



Neutral Citation: [2023] EWFC 274 (B)

Case Number: RG23C50032

IN THE FAMILY COURT SITTING AT SLOUGH

The Law Courts
Windsor Road
Slough
SL1 2HE

Heard on 9, 13, 20-21, 23-24 November, 18-19, 21 December 2023
Judgment given on 21 December 2023

Before

HIS HONOUR JUDGE RICHARD CASE

Between

A COUNCIL

Applicant

and

MOTHER OF CA (1)
FATHER (2)
MOTHER OF CB (3)
THE CHILDREN (4-5)

Respondents

Representation

For the Applicant: Edward Kirkwood counsel instructed by the Applicant Council

For the Respondents: Leonora Smith counsel instructed by the First Respondent Mother
Alex Forbes counsel instructed by the Second Respondent Father
Paul Murray counsel instructed by the Third Respondent Mother
Andrew Leong counsel instructed by the Fourth to Fifth Respondent children by their Children's Guardian, Samantha Clark

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

JUDGMENT

This judgment is deemed handed down electronically by email on 21 December 2023 at 9am

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Summary

1. I have made/not made the following findings:-

Allegations

- 1: In October 2021 F assaulted MB by standing on her foot
- 2: In October 2021 F assaulted MB by grabbing her round the throat
- 3: In October 2021 F assaulted MB by threatening to hit her on the head with a bowl
- 4: In October 2021 F pulled MB into the family home when she tried to leave

Finding

On 24 October 2021 F assaulted MB by pushing her across a room and at some point in doing so placed a hand on MB's neck and raised an ornament as if to strike MB. The incident occurred in the presence of CA and CB.

Allegation

- 5: On or about 5 January 2020 MB physically assaulted CA causing a bruise to her hand

Finding

Prior to 5 January 2020 MB physically assaulted CA causing a mark to her hand.

Allegation

- 7: On or about 23 February 2023 F slapped CA around the face with an open hand

Finding

On 26 February 2023 F slapped CA to the face with an open hand.

Allegation

- 8: CA was regularly physically assaulted by beating, slapping, pushing and hitting during her time living with F and MB, perpetrated by F and MB

Finding

Not proved.

Allegation

- 9: CA was regularly physically assaulted by having her hair grabbed during her time living with F and MB, perpetrated by F and MB

Finding

Not proved.

Allegation

10: CA was regularly verbally abused by being called “a disgrace”, “a liar”, “manipulative” and “a psycho” during her time living with F and MB, perpetrated by F and MB

Finding

Not proved.

Allegation

11: CA was regularly subjected to abusive and demeaning behaviour during her time living with F and MB, perpetrated by F and MB

Finding

Not proved.

Allegation

12: MB threatened CA on more than one occasion that she would make false allegations about CA to F to get her into trouble

Finding

Not proved.

Allegation

13: In early February 2023 MB physically assaulted CA by grabbing her by her pony tail and causing her to hit her head causing a laceration injury

Finding

In mid-January 2023 MB physically assaulted CA by grabbing her by her ponytail and causing her to hit her head causing a laceration injury.

Allegation

14: On one occasion MB sexually abused CA by asking and/or making CA (a) massage MB’s upper legs near the groin, (b) digitally penetrate MB and (c) perform oral intercourse on MB

Finding

In the spring of 2019 MB sexually abused CA by encouraging her to massage her legs and coercing her to digitally penetrate her and perform oral sex on her.

Parties

2. I am concerned with two children, CA (female, mid-teens) and CB (male, infant). CA is the daughter of the Father who I will refer to as F and I shall refer to her mother as MA (the First Respondent); CB is the son of F and I shall refer to his mother as MB (the Third Respondent). Where I refer to Children I mean both CA and CB. I mean no disrespect to the parties by referring to them in this way.

Background

Chronology

3. The background is set out in the Local Authority case summary in this way:

2. The relationship between F and MA came to an end in around 2011. CA initially resided with her mother and had contact with F. In 2012 MA took CA to Pakistan; this led to court proceedings and CA was returned to the UK in around June 2012. There was a brief reconciliation until October 2012 when CA's parents separated and subsequently divorced. MA returned to Pakistan in 2015 and CA remained living with F.

3. F remarried in April 2014. B Council then had involvement with the family from 2015 as a result of an allegation of domestic abuse between the father and his then wife [X] whereby the police exercised their protective powers to remove CA.

4. The relationship between the father and [X] ended in around July 2015. The family travelled with CA to a family funeral in Pakistan. CA remained in Pakistan living with her paternal grandparents where she remained until October 2017 when she returned to live in the UK with F.

5. F married MB in Pakistan in October 2018. MB subsequently arrived in the UK in April 2019.

6. On 5 January 2020 CA attended a Walk-in medical centre with MB, CA having been suffering from stomach pains for two weeks. During the visit, it was reported to staff that MB had been overheard threatening CA in the waiting area, saying that she would beat up CA back at home. CA was seen alone by Dr Cheng...[and made allegations against MB].

7. In October 2021 the family again came to the attention of B Council. On 24 October 2021 the police were called by a neighbour to the family home following an incident between F and

MB; she alleged that F had stood on her foot, grabbed her by the throat and threatened to hit her with an ornamental bowl [L32]. She also made allegations as to the father's controlling behaviour. MB subsequently provided a withdrawal statement on 3 November 2021 [L37].

8. As a result of this incident, B Council convened an initial Child Protection Conference in November 2021 which resulted in the Children being made subjects to a CIN Plan...

9. The family moved to A Council in or around August 2022, which brought B Council's CIN plan to an end.

10. On 28 February 2023, CA alleged to a school teacher, [the DSL], that she had been slapped by her father across the face and that MB had dragged her by the hair on an occasion 2 weeks prior to this, which had caused her to hit her head against a wall causing a gash under her hair line. CA further alleged frequent physical and emotional abuse and an incident of sexual abuse by MB when she was 9 years old.

11. The Police exercised their powers of protection on 28 February 2023, with CA staying with a school friend under those arrangements.

12. CA underwent a CP Medical Examination on 1 March 2023 [F234-F237]. The opinion of Dr Andrew Lomp was that the injuries seen on CA's scalp [photos I32, I33] were consistent with the account given by CA.

13. F and MB were interviewed by the Police on 1 March 2023 [L0a-k, L0l-L0af] wherein they denied the allegations made by CA.

14. The Local Authority commenced these proceedings on 3 March 2023 [B1-B7]. CA was made the subject of an ICO and no order was made in respect of CB.

4. The effective start of the hearing was delayed by illness and although the evidence was heard over broadly consecutive days there was a delay in being able to re-list submissions and the handing down of judgment. Special measures were in place for the evidence of CA and a number of parties attended remotely or remotely for some of the hearing.

Current living arrangement

5. CA is in foster care pursuant to the Interim Care Order. CB remains living with F and MB. When I met with CA on 31 October 2023 she was clear that whatever the outcome of this hearing she did not wish to return to the care of F and MB.

Parental responsibility

6. The Local Authority, F and MA share parental responsibility for CA and F and MB for CB.

Positions

7. I have set out the allegations and the parties' positions below in relation to each of them.

Evidence Summary

8. I have had the benefit of considering the bundle and in particular the following documents:

- a) Composite Schedule of Findings [A138];
- b) Police disclosure section L particularly [L31-L37];
- c) Clinic note prepared by Dr Cheng 5 January 2020 [P1];
- d) Safeguarding Referral Record form arising from 5 January 2020 [F33];
- e) Letter from Dr Cheng [C117] and a witness statement [Z34];
- f) Letter from Mr Cullivan, former police constable, [C115] and a witness statement [Z23];
- g) Body worn video (BWV) of Mr Cullivan's attendance at the family home on 24 October 2021 [Z13] and agreed transcript [unpaginated];
- h) Undated photos of head injury [I32-33];
- i) Dated photo of head injury [L104] and blood stained shirt [L105];
- j) School disclosure section K and Multi-Agency Referral Form (MARF) [Z1];
- k) Pre-interview assessment (PIA) of CA on 28 February 2023 [L17];
- l) Child protection (CP) medical report of Dr Lomp 1 March 2023 [F234] and witness statement dated 23 November 2023 [unpaginated];
- m) Sexual Assault Referral Centre (SARC) medical report 30 March 2023 [H1];
- n) Letter from Designated Safeguarding Lead (DSL) at CA's school [C116] and a witness statement [Z24];
- o) Video Recorded (Achieving Best Evidence) Interview (VRI) of CA on 21 July 2023 [L80] and transcript [L79a];
- p) Social worker's initial statement in the Interim Care/Care Order proceedings [C1];
- q) Schedule to Emergency Protection Order (EPO) setting out F's evidence on that occasion [I57];

- r) Medical report of Dr Rahman, paediatrician 21 September 2023 [E213] and addendum 2 November 2023 [E263];
- s) Plan of the family home [C110];
- t) CA's passports in section M and N;
- u) MB's passports in section M and N;
- v) Local Authority Chronology [N1];
- w) Phone material [O1];
- x) Witness statement of MB [C62] and a transcript of her VRI on 1 March 2023 [L0I]; and
- y) Witness statements of F [C33], [C111] and a transcript of his VRI on 1 March 2023 [L0a].

9. I heard oral evidence from Dr Rahman, Dr Lomp and Dr Cheng who all attended remotely, CA who attended remotely as an agreed participation direction and F and MB who gave evidence in person. Having conducted a Ground Rules Hearing on 20 October 2023 there were a number of additional participation directions for CA including the assistance of an intermediary, cross-examination topics in advance and the provision for frequent breaks as required. CA was also supported by a lay advocate when giving evidence.

Law

Fact Finding

10. I remind myself of the fact-finding self-directions that I must give myself adapted from the helpful summary of Munby P in *Re X (Children) (No 3)* [2015] EWHC 3651:

20. ...The principles are conveniently set out in the judgment of Baker J in *Re L and M (Children)* [2013] EWHC 1569 (Fam), to which I was taken. So far as material for present purposes what Baker J said (and I respectfully agree) was this:

“First, the burden of proof lies at all times with the local authority.

Secondly, the standard of proof is the balance of probabilities.

Third, findings of fact in these cases must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation ...

Fourthly, when considering cases of suspected child abuse the court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvas. A judge in these difficult cases 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 local authority has been made out to the appropriate standard of proof.

Fifthly, ... Whilst appropriate attention must be paid to the opinion of ... experts, those opinions need to be considered in the context of all the other evidence. It is important to remember that the roles of the court and the expert are distinct and it is the court that is in the position to weigh up the expert evidence against its findings on the other evidence. It is the judge who makes the final decision.

Sixth, ... The court must be careful to ensure that each expert keeps within the bounds of their own expertise and defers, where appropriate, to the expertise of others.

Seventh, the evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.

Eighth, it is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. 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, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything (see *R v Lucas* [1981] QB 720).” [I address this further below]

11. Munby P continued:

21. To this admirable summary I add three further points.

22. First, that the legal concept of proof on a balance of probabilities “must be applied with common sense”, as Lord Brandon of Oakbrook said in *The Popi M, Rhesa Shipping Co SA v Edmunds , Rhesa Shipping Co SA v Fenton Insurance Co Ltd* [1985] 1 WLR 948, 956.

23. Secondly, that the court can have regard to the inherent probabilities: see Lady Hale in *In re B (Children) (Care Proceedings: Standard of Proof) (CAFCASS intervening)* [2008] UKHL 35, [2009] 1 AC 11, para 31. But this does *not* affect the legal standard of proof, as Lord Hoffmann emphasised in the same case (para 15):

“There is only one rule of law, namely that the occurrence of the fact in issue must be proved to have been more probable than not. Common sense, not law, requires that in deciding this question, regard should be had, to whatever extent appropriate, to inherent probabilities. If a

child alleges sexual abuse by a parent, it is common sense to start with the assumption that most parents do not abuse their children. But this assumption may be swiftly dispelled by other compelling evidence of the relationship between parent and child or parent and other children. It would be absurd to suggest that the tribunal must in all cases assume that serious conduct is unlikely to have occurred. In many cases, the other evidence will show that it was all too likely.”

24. Thirdly, that the fact, if fact it be, that the respondent ... fails to prove on a balance of probabilities an affirmative case that she has chosen to set up by way of defence, does *not* of itself establish the local authority's case. As His Honour Judge Clifford Bellamy recently said in *Re FM (A Child: fractures: bone density)* [2015] EWFC B26, para 122, and I respectfully agree: “It is the local authority that seeks a finding that FM's injuries are non-accidental. It is for the local authority to prove its case. It is not for the mother to disprove it. In particular it is not for the mother to disprove it by proving how the injuries were in fact sustained. Neither is it for the court to determine how the injuries were sustained. The court's task is to determine whether the local authority has proved its case on the balance of probability. Where, as here, there is a degree of medical uncertainty and credible evidence of a possible alternative explanation to that contended for by the local authority, the question for the court is not ‘has that possible alternative explanation been proved’ but rather it should ask itself, ‘in the light of that possible alternative explanation can the court be satisfied that the local authority has proved its case on the simple balance of probability’.”

