in particular mother's inconsistent evidence and lack of conclusive medical evidence I do not find that the burden of proof is discharged and on the balance of probabilities I do not find that the father raped the mother in May 2024 and/or regularly throughout their relationship.

Allegation 7: From 2016 and in July 2024 and April 2024, verbal abuse: that the father would regularly swear at the children and the mother and the father called the children "motherfuckers" and "bitches".

232.

Mother's evidence includes the father calling her a "fucking bitch" and said she was not good at anything, and would swear at her, which started early in the relationship, including calling her a "bitch", "slut", "psycho", and would swear at the children and in front of the children, calling her "fucking useless", "crazy" and "mentally sick".

233.

Certainly the texts I have found the father sent at M15 used swear words in a derogatory way, for example about a teacher at the children's school, but not at the mother. The text at C130 refers to B as an "idiot", saying: "B slept long time. The idiot has a sleeping disorder" and refers to hearing "a cough like a dog". These are not words on the same offensive level in my judgement as "motherfuckers" and "bitches" but in my judgement most parents would not refer to their children this way, in particular referring to their child as "the idiot". To hear that from a parent would in my judgement cause a child emotional harm.

234.

LM's written evidence refers to the father swearing at the children, saying "shut the fuck up" at them. This is at the dinner table and it does appear on the evidence before me a theme, that when the children were not doing as the father wished, at the dinner table, in the shower, during a haircut, by going to sleep, he would get angry, and as per the haircut video, lose control. I pause here to say, I do not agree with the father, that he is only aggressive in this video. He was asked if he was aggressive and forceful. I was concerned that he said he did not find his behaviour forceful and was unable to put himself in A's position, that is having someone tower over him, shout, tell him to shut up and give him a little slap, and initially answered:

"My behaviour was aggressive. I don't find it forceful."

235.

He did, when pressed as to whether a child might find it forceful, answer: "I am not sure", a concession of sorts, but in my view still shows no insight as to the effect of his behaviour on a child. I find him, as was put to him, aggressive and forceful in this video.

236.

I also noted that LM did not witness any verbal abuse of the mother.

237.

I refer to my earlier comments about the video of the haircutting and find that the father, on the balance of probabilities, used verbal abuse against the child. On that haircut occasion it is not a controlled "shut up" (which in my judgement would still not be appropriate) but is angrily shouted when a child is beside themselves.

238.

Overall, in relation to the whole allegation 7, on the balance of probabilities, given the finding above evidenced in the video and the other evidence before the court, I do find that the father would swear at the children and that the mother was in the vicinity, which would have caused her harm, but on the evidence before the court, I do not find he swore at the mother and she has not met the burden of proof and respect of that, and I do not find he used the specific words "motherfuckers" and "bitches" about the children.

Allegation 8: That from early 2025 to date the father has breached the non-molestation order.

239.

The father says in his schedule he denies the breach; however at C222 in his written evidence he says it is true he sent a WhatsApp message to the mother, although in paragraph 103 on that page he denies intentionally breaching the NMO.

240.

My view is that regardless of the reasons it is a breach and that should have been acknowledged in the schedule.

241.

The mother says there are other breaches - the medical referrals and setting up a Klarna account using her email - but cannot link the messages and emails to the father, say, through a picture or a name and the police are still investigating. The mother says messages from the father's aunt are from an aunt with whom she does not have a relationship and is something that results from the father's involvement.

242.

I also note the police disclosure and that there are three other breaches alleged to have happened, one of which father accepted in cross-examination, when going to his mother's house. Given the non-molestation order in place I find the father's account of this was, as in other places in the evidence, one where he tried to minimise what happened and give excuses. However, as was considered when asked for clarification, it was not a breach of the non-molestation to go that near to the mother or be that near the mother in the way he did, but it is the court's view he should have taken steps to avoid it. The fact he did not and offers an excuse is a concern.

243.

However, I also comment here I am concerned that the mother went to the former family home on 19 August 2024, as evidenced at paragraph 38 and exhibit R13 of the father's first statement, having obtained a non-molestation order against the father five days before.

244.

Father says the accounts shown in the mother's exhibits are not his and that he has not encouraged anyone else to contact her.

245.

So on the balance of probabilities, I find that allegation proven as the father accepts he sent the mother a text in breach of the non-molestation order, which he immediately deleted, which he says was accidental, and although not a breach of the specific terms of the non-molestation order, I also find that he came near her.

246.

Before concluding, I will also mention that Mr Holley drew my attention to certain specific pages and disclosures and comments to consider. These included references to what he said were positive comments regarding the boys and their father. I mention one specifically as I found some of the comments were somewhat nuanced and perhaps not as positive as submitted. At page 154 of the supplemental bundle, B remembers to the social worker it is his dad's birthday. However, something that Mr Holley did not mention was the report goes on to state that the social worker then asked if B would like the social worker to give him a message, and B said no. Given that, I have been cautious in viewing these messages as purely positive and ensured I have considered them in context.

247.

I also note that at C131 there is a message that I found the father sent to the mother and he says: "I didn't expect you to forgive me at all. I know what I done was wrong."

248.

He is not specific about what he did, and this message could be in relation to any of the allegations or something else. As Mr Holley noted, the evidence before the court refers to various incidents which do not form part of the mother's allegations, such as the children being hit with a Hoover. But I do note it is in a chain of messages appearing to relate to A. In any event, it suggests to the court that when communicating in private messages, he could be more forthcoming than in the witness box in relation to acknowledging negative actions.

Summary

249.

I find allegations 1 and 7 part-proven in the terms I gave. I do not find allegations 2, 3, 4 or 6 proven. I find allegation 5 and 8 proven. That is my judgment.

This transcript has been approved by the Judge

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