12. In relation to experts in *Re B (Care: Expert)* [1996] 1 FLR 667 at 674 Butler-Sloss LJ said:

I agree with the judgment of Ward LJ. Family judges deal with increasingly difficult child cases and are much assisted in their decision-making process by professionals from other disciplines: medical, wider mental health and social work among others. The courts pay particular attention to the valuable contribution from paediatricians and child psychiatrists as well as others, but it is important to remember that the decision is that of the judge and not of the professional expert. Judges are well accustomed to assessing the conflicting evidence of experts. As Ward LJ said, judges are not expected to suspend judicial belief simply because the evidence is given by an expert. An expert is not in any special position and there is no presumption or belief in a doctor however distinguished he or she may be. It is, however, necessary for a judge to give reasons for disagreeing with experts' conclusions or

recommendations. That, this judge did. A judge cannot substitute his views for the views of the experts without some evidence to support what it is he concludes.

13. In his President's Memorandum on Witness Statements dated 10 November 2021 McFarlane P said:

14. Parties should understand that the court's approach to witness evidence based on human memory will be in accordance with CPR PD 57AC, Appendix para 1.3.

This states that human memory:

- a. is not a simple mental record of a witnessed event that is fixed at the time of the experience and fades over time, but
- b. is a fluid and malleable state of perception concerning an individual's past experiences, and therefore
- c. is vulnerable to being altered by a range of influences, such that the individual may or may not be conscious of the alteration.

14. I also direct myself to the judgment of Peter Jackson J (as he was) in *Lancashire County Council v The Children* [2014] EWHC 3 (Fam):

9. To these matters I would only add that in cases where repeated accounts are given of events surrounding injury and death the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide culpability. Another is that they 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 the record keeping or recollection of the person hearing and relaying the account. The possible effects of delay and 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 which might inelegantly be described as “story creep” – may occur without any inference of bad faith.

15. That should be borne in mind when considering perceived differences between accounts over time and generally when considering a witness' recall.

16. As regards demeanour I have regard to Peter Jackson LJ in *B-M (Children: Findings of Fact)* [2021] EWCA Civ 1371:

25. No judge would consider it proper to reach a conclusion about a witness's credibility based solely on the way that he or she gives evidence, at least in any normal circumstances. The ordinary process of reasoning will draw the judge to consider a number of other matters, such as the consistency of the account with known facts, with previous accounts given by the witness, with other evidence, and with the overall probabilities. However, in a case where the facts are not likely to be primarily found in contemporaneous documents the assessment of credibility can quite properly include the impression made upon the court by the witness, with due allowance being made for the pressures that may arise from the process of giving evidence. Indeed in family cases, where the question is not only 'what happened in the past?' but also 'what may happen in the future?', a witness's demeanour may offer important information to the court about what sort of a person the witness truly is, and consequently whether an account of past events or future intentions is likely to be reliable.

26. I therefore respectfully agree with what Macur LJ said in *Re M (Children)* at [12], with emphasis on the word 'solely':

"It is obviously a counsel of perfection but seems to me advisable that any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so."

...

28...There will be cases where the manner in which evidence is given about such personal matters will properly assume prominence. As Munby LJ said in *Re A (A Child) (No. 2)* [2011] EWCA Civ. 12 said at [104] in a passage described by the Judge as of considerable assistance in the present case:

"Any judge who has had to conduct a fact-finding hearing such as this is likely to have had experience of a witness - as here a woman deposing to serious domestic violence and grave sexual abuse - whose evidence, although shot through with unreliability as to details, with gross exaggeration and even with lies, is nonetheless compelling and convincing as to the central core... Yet through all the lies, as experience teaches, one may nonetheless be left with a powerful conviction that on the essentials the witness is telling the truth, perhaps because of the way in which she gives her evidence, perhaps because of a number of small points which, although trivial in themselves, nonetheless suddenly illuminate the underlying realities."

29. Still further, demeanour is likely to be of real importance when the court is assessing the recorded interviews or live evidence of children. Here, it is not only entitled but expected to consider the child's demeanour as part of the process of assessing credibility, and the accumulated experience of listening to children's accounts sensitises the decision-maker to the many indicators of sound and unsound allegations.

Lying

17. I remind myself of the *Lucas* direction from *R v Lucas* [1981] QB 720, elaborated on by Macur LJ in *Re A* [2021] EWCA Civ 451:

54. That a witness's dishonesty may be irrelevant in determining an issue of fact is commonly acknowledged in judgments...in formulaic terms:

“that people lie for all sorts of reasons, including shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure and the fact that somebody lies about one thing does not mean it actually did or did not happen and/or that they have lied about everything”.

But this formulation leaves open the question: how and when is a witness's lack of credibility to be factored into the equation of determining an issue of fact? In my view, the answer is provided by the terms of the entire 'Lucas' direction as given, when necessary, in criminal trials.

55. Chapter 16-3, paragraphs 1 and 2 of the December 2020 Crown Court Compendium, provides a useful legal summary:

“1. A defendant's lie, whether made before the trial or in the course of evidence or both, may be probative of guilt. A lie is only capable of supporting other evidence against D if the jury are sure that:

(1) it is shown, by other evidence in the case, to be a deliberate untruth; i.e. it did not arise from confusion or mistake;

(2) it relates to a significant issue;

(3) it was not told for a reason advanced by or on behalf of D, or for some other reason arising from the evidence, which does not point to D's guilt.

2. The direction should be tailored to the circumstances of the case, but the jury must be directed that only if they are sure that these criteria are satisfied can D's lie be used as some support for the prosecution case, but that the lie itself cannot prove guilt. ...”

18. What I have said above in relation to memory applies equally to a consideration of whether a person is lying.

Evidence of Children

19. In *Re P (Sexual Abuse: Finding of Fact Hearing)* [2019] EWFC 27 (Fam) MacDonald J summarised matters to consider when assessing the memory of children:

577. That said, and considering the authorities set out above, the Report of the Inquiry into child abuse in Cleveland 1987 Cm 412 and Report of the Inquiry into the Removal of Children from Orkney in February 1991 among others and the contents of the current ABE Guidance, I am satisfied that this court can take judicial notice of the following matters:

- i) Children, and especially young children, are suggestible.
- ii) Memory is prone to error and easily influenced by the environment in which recall is invited.
- iii) Memories can be confabulated from imagined experiences, it is possible to induce false memories and children can speak sincerely and emotionally about events that did not in fact occur.
- iv) Allegations made by children may emerge in a piecemeal fashion, with children often not reporting events in a linear history, reporting them in a partial way and revisiting topics.
- v) The wider circumstances of the child's life may influence, explain or colour what the child is saying.
- vi) Factors affecting when a child says something will include their capacity to understand their world and their role within it, requiring caution when interpreting children's references to behaviour or parts of the body through the prism of adult learning or reading.
- vii) Accounts given by children are susceptible to influence by leading or otherwise suggestive questions, repetition, pressure, threats, negative stereotyping and encouragement, reward or praise.
- viii) Accounts given by children are susceptible to influence as the result of bias or preconceived ideas on the part of the interlocutor.
- ix) Accounts given by children are susceptible to contamination by the statements of others, which contamination may influence a child's responses.
- x) Children may embellish or overlay a general theme with apparently convincing detail which can appear highly credible and be very difficult to detect, even for those who are experienced in dealing with children.

Police Interviews

20. The following is an extract from Family Court Practice summarising the law at para 2.338[2]:

Video-recorded interviews with children are hearsay evidence but may be admitted as evidence

of truth of the statement in family proceedings. Such interviews should be conducted in accordance with the detailed guidance in Achieving Best Evidence in Criminal Proceedings (ABE) (latest edition 2022) although this guidance is non-statutory. The court can make findings based on ABE evidence so long as it is alive to the hearsay nature of the evidence and the age of the children at the time of interview (*Re M (Sexual Abuse: Evidence)* [2010] EWCA Civ 1030). In *TW v A City Council* [2011] 1 FLR 1597, CA, the Court of Appeal found that the inadequacies of the ABE interview were so manifest, even allowing for a broad margin of latitude to anyone conducting such an interview, that no evidential weight could be placed on it. In particular, it was not sufficient for a judge to rely primarily on the fact that a child might be able to stand up to and overcome a thoroughly unsatisfactory interview; rather, a clear analysis of all the evidence was required and the child's interview had to be assessed in that context. In *Re W; Re F (Children)* [2015] EWCA Civ 1300, the forensic value of the ABE interviews was found to be minimal such that the trial judge had been wrong to attach any weight to them. Whether the flaws in ABE evidence are so fundamental as to render the interviews wholly unreliable is a matter for the trial judge who must analyse the process thoroughly to evaluate whether any of the allegations made in such interviews can be relied upon (see *Re E (A Child) (Evidence)* [2017] 1 FLR 1675, CA, *Re M-Y (Children)* [2019] 1 FLR 79, CA and *Re C (A Child) (Fact-Finding)* [2022] EWCA Civ 584 where the Court of Appeal dismissed a father's appeal against findings in care proceedings where criticisms were made of ABE interviews).

Hearsay evidence

21. Hearsay evidence of children is admissible pursuant to the Children (Admissibility of Hearsay Evidence) Order 1993 but I must assess the weight to be attached to it.

22. In *Re W (Minors) (Wardship: Evidence)* [1990] 1 FLR 203 Neill LJ at 227 said:

Hearsay evidence is admissible as a matter of law, but...this evidence and use to which it is put has to be handled with the greatest care and in such a way that, unless the interest of the

child make it necessary, the rules of natural justice and the rights of the parents are fully and properly observed.

23. Butler-Sloss LJ (as she was) said this at 214:

In considering the extent to which, if at all, a judge would rely on the statements of a child made to others, the age of the child, the context in which the statement was made, the surrounding circumstances, previous behaviour of the child, opportunities for the child to have knowledge from other sources, any knowledge, as in this case, of a child's predisposition to tell untruths or to fantasise, are among the relevant considerations.

24. And at 218:

The reliability of the person relating what the child said is of vital importance.

25. Although the Civil Evidence Act 1995 does not apply the provisions of section 4 may be helpful:

4 Considerations relevant to weighing of hearsay evidence.

- (1) In estimating the weight (if any) to be given to hearsay evidence in civil proceedings the court shall have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.
- (2) Regard may be had, in particular, to the following—
 - (a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness;
 - (b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated;
 - (c) whether the evidence involves multiple hearsay;
 - (d) whether any person involved had any motive to conceal or misrepresent matters;
 - (e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose;
 - (f) whether the circumstances in which the evidence is adduced as hearsay are such as to suggest an attempt to prevent proper evaluation of its weight.

Allegations

26. I have considered the allegations below. I have taken them in a different order for simplicity but before dealing with each in turn I will consider F, MB and CA's credibility generally.

27. I remind myself that general observations of demeanour should never form the basis of any finding of fact but they are part of the broad canvas of assessment of credibility and they feed into the assessment of the allegations.

Credibility

MB credibility

Allegations 1-4

28. In her witness statement MB commented on Allegation 1-4 by denying anything occurred except an argument. It is very clear from the BWV that her report at the time was of much more than this and at the outset of her oral evidence she admitted there was an assault. I have set out the details of the incident as she now describes it below but this was a wholesale retraction of her assertion that there was no assault. I found her explanation for not having been honest about this initially lacked credibility.

29. First, in relation to her witness statement she said "when I was speaking with solicitor, whilst explaining this I might not have known this was relevant so it might have not been fully detailed with the assault word". I simply do not accept she misunderstood the incident was relevant: At the time of her statement dated 29 March 2023 she had the amended interim threshold which pleaded CA and CB had been exposed to domestic abuse in late October 2021 when they "witnessed F assault MB" [A6]. It was clearly relevant.

30. Second, since 29 March 2023 she has not sought to put the record straight despite an opportunity to file a second statement in October 2023 (see the order at [B135/18]).

31. Third, when I said to her the allegation pleaded "assault" and she denied "assault" in her statement she said she "may not have understood the word assault" and a bit later explained she thought it meant "someone coming and beating or hitting you". She had explained in oral evidence that what happened was F had pushed her across the room and appeared to be saying she did not understand that was an assault. Yet, in the BWV she says to the police "and he pushed me there and he hurt me and he wanted to beat me with that thing [points to bowl] but I started screaming CA come look your father is beating me". If she understood assault as someone "coming and beating" it is hard to see how what she described to the police was not an assault in her mind. When I asked her about that her answer changed to "I thought assault was someone, suddenly just happened".

32. On her behalf in closing submissions it was said that MB had initially reported broadly what she now concedes (see her statement to the police dated 24 October 2021 [L123]) and since then there have been no further police reports of domestic abuse and MB and F “had reconciled their relationship and were determined to give the marriage a chance”. I do not find that is any explanation at all for the denials in a statement MB prepared for the court for the purpose of a case considering the welfare of her child in which these specific allegations were made and she was required to address them.

The Step Child

33. In the course of her oral evidence MB gave an extensive description of finding the book which the Father referred to in his first witness statement as “The Stepmother”. The importance of it is that it may have been the genesis for a fabricated allegation of sexual abuse by MB (pleaded as Allegation 14). Notwithstanding its importance there was no mention of how she found the book in any of MB’s filed documents and she did not avail herself of the opportunity to file a second witness statement. I find that curious.

CA stealing

34. In a similar vein, in giving her oral evidence she referred to previous dishonesty by CA in stealing lip balm from Primark. The central issue in this case (certainly in relation to Allegation 5 onwards) is whether CA is lying. It is very strange that MB had not thought to mention this previous, serious, dishonesty until giving her oral evidence.

F credibility

35. F denied Allegation 1-4 and in the police interview asserted he had “tried to calm [MB] down”. MB changed her evidence in relation to the allegations as noted below such that it was inconsistent with F’s evidence. F maintained his position in oral evidence which was contrary to the weight of the evidence from the BWV, MB and CA.

CA credibility

36. I have grouped my considerations of credibility below for ease of analysis but this should not be taken as an indication of compartmentalisation. As noted above I am surveying the broad canvas of the evidence.

Dishwasher

37. The social worker reported CA saying “CA has explained that the arguments which lead to physical abuse can be about trivial things for example if she unloads the dishwasher wrong” [C8]. Both MB and F deny they have a dishwasher ([C65/16] and [C44/36] respectively) which has not been challenged. There is the possibility this was wrongly reported by the social worker and I note

that in the CP medical report CA is reported to have referred to “arguments with parents re: washing dishes and so on” [F235] and similarly to the DSL “One example is- if I swore or didn’t do the dishes my Stepmom would tell my dad and we would all argue” [K3].

Motivation to make allegations

38. In written closing submissions counsel for F reminded me the parents do not have to prove an alternative explanation for CA’s allegations or prove that any alternative explanation they suggest is true. He then set out a series of evidential points that may suggest a motivation to fabricate which I pick up part way through:

77.

...

e) CA then moved to Pakistan between 2015 (aged 7) until 2017 (aged 9) to live primarily in the care of paternal family members. CA has stated that these family members were abusive towards her.

f) CA agreed in her oral evidence that this had caused her to resent her father.

g) In October 2017 she returned to her F’s care in the UK, but very soon afterwards F got engaged to, and then married, MB. MB came to the UK in April 2019 (when CA was 10, nearly 11).

h) CA stated in her oral evidence that she had felt jealous of F’s new wife.

i) MB fell pregnant in April 2020 (when CA was 11, nearly 12) and CB was born in January 2021, when CA was 12.

j) CA felt betrayed by MB’s decision to reconcile with F in late 2021 [E171 §20.3].

78. As Dr Gregory put it [at E172], “the high levels of control, parental conflict, relationship breakdowns, inconsistency and multiple mother figures which CA has been exposed to ... are all likely to have a significant impact upon her adaptive functioning” and that, “CA’s experience of being sent away and brought back by her father on a number of occasions in response to his relationship status has resulted in the development of an ambivalent attachment style” [E170 §20.2].

79. Dr Gregory also comments on CA’s struggle with the cultural aspects of her upbringing [E162 §17.1] and it is clear from all of the evidence before the court that there is a disconnect between the parents’ traditional Pakistani backgrounds and CA’s upbringing in the UK, with its more liberal values and her desire for, “a level of independence which would be considered developmentally expected for a western child of her age.” [E170 §20.1].

39. On that evidence counsel for F asserts “It is possible that her accounts are a fabrication, designed to engineer a move away from what she perceived to be an overly controlling and restricting upbringing, and a cultural background that she has resoundingly rejected and which she experiences as a source of trauma as opposed to a comfort” and suggests “It is possible that her “memories” of abuse arise out of contamination (the account put to her by Dr Cheng for example [see below]), confabulation ([by reference to the Step Child, see below]), conflation (of her experiences in the care of paternal family members in Pakistan), or a combination of the above.”

40. All of those points must be borne in mind when considering CA’s allegations but there are factors pointing the other way both specific to the allegations and more generally:

41. MB says:

[C69/30]

I have also been told by some of the school mums that CA has said to their children that I am her father's third wife and she would make sure that she got rid of me just like she did the second wife.

42. That evidence (and that relied upon by counsel for F above) does not sit easily with MB’s oral evidence that “with CA it was like friendly sisters, friends”. Nor is it obviously consistent with the delay between Allegation 14 allegedly occurring (around spring 2019) and the first report of the alleged sexual abuse to the DSL on 27 February 2023.

43. As regards a dislike of Pakistani Muslim culture, in oral evidence CA agreed she did not like it except for the cooking but said “if you put me with foster carers who were Muslim Pakistani and they didn’t adhere to the only way of discipline being abusing I would happily go to them, that was not the reason, I didn’t want to deal with my father’s controlling and abusive behaviour”.

44. F says:

[C45/39]

I cannot understand the reason CA would make such serious allegations about my wife and I apart from believing this is due to me taking her phone. I believe CA is angry that her phone had been taken away and that she was caught doing something which she knows is not appropriate. That is why she does not want to return home as she may be ashamed. [sic]

45. This relates to MB catching CA on her phone at the end of February 2023. The phone had been confiscated in summer 2022. F says that on 25 February MB found that CA had removed it from a bedroom drawer because MB was receiving email notifications about its use and confronted her about it (see further in relation to Allegations 7 and 13 below). He says:

[C45]

39...I feel she has gone to the extreme with her allegations as she knows they will not go unheard. If she had said her phone had been taken this would not have alerted the professionals to intervene. I feel uncomfortable saying this about my daughter but it is the only thing I can think of for her making these false allegations. I believe that CA is at a vulnerable age and is easily influenced. She many have been influenced by some of her friends. One in particular friend asks her inappropriate questions such as about my relationship with my wife. CA has also on occasion talked about a friend of hers in foster care who has a lot of freedom and I feel this has given CA the impression that a child can do what they want whilst in foster care. CA was reading a book called *The Stepmother* which is about a child being physically abused and I believe this may have influenced some of the things she has said to the professionals.

...

41. I believe CA is also angry with me as she felt she did not have as much freedom as her friends. [sic]

46. In his oral evidence he repeated that she wanted freedom and “didn’t have it in my home”. However, he accepted that her phone had originally been removed in summer 2022 and she did not make allegations against F and MB then and when challenged on how this suggestion fitted with MB’s evidence they were like sisters he said “I don’t know, maybe because [MB] has told me of this phone incident”.

47. I was also invited to consider the fact that CA wished to give evidence against her parents (as reported in the *Re W* analysis at [E210]). The Local Authority invited me to conclude that is consistent with her telling the truth: why continue with allegations she knew were untrue having already been removed from the family home, what advantage would there be to exposing herself to scrutiny unnecessarily? I was initially concerned that ignored the fact that CA may have thought she had to give evidence to support the allegations because without a finding on the allegations (true or otherwise) she may be returned home. However, the Guardian reminded me that CA’s evidence when asked about a delay in reporting was:

Q His response to finding out about phone usage was excessively controlling

A Yeah

Q And having enough of that caused you to speak to [the DSL]

A Yeah

Q Why speak to [the DSL] at a point when F was in the house, why safe to tell professionals then but it wasn't safe earlier

A I was a bit older, I was 2-3 years older, more mature, I just refused to go home and if they took me home I would have run away, when I left on the Monday morning I was not going to go home and I went home after that but the police knew about that, they sent me home but no-one had told F and after that they took me away to a friends house and I refused to go home so there was nothing he could do if I wasn't there

Q Part of your motivation for speaking to [the DSL] was to not return home but to go into foster care

A I didn't know it was like it was, I thought it was like a children's home, back in 2020 and 2021 I thought they would keep me home and just speak to my parents and then I found out that they couldn't force you to go home

Q How did you find that out

A My friend's grandmother was a foster carer and she was like they can't force you to go home...

48. In other words, in CA's mind she cannot be forced back home whatever the outcome of this fact finding hearing. In those circumstances if the allegations are untrue there would not be a motivation to persist in them, she could have just told the Guardian she did not want to go through with giving evidence. Accordingly I do place some weight on the fact that CA gave evidence.

The Step Child

49. As above, F says that the book referred to may have influenced some of the things CA has said to the professionals: "it is possible that this book has affected her behaviour and led her to make false allegations" [C113/11]. However, even if the content of the book may have given CA the story it does not explain the motivation to fabricate the allegations.

50. CA denied having heard of it or read it. She said she only read books from school. No enquiries have been made of the school whether that was a book held within their library at the time.

51. MB's evidence was the book was discovered when CB was little, that would make the incident approximately 2 years before the sexual abuse allegation (Allegation 14) was made. I note

that in the intervening years CA may have forgotten she had read the book; if she had she would have had to have remembered the content and waited 2 years to rely upon it to fabricate her allegation. Whilst that is possible it is not likely. Further, I found her oral evidence on the point convincing. She said she only read books from school and she would have run the risk of someone checking if it was in the school library. If she had read it and it was from the school library that would have risked undermining her allegation if it were fabricated. I accept an alternative is that she could have obtained the book from elsewhere, perhaps a friend.

52. On the other hand it would take some degree of thought for the parents to point to the book as being source material for a false allegation if they had not in fact seen it in CA's possession and if the parents were making it up it is strange F got the name wrong in his statement ("The Stepmother" when in fact I understand the book is called The Step Child).

53. I find myself being unable to determine if CA had or had not read the book but in any event there has been no evidence seeking to compare the nature of the allegations made against MB in Allegation 14 to those events depicted in the book. All that it amounts to is counsel for F asserting in closing that the book "is autobiographical, describes an incident whereby the stepmother facilitated sexual abuse by a man". Save for the involvement of the stepmother the allegations CA makes differ: in this case the abuse is alleged to have been perpetrated by the stepmother (MB) and the nature of the abuse differs in that the Step Child refers to the child masturbating the adult male perpetrator whereas in this case the allegation is of CA being forced to perform oral sex on MB.

Dishonesty about Birthday celebrations

54. In the foster care log for 12 June to 8 August 2023 it is recorded:

[Z45]

It was CA's birthday on [date given] and her Carers took her out for dinner, gave her cards and wrapped presents. She was overwhelmed and said she has never had presents for her birthday before. CA said her parents never celebrated her birthday.

55. This is challenged by MB who has disclosed a short video and a number of photos which appear to contradict this. From the candles on the cake in the video this would appear to be her tenth birthday. As noted below CA's tenth birthday would have been soon after she arrived in the UK. The photos seem to be of either 2 other birthdays or 2 other birthday celebrations, the date(s) is not clear.

56. When cross-examined about it CA said her parents “hadn’t celebrated birthday in a long time” and she clarified “not properly”.

57. Given the photos there does seem to be some exaggeration on the part of CA.

Bruising to knee reported in SARC report

58. There was a report of bruising to the knee in the SARC report:

[H2]

3- 3X3 healed brown scar over the left knee joint. Brown/ blue tender bruise 2X2 cm over the right knee joint. Both occurred after fell on the floor while she was being beaten.

59. When Dr Rahman gave evidence he was asked about this report. He said that the life span of a bruise is 1-2 weeks so “to last 3 weeks and be visible as described would be unlikely” although later he accepted “bruises resolve at different rates and in different ways” but “the description is of a blue tender bruise which makes a difference, if it was just the colour I would struggle to give an answer but tenderness suggests it was 1-2 days old”. In other words CA’s report of it being caused by MB or F is not consistent with her having been removed from their care on 28 February 2 weeks prior to the SARC examination on 13 March 2023. That would be consistent with the CP medical report of 1 March 2023 which does not identify the knee bruise and expressly reports CA saying “Does not have any bruises currently” [F235]. Dr Lomp’s statement dated 23 November 2023 confirms that “there was no injury to the left or right knee visible at the time of examination”.

60. CA had no knowledge of Dr Rahman’s oral evidence when she gave evidence the following day. She said “It wasn’t tender, they were both quite old, healed in that they weren’t painful”. Whilst that might explain the inconsistency identified by Dr Rahman it does not explain the absence of report of these marks on examination for the CP medical by Dr Lomp.

61. I find on the balance of probabilities that CA has misattributed the marks to her parents. That does not necessarily mean she has done so maliciously or in bad faith. In fact, it may tend to support her case that she has been repeatedly physically abused such that almost any mark is attributed to her parents’ actions. In the circumstances I find the evidence is neutral.

Visibility of injuries

62. Concerns have been raised about CA’s credibility in relation to Allegation 7 and I have considered this in more detail below.

63. More generally her credibility is challenged in relation to the absence of a record of anyone noticing injuries caused by alleged assaults and I have considered this in more detail below under Allegation 8.

Contradictory evidence about F

64. As to the allegations generally against F, CA was referred to Dr Cheng's note (see Allegation 5 below) which records "Only feels safe when her father is back" [P1] which tends to suggest no concerns about F's behaviour. She said that was not quite accurate but when F was home F and MB would "watch something on TV and I'd go to room and get on with my own things", my inference being there was then less opportunity for abuse to be perpetrated. I found that a credible explanation.

Evidence of CA telling lies

65. Again, I remind myself of the words of Peter Jackson LJ in *B-M (Children)* referred to above. The Guardian accepted there were exaggerations in CA's evidence (in relation to Birthdays as recorded above) and lying (to Dr Cheng about being locked in her room) but that does not necessarily detract from her credibility in relation to the central allegations.

66. As to a motivation to lie CA candidly accepted she was cross at MB at the walk in centre (see below Allegation 5) and that she "wasn't really happy with life in general...I wasn't fitting in and I felt like I was a burden to my father and the way MB had worded things it was like I was burden to her and was ruining her marriage".

67. She admitted that she lied to Dr Cheng on 5 January 2020 saying that MB locked her in her bedroom when in fact there was no lock but she gave an explanation for that saying:

...I didn't want to say she hit me and they did nothing about it so I over exaggerated, they came to house and my father played it off and they didn't get involved again

...I only had a little bit of bruising on hand...she used to shout at me and that was not that big and I wanted something to back that up and them to come to the house and I could speak with them and get me out, I didn't have the freedom to tell them I needed to get out of there and after that both of them had a really big argument with me and I was too scared to do it again, they hit me

68. As to lying more generally F says:

[C45]

40. I have said in the past CA lies about trivial things and even her school has been reported in the papers so state that she can cover things up when she has done wrong. There was an occasion that she was given detention as she denied having information about an incident involving someone putting gum in a child's hair. CA said she did not do anything wrong but got the blame as the male Teacher did not like her. I spoke to the Headteacher about this as I was concerned that she was being treated unfavourably. I was then told that CA was dishonest about her involvement and kept information to herself, so her friend did not get into trouble. In the house if something broke, she would deny having any knowledge of it. [sic]

69. CA admitted to doing so “to save my own skin” and that was her explanation for a reference in the CPOMS record for 1 November 2021 which said “There have been occasions where she has not been honest and it can be difficult to get the truth out of her” [K18], she said if she had got a detention F would have “beaten me up...I would have to lie to get out of trouble”.

70. On the other hand, there were occasions when CA appeared to be downplaying the extent of her allegations: early in cross-examination she was asked if F was ever verbally or physically abusive before she came to the UK and she said they did not really communicate but she recalled him “slapping me and shouting but not very often”. When being asked about marks on her knee noted in the SARC medical report she said they were caused when she was hit on the head and fell on the floor but “I can’t say when, I don’t know if it was F or MB”. If she was seeking to fabricate allegations this would have been an opportunity to do so.

Delay in reporting

71. I was referred to the Crown Court Compendium in the course of submissions, in particular page 10-29 Example 3 which reads as follows:

Example 3: A child’s reason for silence

Experience has shown that children may not speak out about something that has happened to them for a number of reasons. A child may:

- be confused about what has happened or about whether or not to speak out;
- blame him/herself for what has happened or be afraid that he/she will be blamed for it and punished;
- be afraid of the consequences of speaking about it, either for him/herself and/or for another member of the family (such as {specify});
- may feel that he/she may not be believed;
- may have been told to say nothing and threatened with the consequences of doing so;

- may be embarrassed because he/she did not appreciate at the time that what was happening was wrong, or because he/she enjoyed some of the aspects of the attention they were getting;
- simply blank what happened out and get on with their lives until the point comes when they feel ready or the need to speak out {e.g. for the sake of a younger child who he/she feels may be at risk};
- may feel conflicted: loving the abuser but hating the abuse.

72. This is a template of what a judge may say to a jury but it is useful to remind myself of the different explanations there might be for a child not reporting an allegation for some time.

73. In relation to the non-reporting of abuse after the incident between F and MB in October 2021 she said although F was arrested and out of the family home he had denied the allegations and MB wanted him back and if she had spoken against him he would have done something and brought her back. That is consistent with MB's oral evidence that after the incident in 2021 "I tried to contact family members and instead of supporting they said don't believe and if you keep saying you'll end up divorced", MB of course did withdraw her allegation and F returned to the family home.

74. CA said "I was too scared of him...I didn't have the guts to say anything". She was challenged on the apparent inconsistency between that and speaking negatively of F in relation to his abuse of MB when the police attended on 24 October 2021 and explained that MB had "told me to tell them what happened and there was already enough other people who had also heard it" (the neighbours had in fact called the police). That was also challenged because she had told the social worker that F was "mind controlling" and "we are under his control" [F71] i.e. she felt able to report adversely on F's behaviour to the social worker in some respects; she said "the mind controlling is like normal" by which I understood her to mean not as serious as the now alleged physical abuse the report of which she felt would incur F's anger against her.

75. CA had an explanation for not reporting abuse to the social worker after the visit to the walk in centre in 2020 (see below in relation to Allegation 5).

76. It was put to CA in cross-examination that F's response to finding out about her use of the previously confiscated phone was excessively controlling and CA agreed and that was what caused her to speak to the DSL at school. She was asked why she felt safe to speak then when she had not felt safe enough following the visit to the walk in centre in January 2020 and the incident in October 2021. I found her answer had the ring of truth: she was more mature now than 2-3 years ago, she

had previously thought removal from home would be to a children's home, that children's social care would "keep me home and just speak to my parents and then I found out that they couldn't force you to go home", she found that out from a friend's grandmother who was a foster carer.

Conclusions

77. Whilst I have found exaggeration by CA as noted above and she has admitted lying I need to be careful to keep that in context and remind myself again of the *Lucas* direction. Just because CA has lied about some things it does not mean she has lied about everything.

78. Notwithstanding a detailed forensic examination of her honesty there is really very little in the way of substantive lies and CA has maintained her allegations over time and to different individuals (the DSL at school, the social worker, police and in court).

1: In October 2021 F assaulted MB by standing on her foot

2: In October 2021 F assaulted MB by grabbing her round the throat

3: In October 2021 F assaulted MB by threatening to hit her on the head with a bowl

4: In October 2021 F pulled MB into the family home when she tried to leave

79. I will take these allegations together as they arise from the same alleged incident on 24 October 2021.

80. The allegations are denied by F. F says that he "held MB's shoulder to calm her down".

81. MB initially accepted F stood on her foot but said it was an accident, she said it was F who left the house not her and F "had his hands on my shoulders as he was trying to calm me down".

82. In her witness statement MB says (my emphasis):

[C66/19]

F did not assault me but it is correct that we did have an argument. Both CA and CB were in their room and not present in the same room as us. F was out working and I had called him to ask when he would come home because CB's pushchair was in the car. I wanted the pushchair because I wanted to go for a walk and meet my friend for a coffee. The plan was that myself, CA and CB go for a walk and meet my friend for a coffee. F said that I should not go because it was raining and it was a long walk from home. I just really wanted to go out and at that time had been struggling within myself because I had had my son and it was Covid and I was just feeling a bit low. I wanted to go and meet my friend and that was it and I wanted F to come home to give me CB's pushchair. I was not happy that F was trying to put me off from going for a walk so I hung up on him, When F came home I was upset and angry at him for not

coming home and giving me the pushchair for CB to let me go and meet my friend for a coffee. I was upset, angry and emotional and F held me to calm me down. I called out for CA because I knew if I called for CA F would go out. I can recall CA coming into the room and at that point F left the house.

83. In her oral evidence she said:

...when I was crying I shook a cupboard and there was ornament and things fell from that on the floor then he put his hand around my left shoulder and <u>took me towards the kitchen wall</u> [mimes pushing] pushing, it happened quickly and there was a soft toy on the floor or cushion his foot might have rumbled, something came between and one of his foot came on one of my foot very hardly, very forcefully on top skin of foot and caused my foot bruising
--

When we reached the wall I don't remember if he held me

<u>There was an ornament that fell from the cupboard</u>
--

<u>He didn't hit me with it but it was like he was going to hit me</u>
--

84. The contemporaneous police log records:

[L32]

On 24/10/2021 at approx. 1345 hrs, MB has been at home in [address given] after arguing with her husband F after his controlling behaviour has stopped her being allowed to see her friend. This is a reoccurring incident whereby F controls who MB sees and also monitors her via cameras on the outside of the house and dash-cameras in the car. When F returned home he screamed at MB before standing on her foot, grabbing her around the throat to the point she cannot breath and pushing her into the kitchen. He has also picked up a gold bowl from the floor and held this over MB's head threatening to hit her with it. F [sic] has attempted to escape but has been pulled back by F into the house and pushed again.

[L35]

Suspect denied the allegations in interview stating the victim had started screaming and shaking the cabinet in front of their young son so he had tried to calm her down.

85. The BWV for 24 October 2021 records a very emotional MB, she is asked what F has done, she starts by saying nothing and does not know why the police were called but when asked what has happened she describes wanting to go to see a friend and calling F who started screaming and

shouting and then returned home where he started shouting at her again, MB “shoved this cupboard” and told him he was making her go mental by controlling her. She then describes F grabbing a gold coloured bowl and “did like this to me and pushed me there and he hurt me and wanted to beat me with that thing [pointing to the gold coloured bowl]...and then he left the house”. She identified a mark to her neck (saying “he did do that”), right upper arm and identified a bruise on her foot.

86. The log records that on 3 November 2021 MB went to the police and “provided a withdrawal statement” [L37]. On 13 November 2021 PC Cullivan visited and the log records:

[L37]

I confirmed with her that she was AIO [all in order?], and that she was happy with the withdrawal statement, and that she had not been forced into it. She told me that it was her decision only, and that she wanted to try give her marriage a go with sus.

87. At the time MB accepted shoving a cupboard which is consistent with needing to be calmed down as F and MB (until she gave oral evidence) allege. However, the other answers to police seen on the contemporaneous BWV are inconsistent with what F says happened and what MB had said happened in her witness statement.

88. F says:

[C40/26]

My wife was angry as she felt that I refused to let her go out. There were raised voices and I put my hand on her shoulder to calm her down. We were in the living room, and she was standing near the cabinet so some things fell off when she nudged it. I did not put my hands around her throat or try to hit her with an ornament as reported by CA. CA came into the room with CB in her arms. I left the house to calm the situation.

89. In his oral evidence he said that what MB told the police and in her oral evidence was untrue. He said he did not put a hand around MB’s throat, did not threaten her with a bowl or hold it in a way “where she felt threatened” and did not push her across the room. He accepted picking up a bowl from the floor and putting it back on the cupboard.

90. When F was asked by me why he thought MB was lying his answer was:

Only thing is she panicked in the video and didn’t know what she was trying to tell to
--

the police

The only thing I can think of was neighbour upstairs who called the police, I had reported them to the police when they were using drugs and they knew I had reported so they might have said something to her that she must say something to the police, this is my explanation in my head

91. The second possible explanation lacks credibility. If the neighbours upstairs were trying to frame F then MB would have had to have been complicit and gone to them before F returned home to plan what was to be said. There is no evidence MB had the kind of relationship with them that would be expected to be a precursor to such a conspiracy. In any event CA would have had to have been part of the conspiracy which was not suggested to her.

92. The first possible explanation also lacks credibility. It is hard to see how panic about the police arriving unexpectedly would lead MB to make a up a whole series of allegations against F. Again, that would not sit easily with CA confirming the assault on the arrival of the police.

93. CA was spoken to by a social worker as part of a single assessment after the incident (my emphasis):

[F71]

In regards to the recent assault on MB, CA said "MB wanted to go to Costco [Costa?] for a coffee [sic] but Dad got aggressive saying you're always going out". He went to Asda and took photos to prove that there wasn't a Costco [Costa?] there. He returned and they argued and whilst CA was feeding CB, her Dad "took her (MB) from the door to the kitchen and tried to hit her with a basket ornament". CA became upset and tearful at this point in our discussions. She said "Dad had his hands around Mum's throat", she stated that she screamed and her Dad "ran off and the neighbours called the Police." She spoke of MB wanting to "patch things up" after the incident and talked to her father on the phone. She said she heard him say he would "ruin her life". CA informed me "I want to stay with Mum. I want to stay in this house but without him".

94. In oral evidence CA confirmed that was accurate. It was put to her there was no mention of Allegation 1 (F standing on MB's foot) and CA said that occurred but "I had a young child in my arms at the same time, he was crying and there's someone very close to beating someone up and I don't know what to do so not paying full attention".

95. She said (my emphasis):

He had the thing in his hand and he had her against the wall opposite and he had it up here [right hand raised]...he didn't actually hit her and he just dropped it...and then he just left the house

96. She also described seeing F's hand reaching out as if to grab something and seeing it positioned in such a way that it appeared to be on MB's neck although she could not see it touching the neck as her view was partially obscured by a narrow section of wall.

97. When cross-examined by the Local Authority there was the following exchange with CA (my emphasis):

Q October 2021, you've talked about an injury to MB's toe and holding bowl, explain the sequence of events

A F had come home after like he had been really mad, they were arguing near door with the stand an ornament, she had shaken the cupboard out of frustration and some of the things fell and she was speaking to him and I can't remember what saying, shut your mouth or something like that and he grabbed ornament and walked her back to the narrow wall and he had the ornament behind him as if about to hit her and dropped it and left the house

Standing on foot was when coming towards her

I was present for the whole incident and at start CB was in food chair and I'd taken him out and was holding him and I was watching from the kitchen doorway

JQ Where was the strangling

A At the end

He walked her to that place, she was backing away and he had ornament and when against wall he had his hands around her throat

He had hand around, right hand

JQ I thought you said that hand was holding the ornament

A He had the hand on throat you could see from my left and the left side and the ornament was in the other hand, the left hand

98. It can be seen from the underlined sections above that CA's evidence in relation to which hand was used for the ornament changed and her evidence as to whether there were hands or a hand around MB's throat changed. That said, I note that CA did not seek to embellish or exaggerate her evidence. She was asked about Allegation 4 (MB being pulled back in to the family home when she tried to leave) and said she did not think that happened and did not see it.

99. In her oral evidence MB denied that CA was present until she called to her at the end of the incident but in the BWV transcript MB says:

I did not hit anyone I did not touch anyone I just shook the cupboard and then my son [CB] started crying and she [CA] took my son and he [F] grabbed that [pointing to gold bowl]

100. My understanding of that is that CA was proximate to the assault, not that she was in another room and took CB, there would be no reason to take CB if CB was in another room. That is consistent with CA telling the police after MB's description of the whole incident that "He did, I saw it" and it is also consistent with the police log which records F telling police in interview that "the victim had started screaming and shaking the cabinet in front of their young son" [L35]. What MB now says happened is consistent with CA's oral evidence which tends to suggest she had witnessed the whole event. Finally, it is consistent with the closure record from the previously involved local authority which records:

[F194]

She confirmed the incident in October 2021 did happen and was witnessed by CA

101. I find on the balance of probabilities both CA and CB were present at the time of the assault.

102. In light of CA being unable to say, F denying it and MB saying that F standing on her foot was because of something that was on the floor I cannot find Allegation 1 proved on the balance of probabilities. Assault implies an intention and it appears the evidence at its highest is of a stumble by F.

103. I find Allegation 2 is proved on the balance of probabilities. Whilst F and MB deny it and CA's view was not direct she saw F's hand in a particular position that lead her to believe it was on M's neck and what M reports to police in the BWV (identifying a mark to the neck) is consistent.

104. I find Allegation 3 is proved. MB is consistent between the BWV and her oral evidence that an ornament was used to threaten her and CA's evidence corroborates that.

105. I do not find Allegation 4 proved: it is not now recalled by CA and is denied by MB and F. I accept MB's evidence, corroborated by CA, that M was pushed across the room by F.

106. Accordingly I make the following findings:

On 24 October 2021 F assaulted MB by pushing her across a room and at some point in doing so placed a hand on MB's neck and raised an ornament as if to strike MB. The incident occurred in the presence of CA and CB.

5: On or about 5 January 2020 MB physically assaulted CA causing a bruise to her hand

107. Denied by F and MB.

108. There is a walk-in clinic note for 5 January 2020 prepared by Dr Cheng:

[P1]

whilst during clinics- safeguarding concerns arised from reception. Other patients who were in waiting area disclosed concerns after overhearing step-mother MB conversation in Urdu with patient. Confirmed with [] at reception. Generally MB being threatening and saying that she will beat up CA back at home... [sic]

Managed to separate and speak to CA in private. Took a while for patient to open up but eventually reports that it all started about a year ago when her father F got together with now step-mum MB. States has been beating her up behind father's back and locking her up in her room for hours at a time. could be a couple of times a week. Emotionally abusing patient and threatening to disclose secrets (?)- ...Patient reports does not feel safe and is unhappy at home. No weapons used. physical beatings. reports last beating had a bruise to back of right hand only few days ago, nil bruises elsewhere. no bony injuries.

[P3]

vague bruise on back of right hand- resolving.

109. The police log for 5 January 2020 records:

[L40]

CIRCS: TELEPHONE RECEIVED FROM DR CHENG AT THE [] WALK IN CENTRE. HE STATES THAT CHILD ATTENDED THE WALK IN CENTRE WITH STEP MOTHER DUE TO HAVING AN UPSET STOMACH FOR OVER 2 WEEKS. WHILE THE TWO WERE WAITING IN RECEPTION, OTHER PATIENTS REPORTED THAT MOTHER WHO SPOKE TO CA IN URDU TELLING HER THAT WHEN THEY GET HOME SHE WOULD ABUSE CA BY HITTING/HURTING HER. DUE TO THIS DR CHENG SPOKE WITH CA ALONE BUT THIS WAS MADE VERY DIFFICULT BY STEP MOTHER WHO WAS

VERY RELUCTANT TO ALLOW THIS. ONCE ALONE CA HAS DISCLOSED EMOTIONAL AND PHYSICAL ABUSE BY MB (STEP MOTHER) FOR OVER A YEAR THAT SHE AND FATHER HAVE BEEN TOGETHER. CA ALSO DISCLOSED THAT SHE DOES NOT FEEL SAFE AT ALL IN STEP MOTHERS CARE, SHE BELIEVES RELIGIOUS AND CULTURAL REASONS TO BE THE REASONS BEHIND THE ABUSE, CA ALSO REPORTED THAT SHE IS LOCKED IN HER ROOM UNTIL FATHER RETURNS HOME. MB IS STATED T HAVE BEATEN CA NUMEROUS TIMES IN THE PAST, DR CHENG CONFIRMS THAT THERE IS BRUISING EVIDENT ON THE BACK OF CA'S RIGHT HAND WHICH FITS WITH THE INFORMATION GIVEN. [sic]

...

[L42]

I attended the address to complete an assessment of CA following the 3rd party disclosure shared with us this evening. It was decided that due to the threat that was overheard she should be visited to be spoken to this evening.

CA did not make any disclosures surrounding her step-mother or any abuse, worries, concerns or changes needed at home. She stated she was happy at home and felt safe. She told me she had people she could talk to if she needed to and was happy to talk to people at school if needed. She spoke about her conversation with the doctor but gave a different account to the doctor - stating the doctor explained someone had heard an argument between her and her mother because she didn't want them to lose their place in the line. CA was an articulate, young female and able to speak freely. We spoke out of earshot of the parents.

110. There is a social work referral record dated 6 January 2020:

[F36]

Due to this, Dr Cheng spoke with CA alone. This was made very difficult by Step-Mother, who was very reluctant to allow this. Once alone, CA has disclosed to Dr Cheng. Emotional and Physical abuse, by MB for the 1+ year that she and her Father have been together...

MB locks CA in her room, until her Father returns home. MB has beaten CA numerous times in the past. Dr Cheng confirms that there is bruising evident on the back of CA's right hand - which fits with information given.

111. In the single assessment commenced on 7 January 2020 it is reported:

[F55]

She retracted the statements she has made to the GP stating that she did not tell the GP that her step mother abuses her at home. CA reported that her stepmother took her to the Walk in Centre as she has been having tummy aches on and off for over two weeks. She reported that she was due to go back to school the following day. Her stepmother was also unwell, but she was not given an appointment. She reported that when she arrived at The Walk in Centre, there were too many people in the waiting area, and it was a bit stuffy. Her stepmother wanted to go out to get some fresh air as she was feeling sick. She asked her to stay inside so she can hear her name when is called out, so that she does not lose her place on the queue. CA reported she stayed inside for a while, before going outside to check on her stepmother. Her stepmother shouted her for coming out, as she was annoyed that she will lose her place on the queue which she has waited for such a long time, and that she would be angry with her if they leave without being seen by the GP. CA was due back in school the following day so it was very important that she was seen by the doctor and lose her place in the queue. [sic]

...

She stated that when the GP was speaking to her alone in The Walking In Centre, he asked her questions such as, do you get hit or beaten up at home by anyone, do you feel safe at home, are you happy at home etc. She said that she was angry at her stepmother for shouting at her in front of people, and it is possible that she may have answered yes to all the questions without thinking, because her stepmother was also angry at her.

112. Within the single assessment record there is a reference to a social work visit said to have been on 6 January 2020 although the date appears erroneous in the text as the "Timeline" at [F57] records it as being on 7 January and that fits with the CPOMS entry noted below and the date the single assessment started. It is recorded:

[F61]

I asked her to lift her jumper so that I can see the bruise which the GP had referred to, but there was no bruise and CA was adamant that she had no bruise and that she does not get hit or beaten up by MB or anyone else at home.

113. There is a CPOMS entry dated 7 January 2020 recording a visit from the social worker:

[K21]

CA explained to [the social worker] that her stepmother didn't want her to go outside because she didn't want to miss her appointment, when their number is called. She felt that people have misinterpreted what had been said - saying that the way that her stepmother spoke to her is due to her culture and they speak to children harshly to get them to do things.

In meeting with [the social worker] today, CA retracted previous comments and tried to 'explain them away'.

114. When Dr Cheng gave evidence he said that there was nothing apart from CA's allegation that would have caused him to be suspicious of the "shadowing" on the back of CA's hand and it might have been difficult to identify it as a bruise in those circumstances.

115. Dr Rahman said given the description was of a vague bruise resolving on 5 January 2020 it was "very feint" and it was possible for it to not be obvious on 6 January 2020 (or indeed therefore 7 January 2020 when I suspect the visit actually took place), especially by a social worker. He was unable to say whether it was more likely there was never a bruise at all or more likely there had been a bruise but it had resolved.

116. When CA gave oral evidence she was asked to give more detail about what caused the bruising, she said it was MB digging her nails into her hand because she could not shout at her as other people were present, it was "a warning". She was not able to give more detail of the incident saying "it was a very long time ago".

117. She explained she had not reported MB's abuse to F because she "didn't have a relationship with him" and "he would have taken her side anyways".

118. She was challenged on why the abuse was not reported to the police on the evening of the attendance at the walk in clinic, nor to the social worker who attended her school after the event. The chronology is important: the consultation with Dr Cheng was on the afternoon of 5 January 2020, the police attended the family home that evening and according to their log spoke first to F to whom "it was explained...that someone had overheard a comment stating that CA would be hurt and abused later" [L42], then to CA (who had been in bed) and then to F to whom they spoke "at length...about concerns raised today but did not go into great detail with him" [L42].

119. CA's explanation was that F had told her to "take it back" or "he would have beaten me up a lot and sent me back to Pakistan" and before speaking to the social worker F knew about the allegations she had made against MB. She thought that F had been told of them when the police

visited on the day of the report to Dr Cheng. That is consistent with F's oral evidence which was to the effect that the police had told him CA reported "bruises on your hand and you were locked up in the room".

120. However, that would not explain how CA knew not to repeat the allegations to the police given they arrived and spoke to her before speaking at length with F; it could conceivably be the case he was told by MB and spoke to CA before the police arrived. On this CA said:

Q You said that you thought MB was listening at the door

A She told F that when we got in to the car, she said I was eavesdropping, didn't completely openly speak but said she could hear most of it

Q Did she tell F what had gone on

A I think she told him when we got home, not in the car ride

121. That would be consistent with MB's oral evidence that she rang F whilst CA was in private with Dr Cheng and F told her that was not right and CA should not have been left alone so MB returned and knocked on the door and when not let in went back, called F again and then returned and knocked again. She was asked if she tried to "listen in" and said it was "not something I was interested in". I find that entirely incredible given she had been told by F that CA should not have been left alone. I also find it highly likely there was at least some discussion of what had gone on during the car journey home given the telephone conversations that had apparently happened between MB and F.

122. F's oral evidence was that when he went to get CA up after the police arrived he only had 5-10 seconds before he took her back to where they were, in the living room. If correct and MB had not told F what CA had earlier alleged that gives a very small window of opportunity to coerce CA to withdraw the allegations or warn her not to make any allegations.

123. CA was asked why she was not able to tell police of the allegations when they record they were out of earshot of the parents [L42] and she said they were not in fact out of earshot and if she had asked to move out of earshot F would have asked why. F denied that in oral evidence saying that the female officer spoke to CA in the bedroom which was separated from where he was by at least one closed door. That does not mean that CA did not think he would be able to hear. This explanation for not repeating the allegations does not rely on F having the full picture of what had been alleged or the opportunity to coerce CA into silence.

124. CA was asked why she was not able to tell the social worker given she was then away from the family home and said that “I’d have to still go home and F would be close to beating me to death and they didn’t do anything on the first day”. The implication of this was that she felt let down by not being removed initially so did not want to take the risk with repeating the allegation given the threats by her father. She said he had threatened to kill her and she reported that to the DSL on 27 February 2023 although it is not documented. I note that by the time CA saw the social worker there would have been time for F to have threatened her and he would, on his own account, have been aware of the allegations CA had made. F suggested in closing that there was an inconsistency between this evidence and what CA said to the social worker reported at [F59] which is that MB was “kind, caring and they have a close relationship”. That, it is said, went further than simply denying the allegations. It does but is not inconsistent with CA’s explanation of why she did not report the allegations to the social worker, exaggerating how good the relationship with MB was to undo the allegation that had been made against her is an entirely plausible response for someone who would “have to still go home” to somewhere CA felt at risk of harm if she repeated the allegations.

125. When it was put to CA that she was angry with MB because “this person who wasn’t your mother was shouting at you” she agreed. It was put to her that was the reason for fabricating this allegation and she said “It was to escape abusive household, maybe it was just about her because I was cross with her but I didn’t make them up”. I found this answer quite candid, she accepted some motivation to complain about MB but stuck to her guns that the allegation was true. I also note that on MB’s oral evidence all that happened to provoke what she characterises as lies to Dr Cheng was MB was saying “we are going to lose the appointment if we go [to get something to eat]...she kept getting annoyed and frustrated so I said if you don’t stop I will tell F you don’t want to wait for appointment” and she indicated that she did not speak in a raised voice. I find it lacks credibility that mild rebuke would provoke CA to fabricate the allegations against MB made to Dr Cheng; I accept she lied about a lock on the door but she gave a credible explanation for that.

126. F’s oral evidence was that having spoken to CA the next day or day after she explained “She wanted to go into town whilst in the walk in centre and she was upset and angry because MB wouldn’t allow that so she made up the allegations to Dr Cheng”. Again it seems a very minor irritation to provoke the wholesale lies about MB’s behaviour to Dr Cheng.

127. CA was also challenged about a photo at [Z76] dated 29 January 2020, a few weeks after the allegation to Dr Cheng, in which she can be seen hugging MB from behind. She said she as “faking it, if I was to act sad I wouldn’t be living on this earth, if my father had seen, F asked me to

pose, I did what I was told". I place little weight on the photo, it shows a snapshot in time not the lived experience of the child.

128. I note that the record made by Dr Cheng of what CA reported was fresh in his mind according to him; the notes were written up before 16.25 that day at the latest, the consultation having started around 14.26 [P3]. Dr Cheng's record is also consistent with what was reported to have been the safeguarding referral referred to above.

129. Although Dr Cheng's note is not explicit the allegation in relation to the bruise to the hand is implicitly against MB as CA said she was beaten by MB behind F's back.

130. In closing submissions F reminded me the evidence of what was overheard in reception was multiple hearsay and little weight can be attached to it. I accept that. What is more important is what was directly reported to Dr Cheng by CA. On that it is said that Dr Cheng's questions to CA are not recorded and the allegation made by CA "mirrored" what was reported from reception; I do not accept that they "mirrored" the allegation from reception to any great extent, save that they were against MB and related to physical abuse the allegations were quite different.

131. F also reminded me of the ABE guidance about leading questions (2022 edition paragraphs 3.69 and F2.4) although I also note that paragraph 3.51 advises interviewers to move from open to specific closed, forced choice and leading questions in that order. Dr Cheng's oral evidence was that "I try whenever I see a patient we ask open questions and then go into specifics, I try to keep it as open as possible" and later "I would have asked a mixture of open and closed questions". I accept that there is a risk that leading questions may have influenced CA's responses to Dr Cheng and without the questions it is impossible to form a clear view of that. However, I find it difficult to accept that CA would have been prompted to make up these allegations, unrelated to the incident alleged in reception, because of the nature of the questions and a mild rebuke in the manner described by MB or because CA wanted to "go into town".

132. I also bear in mind that the nature of MB's rebuke in the waiting area was such as to lead a member of the public to report a safeguarding concern. That is not a commonplace thing. The fact MB characterises the incident in a way that would never have justified anything but a malicious report (and there is no suggestion the reporter was known to MB) seriously undermines her credibility.

133. I find CA's explanation for not reporting to the police that night (fear of F overhearing) or to the social worker at school on 7 January 2020 (not having been removed as she had hoped) are both

credible. I also bear in mind that CA gave a believable explanation for having lied about MB locking her in her room. It is plain that on a cursory view of the home that allegation would not have been substantiated and CA would have known that; it is consistent with a cry for help and wanting to prompt removal. Having not been removed I can well imagine an 11 year old fearing worse repercussions if she persisted in the allegations.

134. On balance I accept CA's allegation is true and find:

Prior to 5 January 2020 MB physically assaulted CA causing a mark to her hand.

6: On or about January 2023 F slapped CA around the face with an open hand

135. This allegation was a duplicate of Allegation 7 and is not pursued.

7: On or about 23 February 2023 F slapped CA around the face with an open hand

136. The allegation was originally dated 27 February 2023 but was amended at the outset of the fact finding hearing. The allegation is denied by F and MB.

137. There is no direct reference to the allegation in the CPOMS record but at [K4] there is a report of an argument about MB's illicit use of her phone having occurred on "Saturday" which would have put the incident on 25 February 2023.

138. This incident is referred to in the strategy meeting minutes for 28 February 2023 when the DSL reported (my emphasis):

[F227] and [I48]

- CA said that Dad hit her last night on the side of her head and that she took herself away to her room
- CA said that her ear is still ringing this morning

139. That would date the incident as 26 February 2023 (i.e. the day before the report to school) and that was confirmed by CA in cross-examination.

140. In the PIA on 28 February 2023 CA said that "Dad hit ear, it was forceful" [L21]. The police log following that on 1 March 2023 records that "CA was sat on the edge of the bed and F then slapped her with force to the left ear, causing CA to fall off the bed and into the bedside table" [L8].

141. In the CP medical it is said the "Last incident was 27th February, she was hit by her father on her face with an open hand." [F235].

142. The SARC medical on 13 March 2023 made reference to (my emphasis):

A week before this medical [the CP medical is being referred to], she was hit by her father and lost hearing on her left ear for 2 days.

143. In her VRI CA says (my emphasis):

[L79f]

When it came to the sexual assault, she asked her to leave the room, and she... he just said to me, "Why are you lying, what's the point of it?" and I just said, "I'm not lying," and he just, yeah, he just smacked me and then he left, and I didn't speak to anyone throughout the entire night. So, I just went up to my room.

...

[L79g]

DC SI: Okay. Okay, and then you mentioned the day... the night before he smacked you.

CA: Yeah.

DC SI: Where did he smack you?

CA: Just across the face. [Gestures hand smacking face]

DC SI: Okay. How did he smack you in terms of what his hand was doing?

CA: Erm, well he was... he always... when he's arguing, he's either crossing his arms or they're beside him but he makes fists or he's sitting down. This time he was standing, it was in the middle of the living room. I was, sort of, erm, about two steps away from this, erm, table we have in the middle and so he just came up to me and he, like, did this finger thing [waggles index finger repeatedly up and down] and he was, like, "You're an utterly [sic] disgrace to yourself and your family and I never want to see your face again." And he smacked me [gestures open palm smack] so hard that I flew back in... like I... I didn't fly but I barged into the table, back, and then he just left and went upstairs.

...

DC SI: So, as you were showing with your hands, did he hit you with an open palm?

CA: Yeah.

DC SI: Okay, and then, where did he hit you?

CA: [Touches right cheek] This face.

DC SI: Oh, okay. So, on the... is that the right cheek?

CA: Yeah.

DC SI: Did it leave... was there any marks that were left?

CA: Erm, it was just, like, sort of, red for a while and then... okay.

DC SI: Okay and were you in pain?

CA: Yeah, but only for a little bit. Then I just, kind of, went into my room and yeah.

144. The erroneous dating comes from later in the VRI, the reference to Thursday would be to 23 February 2023 (my emphasis):

[L79i]

DC SI: Cool, and then that phone argument that we were talking about, when your dad hit you in the face and you went backwards, when was that?

CA: Erm, so the day I went to my teacher's was a Monday. The day we had this argument was a Thursday. I don't remember exactly the dates of that, but if you can see... cos it was the... you had also come over on that Monday, I think.

DC SI: Yes.

CA: Or you had come over on that Tuesday, but you'd talked on that Monday, so it was on the Thursday before that.

DC SI: Okay, and then do you remember what month that was?

CA: Erm, February, last weeks of February.

DC SI: Okay.

CA: I think. Not sure though.

145. I note that CA was trying to recall this in interview on 21 July 2023 which may explain the discrepancy over the date between the report to the DSL and the report in the VRI. I find that the report to the DSL is far more likely to be accurate if the incident occurred at all as it is recalled as "last night" and therefore on 26 February 2023.

146. When cross-examined CA agreed that she was "barged into the table" because she was "pushed back with the amount of force he was using when he smacked" her and that the marks lasted for "10 minutes maybe, not extremely long but didn't go away in an instant."

147. In her oral evidence she said that the impact was to her "right cheek" and it was raised that there was an inconsistency with the PIA which just referred to the ear not the cheek but I note that in the report to the DSL she referred to the side of the head and the ear and in the VRI she said across the face. I do not consider this a material inconsistency in the circumstances. There was also an inconsistency between the SARC report referring to the left ear and the other references to right cheek or ear. It is not clear where the author of the SARC report got the information about the side

from, it is not entirely clear it was from CA herself so conceivably there could have been a mistake by the author when reading the referral. There is also an inconsistency between the police log entry for the PIA which refers to "left ear" but the PIA note does not record which side. The police log entry is the day after and the best evidence is the contemporaneous note of the PIA. In closing submissions F also relied on a potential inconsistency between the police log recording a fall off the bed as a result of the slap whereas the DSL reported that "she took herself away to her room", it is not clear if that is inconsistent if CA was in a different bedroom when the alleged assault occurred. However there is a more significant inconsistency between the police log recording the assault in a bedroom and the VRI recording it was in the living room. Again, the PIA notes are a contemporaneous record and the PIA refers to a table not a bedside table.

148. Dr Rahman was asked about the allegation and said that if a grown man used the degree of force described in the VRI then "very likely" you would expect a sign of that at the CP medical on 1 March 2023; that would be 2 days later and "the description would have caused bruising and bruises take 1-2 weeks to resolve". He also said it would be "very likely" to be visible at school unless she was covering her face completely. In answer to questions by the Guardian he agreed that the type of injury was dependent on the level of force used and he was taken to CA's comment that only a red mark was left and he agreed that was "possible" but the likelihood of leaving a red mark and of it disappearing was smaller and the colour of CA's skin may have made a difference to visibility but "the description of what she says makes me think she would have sustained a bruise" i.e. more than just a red mark of limited duration. There is inherent difficulty in this evidence. First, CA was recalling the force in the VRI some months after the alleged incident, second, CA's description is vague, she initially said she flew back then that she barged into a table and I note her hand movement demonstrating the slap as more of a flap (VRI at 13:53:23), third the perception of the victim of the force of a blow is very likely to be conditioned by the surrounding circumstances and expectations of injury and an unreliable guide to force. Although CA said that it was the force of the blow that pushed her back to barge into the table (in her oral evidence) it is at least conceivable some of the momentum backwards was her instinctively seeking to avoid the blow or retreat from F's wagging finger that preceded it.

149. I note that in addition to the uncertainty over a date in late February there is an inconsistency with evidence suggesting it was much earlier. The MARF dated 27 February 2023 from CA's school describes the most recent incident involving "stepmum and dad physically" assaulting her was "two weeks ago" [Z5] and in the CPOMS entry for 27 February 2023 CA is reported to have said:

[K3-4]

One example is – if I swore or didn't do the dishes my Stepmum would tel my dad and we would all argue. Verbally I always argue back and then either one of them slap me round the face or body. She usually punches me in my back. I just showed [DSL] my back but she can't see any bruises as the last time (before the head one) was December." [sic]

150. Conceivably of course CA could have been referring to the "last time" she was hit by MB rather than by F as she was talking about MB punching her in the back and as noted above the DSL reported to the strategy meeting that the allegation was of the slap being the night before so it seems unlikely she would have said that if she had been told it was "two weeks ago" or in December.

151. F says the following of the allegation:

[C43]

32. On 25th February 2023, my wife caught CA on her mobile phone which had been confiscated. She had taken it out of the drawer in our bedroom. My wife's email was linked to CA's personal email...I was at work but my understanding of what occurred from my wife is that she went to CA's bedroom and saw her with the phone. CA swore at my wife and said she will say that she sexually abused her if she informed me of the phone. My wife called me asking me to return home, which I did.

33. I asked CA what happened. I tried to speak to her to get her version of events, but she did not respond. When I took the phone, I saw that CA was sending and receiving inappropriate images with a male; they were both sending images of themselves in underwear but CA's images showed some of her face. I was in shock and did not know what to do, but ask CA to explain. I then took CA to the car to speak to her alone. CA told me that this is normal behaviour. CA initially said the male in the images was her friend's boyfriend and then said it was someone she met online and who lives in Wales. I did not know what to say to this, so we then went back in the house. I wanted time to think about how to manage this. The next day, I took CA to McDonalds for breakfast with the hope that she may open up to me about what was happening, but she did not.

152. I do not find Dr Rahman's evidence rules out the incident occurring as alleged. I have already found that MB and F have not told the truth about Allegations 1-4 nor MB about Allegation 5. CA's inconsistencies may be the result of inaccurate reporting by others or mis-remembering by

her as a result of the passage of time. In particular my findings against F on Allegations 1-4 demonstrate a person prepared to resort to physical violence when angered. On F's case MB had taken back a previously confiscated phone, was using it to communicate inappropriately with a male and had alleged an act of sexual abuse against MB which may well have provoked an angry response. On that basis I find the allegation proved on the balance of probabilities:

On 26 February 2023 F slapped CA to the face with an open hand.

13: In early February 2023 MB physically assaulted CA by grabbing her by her pony tail and causing her to hit her head causing a laceration injury

153. This was originally pleaded as 28 February 2023 by the Local Authority. There is a photo at [L104] which appears to be dated 19 January 2023 (although this is not necessarily from the metadata) which shows blood on CA's scalp. On the basis of the photograph it seems more likely the incident, if there was one, was in mid-January 2023.

154. The allegation is denied by F and MB.

155. There are a series of photos in the bundle at [L105-L106] which show a bloody item of clothing.

156. There is no reference to this incident in the CPOMS record save at [K4] which records CA saying "the last time (before the head one)" which might be referring to this incident. There is an email from the Local Authority to the school arranging a review strategy meeting dated 1 March 2023 which records (my emphasis):

[K77]

She said the most recent incident was two weeks ago. She said that her step-mother grabbed her by the pony tail, pulled her hair, and she fell back hitting her head on the corner of a wall causing her head to bleed.

157. That is consistent with the MARF dated 27 February 2023 (my emphasis):

[Z5]

CA came into school this morning very distressed.

She has written a statement and spoken to myself ([DSL]) and the DDSL []

...

She reports that both stepmum and dad physically assault her on a regular basis with the most recent being two weeks ago. She was arguing with them because her phone was taken off her years ago and she recently found it and “took it”. Parents found out, they argued. Stepnum grabbed her by the ponytail, pulled her hair and she fell back hitting her head on the corner of the wall. CA reports that she cut her head, it bled but she didn’t go to hospital. This was 2 weeks ago. I examined her head and a red line is visible in line with a possible scab that has now come off....

158. In her statement the DSL says:

[Z24]

On the morning of 27-02-23 [Deputy DSL] came to find me and asked if I would speak to CA as she had a disclosure to make.

I took CA into a computer room some time after 08.30 and, as per our safeguarding procedures, explained that I was here to support her, listen and help. I reminded CA that I there may be things I would have to share with others and that I would make notes as she spoke. CA told me she was happy with this and proceeded to tell me the things that are stated in the CPOMS entry...[sic]

159. In the CP medical report assessment is recorded as follows (my emphasis):

[F235]

2) 3cm red liner mark on top of head -CA reported that her stepmother dragged her by her hair following an argument and she hit her head on a wall, she had a headache for 3 days.

...

[F236]

Above findings skin 1) and 2) are consistent with given history.

160. In the PIA dated 28 February 2023 CA is reported to have said “She pulled me, ponytail, I slipped and hit head” (my emphasis) [L18].

161. In the SARC report from an attendance on 13 March 2023 it is reported (my emphasis):

[H1]

She mentioned that she had hit her head on the wall in January 2023 while she was being beaten with consequent head injury and bleeding, no medical attention was sought.

162. And on examination:

[H2]

1- A 4X0.3 cm pink scar was found on the scalp over the vertex, from hitting the wall in January 2023.

[H3]

1. The mechanism and date of occurrence of the scars found in the scalp, both hands and left knee cannot be determined precisely, and they may have occurred by the mechanism and the time given by CA.

163. In the VRI CA describes the incident arising from the manner in which she cleaned the hob (my emphasis):

[L79h]

...Then I went to try to grab a kitchen towel to clean it and then she just punched me in the back, like, not forcefully, but, like, tauntingly and then she was, like, erm, "Why would you waste an entire kitchen towel to clean that? Use a cloth," and I said, "Sorry," and she thought I had, I had, that I said sorry very aggressively. So, then she just screams at the top of her lungs, "F, come here, your daughter's being a bitch."

So, then he comes in and he's, like, "What did you do?" and I was, like, "I dropped a little bit of food and I tried to go clean it but she's not letting me clean it," and, erm, basically we were having a massive argument about it...and yeah, then my dad had told me to go to my room, and the kitchen's here [makes shape of room with hands] then you have to walk to the corridor [moves hand around the outside of the room and round to the left] and go the room and, like, behind that there's like a frame of a door, there's not actually a door there, into the living room.

So, I was walking around there, but my stepmum wasn't actually done with the argument, so she said, "CA, stop, get back here," but my dad said, "Carry on," and I was more scared of my dad than I was of my mum. So, I, I went in... I carried on. She barged past him. My hair was in a ponytail. So, she grabbed my ponytail and pulled me back, which hit my head on the corner of the doorframe to the living room and then she, erm... and then my dad pulled her off. She left the house. He left the house.

... I didn't even realise I was bleeding. It was still hurting but I didn't know it was bleeding. I went into my room, and I had... erm, went into the corner and when I moved a little bit, I felt like blood trickling down...

[L79i]

...erm, yeah, that wound had, like, bled for about three days straight.

...

Erm, I think it was in, sort of, early February.

164. There is a discrepancy over the date of this allegation. The photo seems to be dated 19 January 2023, the MARF of 27 February 2023 says it was 2 weeks ago, in the SARC report on 13 March 2023 it was January, in the VRI on 21 July 2023 it was January. In cross-examination CA said it was 27 or 28 February 2023. Given the date on the photo is consistent with the date given in the SARC report on balance, if there was an incident, it was likely to have been then. Of course CA's uncertainty may go to the credibility of her report, particularly the report of the incident being "2 weeks ago" on 27 February 2023.

165. The expert evidence of Dr Rahman is:

[E219]

74. The history provided by CA is not in keeping with the injury, as the top part of the head will not hit the wall in such an incident.

75. However, the history that she has provided is of concern and requires careful fact finding.

...

80. The mark on her head may have resulted accidentally, for example, by hitting the top of her head against a hard edge of a table when standing up.

[E264]

15. My opinions remain unchanged, as hitting the corner of the doorframe is more likely to cause an injury to the sides or front of her head than the top of her head.

166. I note that CA's descriptions of the mechanism of the injury are not entirely consistent: "grabbed her by the pony tail, pulled her hair, and she fell back hitting her head on the corner of a wall", "pulled her hair and she fell back hitting her head on the corner of the wall", "dragged her by her hair following an argument she had hit her head on a wall", "She pulled me, ponytail, I slipped

and hit head” and “she grabbed my ponytail and pulled me back, which hit my head on the corner of the doorframe to the living room”. I note that pulled and dragged seem to have been used interchangeably, the impact was initially with the corner of a wall then a doorframe and fell back, became slipped, became pulled back into the hard object.

167. When he gave oral evidence Dr Rahman said that CA’s neck would not extend (i.e. bend backwards) to a right angle and “you need a right angle before the top of the head can come into contact with door frame” and in the scenario of being pulled back it would be more likely that the back of the head would be impacted. I asked if it was possible for an injury to the top of the head to result from a combination of extending the neck and the back, arching backwards. He agreed it was possible but the likelihood was “small” in a scenario where the parent was pulling the child backwards. He clarified that if the child was falling (i.e. slipped and fell) then that would make a difference although he later said “if she was bending backwards and falls then small possibility if hit a sharp edge but more likely if falling it’s the back of the head that would get injures”. In other words Dr Rahman cannot exclude the injury occurring as, in due course, CA described (see below).

168. Dr Rahman accepted that a “sharp door frame” could have caused the injury but unlikely a flat surface (such as a wall) because that would have most likely caused a diffuse injury. He confirmed a convex wall corner would be a possible injury cause (as opposed to concave where the sides of the head would bear the brunt of the impact).

169. CA did not hear Dr Rahman’s evidence and when she gave evidence the following day she described “as I’m going out my head was in pony tail and MB grabbed and pulled me back and I was wearing socks and slippery shoes and I slipped on floor and my head hit the corner of the archway, where the corner of the skirting was, my head hit that”. That would be consistent with Dr Rahman’s evidence of how the injury could have been caused.

170. As to the injury itself, CA says that it bled for 3 days [L79i/6], Dr Rahman thought it would have consolidated or dried up within a day but it could have bled if picked or was re-opened by a hairbrush. He felt it was the sort of injury that he would have expected a parent to seek medical attention for. The fact that F and MB did not means either (1) they were aware of it but were neglectful, (2) were aware of it and knew they had caused it and wanted to conceal it or (3) were unaware of it. If they were unaware of it that might have been because CA wanted to conceal it although if what CA says about the extent of the injury is correct it seems unlikely to be possible to do so effectively, if it was an entirely innocent injury she would have wished them to know so it could be attended to. There is no evidence to suggest it being caused any way apart from that which

CA asserts. Whilst it is not for MB and F to prove something else caused the injury I am entitled to take into account the absence of any evidence of an alternative cause.

171. MB says that she does “not know why CA is making these allegations against me” [C64/11].

172. F says:

[C112]

6. I do not accept the alleged incident on 28 February 2023, where MB grabbed CA’s ponytail causing her to hit her head. I was at work on this date. CA was at school and did not return home on this date. This is when CA made this allegation. On 25 February 2023, I was working. It was a Saturday. My wife called to ask me to come home as CA was arguing with her. I came home from work and MB told me that CA has been using her phone. CA knew she was not allowed to use her phone, as in the past she has been using the phone for adult contents. CA then made an allegation of sexual abuse against my wife. I have no knowledge of where the physical abuse incident came from. CA has never informed me of any physical abuse. I cannot understand the reason CA would make such serious allegations about my wife and I, apart from believing this is due to me taking her phone.

173. Since the date is most likely mid-January 2023 that rules out CA having a motivation to fabricate the injury in response to her phone being removed. It is also instructive to note that there was a delay in reporting the incident notwithstanding the photographic evidence. If the allegation was fabricated it would have taken a good deal of pre-meditation on the part of CA to have photographed an injury in mid-January to save to support an allegation made over a month later. I do accept there is an alternative explanation that the photo may have been taken for another purpose (counsel for F suggested perhaps to post on social media) and then applied later to a false allegation of abuse, i.e. CA photographed a non-abusive injury and later decided to fabricate her allegation based on the photo.

174. F was asked about the photos that seem to show blood on an item of clothing and said whilst he had seen them he had not asked MB about it and said “I’ve spoken with her about the [alleged] injury, I can’t keep asking” and then when I suggested to him that “not knowing about the injury is not a reason she would not know about the blood shown in the photos” he said he did not have an answer, he did not know why he did not ask MB about what the photos showed. That would tend to suggest either a startling lack of curiosity or that he knew exactly where the blood was from.

175. My starting point is that CA clearly suffered an injury. Whatever its cause she felt it warranted photographing in mid-January 2023. Choosing not to tell MB and F about it seems unlikely if it was caused innocently and there is no evidence of it being caused in some way other than CA alleges. The mechanism of injury is consistent on Dr Rahman's evidence and CA's oral evidence. Against that there are conflicting accounts of the precipitating event but I note that memory is fluid and malleable, discrepancies may arise over time because of "faulty recollection or confusion at times of stress" and on CA's evidence this was plainly a time of heightened stress. On balance I prefer CA's evidence when I weigh it against MB's outright denial and F's apparent lack of interest in the surrounding circumstances. I also bear in mind my finding against MB on Allegation 5. I find:

In mid-January 2023 MB physically assaulted CA by grabbing her by her ponytail and causing her to hit her head causing a laceration injury.

14: On one occasion MB sexually abused CA by asking and/or making CA (a) massage MB's upper legs near the groin, (b) digitally penetrate MB and (c) perform oral intercourse on MB

176. Denied by F and MB.

177. I have set out the evidence and my analysis in the attached schedule which is not to form part of any published judgment.

178. I find on the balance of probabilities:

In the spring of 2019 MB sexually abused CA by encouraging her to massage her legs and coercing her to digitally penetrate her and perform oral sex on her.

8: CA was regularly physically assaulted by beating, slapping, pushing and hitting during her time living with F and MB, perpetrated by F and MB

179. Denied by F and MB.

180. The Local Authority rely on the allegations set out above. I have found Allegation 5 (MB injury to CA hand), Allegation 7 (F slap to CA face) and Allegation 13 (MB pulling CA's ponytail) proved.

181. In the CPOMS entry for 27 February CA is reported to have said:

[K3]

Physical abuse from both dad and stepmum - this is all my life. It's normal Asian stuff like a slap or a push. it started to get worse when Social Care got involved after Christmas in Jan 2020.

One example is - if i swore or didn't do the dishes my Stepmum would tell my dad and we would all argue. Verbally I always argue back and then either one of them slap me round the face or body.

182. The note starts "Further to my MARF this morning" and at [K4] there is reference to a Word file named "MARF...docx". I assume this is a multi-agency referral from to MASH. This now appears at [Z1]. It records "both stepmum and dad physically assault her on a regular basis" [Z3].

183. In the CP medical report CA is reported to have said "Episodes occur once every 1 to 2 weeks" [F235].

184. In the PIA CA said that "I have been getting beat up...I get slapped, punched." [L18] and:

[L19]

Every 2 weeks escalates quick. I argue back, to shut me up they use physical. ..Everytime. It is normal in my culture. But getting progressively worse. In December Dad slapped me into shoe box. Mum [MB] tried strangle me. She punched my back...

185. In her VRI CA says (my emphasis):

[L79d]

I mean [F] would often, maybe like smack me or something if I did something wrong, but it wasn't very, like, erm, re... often. It was maybe like once every two to three months..

[I79e]

...and [MB'd] just tell my father about it, and he'd just go ballistic. And even if I tried to justify myself or something, he would never take my side. He'd always say like I'm lying, and he'd always believe her and that would always just end up in me getting beat up, and it didn't start as regularly because she used to be out and about a lot more and she used to, like, go over to her friends and stuff, and leave me home and then when my dad had stopped her from going out, out as often, it just became more regularly to the point where there'd be like a big argument practically every week, yeah.

...

So, it was because I wouldn't stop arguing, he'd just beat me up to shut me up.

...

DC SI: Okay. Just describe when he beat you up.

CA: Erm, so, it'll usually be, he'll stand up to intimidate me, erm, and then he would [upset] so he'd stand up to intimidate me and I'd, sort of, back away, usually into a corner and then when he cornered me, he'd smack me a couple of times and if that didn't work then he'd just, sort of, punch me or, erm, anything that just hurt really, and I usually [upset] would put my arms up to, sort of, hide my face or something, and so that... it would accidently, cos he'd be so close, I might accidently hit him, not like meaning to and, erm, yeah, if that, if that ever happened, he'd go ballistic and, like, he'd grab my hair and, like, shove me out the way and stuff, yeah.

186. CA makes reference to the incident pleaded as Allegation 7 and then continues:

[L79f]

...

He took me for the entire day and then he just in the middle of the night, stopped the car on a side road, asked me to come sit at the front and just asked again, why, why did I lie? And when I kept on saying, "I didn't lie and it's the truth," he just bashed my head into a window. Yeah. It didn't result in, like, any bruises or anything, but he still did it.

DC SI: Okay. So, how did he bash your head into the window?

CA: Okay, I was sitting here, and he was sitting here [gestures seated position and then indicates to the right]. So, he just, sort of... erm, first he grabbed my head to make me look at him, and say, "Well why are you lying? Look me in the eyes, cos I know you're lying," and cos in our religion when you put... like in a bible, you put your hand on a bible, you're not... you're saying the truth. I said that to him, I was, like, "Well you can put my hand on the Quran, I'll still say the same thing, she did do it," and he was, like, "I can't believe you're being a disgrace to not only me but also your religion," but he said that in Urdu and then he, erm... cos he had my hand like here [right hand underneath chin] he just [grabs chin and pushes head to the left] flicked me. Yeah.

187. And then later in the interview there is the following exchange:

[L79j]

DC SI: That's all right, I can confirm that. Okay, are there any other physical assaults that you can remember, that you want to talk about?

CA: Well, there were a lot, but they're all just kind of the same thing. It would be, like, a massive argument over something, and I wouldn't stop so he'd just back me into the corner, smack me, punch me a couple of times, then send me to my room [mature? 00:20:31].

DC SI: Okay, would you normally have any injuries?

CA: Erm, I might get an occasional bruise on my arm, but no.

DC SI: Okay.

CA: [Like, yeah? 00:20:42].

DC SI: Okay. How many times do you think or how often would this happen?

CA: At least once every week, usually on a weekend.

DC SI: Okay, and then do you remember when this started?

CA: Erm, about... it had gotten more violent when my stepmum had come and started, like, not wanting me there and started, like, just starting arguments, about four... three or four months after she... so she had come here in the April of 2019. So, sort of, around the summer, er, not summer, September times, it had started and then it progressively got more frequent and more worse.

188. In her oral evidence CA said that she was punched "on my face and on my arms usually". She was asked if she had injuries to her face and related only one occasion when she did, a bruise on the forehead but "usually no". There is an issue of credibility about no-one reporting observable injuries. She was also asked about the reference in the VRI to her head being bashed into a window and said it was with enough force "for it to hurt" but had told the police it did not result in any marks.

189. The specific allegations in the PIA referred to above were not repeated in the VRI and she explained in cross-examination that "Just didn't come to my head I suppose".

190. MB says she has not seen F hit CA [C65/15].

191. Notwithstanding the findings above it is difficult to form a clear view of what is alleged from the somewhat vague allegations as set out above and as pleaded. I am not satisfied on the balance of probabilities that the allegation of regular physical assault is made out save in relation to the specific findings I have made above.

9: CA was regularly physically assaulted by having her hair grabbed during her time living with F and MB, perpetrated by F and MB

192. Denied by F and MB.

193. In her VRI CA says:

[L79e]

...if that ever happened, he'd go ballistic and, like, he'd grab my hair...

194. This allegation is even less well particularised than Allegation 8 and for the same reasons as given immediately above I do not find it proved on the balance of probabilities.

10: CA was regularly verbally abused by being called “a disgrace”, “a liar”, “manipulative” and “a psycho” during her time living with F and MB, perpetrated by F and MB

195. Denied by F and MB.

196. In the CPOMS entry for 27 February 2023 CA is reported to have said (my emphasis):

[K4]

They also say nasty things - this hurts me more . Examples are

“I should have left you with your mother. You are a psychopath. You are a liar.”

...

Saturday - I had taken my phone back that I found a few weeks ago, but they didn't know I had it back. On Saturday my stepmum had access to my email and she confronted me verbally. She said she could see various sign ins to show I was using sites. I lied and told her I didn't have the phone as I hoped they wouldn't find it. I snuck to find my phone but my stepmum heard me. She called me down, she had my phone. She told me off for lying. So in this argument then snapped back about the sexual abuse when I was 9. She denied it all and told me I was a liar. She recorded the whole conversation. She filmed some and voice recorded some...at this point but then my dad came home.

He said I was a liar and didn't believe me at all.

197. In the PIA CA reported (my emphasis):

[L20]

They insult me-liar, manipulator, wish I left you with mum [MA]

[L21]

They called me liar

198. In her VRI CA says the following in relation to Allegation 14 (my emphasis):

[L79e]

...and he makes a big deal of it and he'd just be, like, "Well, you're a disgrace, you're, like, lying, why would you even do this, like, she's your mother?" which she's not, but she is in his eyes...

[L79f]

When it came to the sexual assault, she asked her to leave the room, and she... he just said to me, "Why are you lying, what's the point of it?" and I just said, "I'm not lying," and he just, yeah, he just smacked me and then he left, and I didn't speak to anyone throughout the entire night. So, I just went up to my room.

[L79f]

He took me for the entire day and then he just in the middle of the night, stopped the car on a side road, asked me to come sit at the front and just asked again, why, why did I lie? And when I kept on saying, "I didn't lie and it's the truth," he just bashed my head into a window. Yeah. It didn't result in, like, any bruises or anything, but he still did it.

DC SI: Okay. So, how did he bash your head into the window?

CA: Okay, I was sitting here, and he was sitting here [gestures seated position and then indicates to the right]. So, he just, sort of... erm, first he grabbed my head to make me look at him, and say, "Well why are you lying? Look me in the eyes, cos I know you're lying," and cos in our religion when you put... like in a bible, you put your hand on a bible, you're not... you're saying the truth. I said that to him, I was, like, "Well you can put my hand on the Quran, I'll still say the same thing, she did do it," and he was, like, "I can't believe you're being a disgrace to not only me but also your religion," but he said that in Urdu and then he, erm... cos he had my hand like here [right hand underneath chin] he just [grabs chin and pushes head to the left] flicked me. Yeah.

[L79m]

So, when she was calling me, like, manipulative and evil, and I played with her emotions and things like that, I just sort of let out, "Well, you call me that, but you did this to me, like, you sexually assaulted me."

199. Later in the VRI when describing the incident that forms Allegation 7 she says:

[L79g]

Erm, well he was... he always... when he's arguing, he's either crossing his arms or they're beside him but he makes fists or he's sitting down. This time he was standing, it was in the middle of the living room. I was, sort of, erm, about two steps away from this, erm, table we have in the middle and so he just came up to me and he, like, did this finger thing [waggles index finger repeatedly up and down] and he was, like, "You're an utterly [sic] disgrace to yourself and your family and I never want to see your face again..."

200. Later in the VRI she says in relation to an incident where she was giving an account of what she said happened in relation to Allegation 9:

[L79h]

Then I went to try to grab a kitchen towel to clean it and then she just punched me in the back, like, not forcefully, but, like, tauntingly and then she was, like, erm, "Why would you waste an entire kitchen towel to clean that? Use a cloth," and I said, "Sorry," and she thought I had, I had, that I said sorry very aggressively. So, then she just screams at the top of her lungs, "F, come here, your daughter's being a bitch."

201. In her oral evidence MB accepted she would have said to CA she had lied on a couple of occasions but not that she was a disgrace, manipulative or a psychopath.

202. Given the limited contextual evidence I am not satisfied that the allegations of calling CA a liar are abusive as alleged. With one exception in the evidence above MB and F may have genuinely believed CA was lying and there is evidence of her in fact having lied (about the lock on her door for instance and to protect herself). The one exception is the report of F saying CA was lying about the sexual abuse but there is no evidence F had any direct knowledge of it and I can well imagine him wanting it to be untrue and believing any denial by MB so, again, there is no evidence this was abusive by F. The same is true of two of the three examples of F saying CA was a disgrace.

203. There is one other example of F telling CA she was a disgrace and one example of F saying CA was a psychopath. There is one example of F saying CA was a manipulator and one of MB saying she was manipulative and telling F that CA was “a bitch”.

204. Again, even if the allegations are true, with the limited context I cannot form a view of whether the use of the words crosses the line between something spoken in anger in the moment and regretted on one side and verbal abuse on the other. I do not find the allegation proved.

11: CA was regularly subjected to abusive and demeaning behaviour during her time living with F and MB, perpetrated by F and MB

205. Denied by F and MB.

206. In the CPOMS entry for 27 February 2023 CA is reported to have said (my emphasis):

[K4]

My stepmum says if they ever ask her she is going to tell them I emotionally abuse her and manipulate her. She also says she will get her friends to say the same.

At home I am not allowed any books, just the 4 that I was given. I can't watch TV. I draw and write stories but I hide the stories from them. I am not allowed to be friends with [] because she is Trans. I am also not allowed to be friends with black people as they say they are dirty.

207. As regards books the allegation seems inconsistent with CA’s oral evidence that she was allowed to bring books home from school. As regards not watching TV I note that CA accepted the use of her iPad to communicate with friends (albeit limited to 1 hour per day) in her oral evidence.

208. In the PIA it is reported CA said:

[L19]

I’m not allowed to eat Mum’s food. Friend has to buy me lunch or I don’t eat. Not allowed to eat food Mum cooks.

209. She clarified this in cross-examination saying that following “recent arguments” she would be denied food for “a couple of days” and that for a couple of months MB bought separate milk and bread for CA and when they ran out MB “wanted them to last a month and if not she’d have a go and say I couldn’t have food and that’s when I would go to friend”. She was taken to the CPOMS report for 27 February [K4] which reported her saying her stepmum was a good cook which might be viewed as inconsistent but in the same sentence it is reported that “yesterday I was told I couldn’t

have my stepmums food anymore". In oral evidence she explained MB was a good cook, "it's not every day I'm not allowed to eat food, it's when we have arguments."

[L21]

Dad calls my friends nasty, dirty. He doesn't like black people. Not allowed to be friends with trans people. He has a very strict list of who I can be friends with.

210. In her VRI CA says:

[L79e]

She would like... first of all she already said to my face, erm, she didn't want me there and it... I was ruining her marriage.

[L79f]

...we were having then an argument about how I'd betrayed her trust and, erm, made her feel insecure and played her and manipulated her and whatever it... cos she would made up, whatever she could come up with on the spot on how I ruined her life and this that...

211. The evidence in support of the allegation is extremely limited. Taking account my comments above about books and TV it is really limited to an allegation of restricting CA's friendships, not using MB's milk and bread and MB telling CA she had ruined her marriage or life. In relation to the food I found CA's evidence confused and unclear, it seemed to amount to a deprivation of food for short periods as discipline and a restriction in use of some of MB's food. I do not find this limited evidence is sufficient to prove "abusive and demeaning behaviour". As to the evidence of MB saying CA had ruined things similarly to verbal abuse it is hard to see this crosses the line from words spoken in anger to abusive behaviour. I am not satisfied the allegation is made out

12: MB threatened CA on more than one occasion that she would make false allegations about CA to F to get her into trouble

212. Denied by F and MB.

213. In her VRI CA says:

[L79e]

...she didn't want me there and it... I was ruining her marriage. So, she would always make up things that she knew would make my father mad, like, it would either be I said something rude to her or I just did something wrong...

214. In relation to Allegation 14 CA told the police:

[L79n]

She just told me... like, after it, she just told me to keep my mouth shut and go back to my room otherwise she would tell my dad that I swore at her, erm, so that's what I did. I shut my mouth and I went to my room, and I went back to bed cos it was quite early in the morning.

215. In respect of the second piece of evidence it is not clear if CA did in fact swear at MB in which case the evidence would not support the allegation of MB making "false allegations about CA to F". That leaves the first short passage which absent any context is insufficient to prove the allegation on the balance of probabilities.