



Neutral Citation Number: [2019] EWHC 1511 (Fam)

Case No: LN18C01043

IN THE BIRMINGHAM FAMILY COURT

Date: 21/05/2019

Before:

MR JUSTICE WILLIAMS

Between:

M County Council	<u>Applicant</u>
- and -	
The First Respondent	<u>1st Respondent</u>
- and -	
The Second Respondent	<u>2nd Respondent</u>
- and -	
The Third Respondent	<u>3rd Respondent</u>
- and -	
The Children 'A' & 'B'	<u>4th - 5th</u>
(By their Children's Guardian)	<u>Respondents</u>

RE: A Child (Threshold: Inflicted Injury and Domestic Abuse)

Anita Thind for the **Applicant**
Nigel Sleight for the **1st Respondent**
Brendan Roche for the **2nd Respondent**
Anne Williams for the **3rd Respondent**
Hari Kaur for the **4th - 5th Respondents**

Hearing dates: 7th - 21st May 2019

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment)

in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

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MR JUSTICE WILLIAMS

Mr Justice Williams:

1. On 3 December 2018 an interim care order was made on the application of M County Council. At that time AE remained critically ill in hospital where he underwent major surgery on 4 December 2018. His father is the second respondent in these proceedings.
2. A was 2 years and 2 months old when he was admitted to hospital on 29 November 2018. Investigations revealed healing fractures to his ribs and scapula, but more worryingly they revealed abdominal injuries including a laceration to his liver. Without treatment he would have died. The presence of numerous bruises together with the healing fractures and the abdominal injuries and the lack of explanation led the treating clinicians very quickly to suspected non-accidental injury. His stepfather, initially an intervenor and now the third respondent in these proceedings, was arrested on suspicion of GBH that night. The first respondent, A's mother, first respondent was arrested the following day.
3. On 18 December the first respondent gave birth to a daughter, B. The first respondent gave consent to her being accommodated in local authority foster care pending a further hearing and on 21 December 2018, the local authority issued care proceedings so that on 9 January 2019 B also was made subject to an interim care order. Although it does not appear that her paternity was in dispute it was confirmed by DNA testing that the third respondent was her father. A and B are now the fourth and fifth respondents to these proceedings represented through their Guardian.

The Issues at this Hearing

4. Although this hearing was initially listed as a final hearing to determine both the threshold criteria and the appropriate welfare orders that should be made in respect of A and B, by the time the matter came before me for an IRH in April it was clear that the position in respect of B would not be capable of resolution at this hearing. Further assessments in relation to possible family placements needed to be concluded before any view could be reached on the realistic options for her future.
5. In addition, it emerged that the only realistic option in respect of A was placement with his father. In respect of the second respondent no criticism is made of his parenting of A. Even the first respondent accepts that she is not currently in a position to offer care to him and that he should go to live with his father. That is the case even if she is wholly exonerated of responsibility for causing his injuries and for failing to protect him from those injuries. In part that derives from the fact that she concedes

that she failed to protect him from emotional abuse linked to the assaults that she says she suffered at the hands of the third respondent and that she did not seek medical treatment sufficiently swiftly but also from the fact that she is currently homeless and unable to provide any sort of home for him. A plan has been agreed between the local authority, the second respondent and the Guardian which provides for a staged transition for A from foster care to the care of his father.

6. The proceedings have come before me over the last 2 weeks principally for determination of the issues relating to the responsibility for the causation of the injuries to A, but also to determine the extent to which the first respondent failed to protect A. Within those issues I have also had to consider a number of other factual issues bearing upon the extent to which the local authority has satisfied the threshold criteria for public authority intervention in the lives of this family.
7. Thus the central focus of this hearing was on what had happened to A between July and November 2018; how had he sustained such serious injury? Was it accidental or inflicted? If the latter, was it the first respondent or the third respondent who had done it? If the latter, had the first respondent failed to protect him and to what extent?
8. The threshold document dated 22 April 2019 [A157] runs to some 10 pages setting out a very detailed description of the findings sought and the evidence in support. I do not intend to repeat that document in this judgment. The essential elements of the threshold including amendments made at the conclusion of the evidence are as follows:
 - i) As at 3 December 2018 A had suffered and was likely to suffer significant physical and emotional harm and neglect.
 - ii) As at 18 December 2018 B was at risk of suffering significant physical and emotional harm and neglect.
 - iii) Such harm to A and B was attributable to the care given or likely to be given to them by the first and/or third respondent it not being care which it would be reasonable to expect a carer to give to them.
 - iv) On or before 26 July 2018, A was assaulted by the first or third respondent and suffered significant bruising and swelling to his scrotum. Neither the first or third respondent took A for medical treatment which would reasonably have been expected following such an injury.
 - v) On or before 29 November 2018 A was assaulted by the first or the third respondent and suffered multiple bruises, a torn frenulum, a laceration to the liver, leading to pancreatic/kidney/bowel/mesentery injuries, multiple left-sided rib fractures and a left-sided scapular fracture.
 - vi) The bruising and abdominal injuries were caused separately to the rib and scapular fractures. The bruising and abdominal injuries were likely to have occurred between the 22 and 29 November. The rib fractures and the scapular fracture were likely to have occurred between 30 October and 22 November.

- vii) The assaults which caused the rib and scapular fracture consisted of the first or third respondent punching or kicking A or pushing him very heavily onto a hard surface.
 - viii) The assault which caused the bruising and abdominal injuries consisted of the third respondent kicking A with a shoe or boot or punching him with a fist.
 - ix) On or around 11 October 2018, A suffered bruising to his right chin, around his neck, to the middle region of his chest and to the right side of his abdomen. The bruising was wholly or in part the result of inflicted injury by either the first respondent or third respondent.
 - x) A has experienced prolonged and severe emotional abuse and neglect whilst in the care of the first and third respondents.
 - xi) B was likely to suffer significant physical harm and neglect if she were living in the same household as A and being cared for by the first or third respondent.
 - xii) The first respondent has failed to protect A and B in that she continued to expose A to physical and emotional harm:
 - a) From the domestic violence the third respondent perpetrated upon her; including incidents in July August and November 2018.
 - b) From the third respondent losing his temper and using inappropriate physical force on A.
 - c) Subsequent to the commencement of proceedings she continued to have contact with the third respondent on 18 January 2019 and 20 March 2019 despite stating they had separated, that bail conditions prohibited their being in contact with each other and him assaulting her.
 - xiii) The third respondent is a man of violence having assaulted the first respondent on at least 3 occasions in July, August and November 2018 in the presence of A. He has further assaulted her in March 2019. He also assaulted A on 26 November 2018 by forcing food into his mouth exacerbating his existing injury and by slapping him on the bottom.
 - xiv) The third respondent has lied to the police and the court regarding the nature of his relationship with the first respondent and the child A by concealing incidents when he was the perpetrator of violence against them.
9. The schedule of agreement between the medical experts identified a small skull fracture which the LA originally included as part of the threshold. As a result of the oral evidence and the uncertainties as to its nature, how it might have been caused, how it might have appeared in its original form and as to timing the LA no longer pursued findings in relation to it. This was an appropriate decision given the evidence in relation to it.
10. The first respondent's position is set out in detail in her response dated 7 May 2019. In summary she:

- i) Accepts the injuries sustained by A.
 - ii) Asserts that the injuries observed on 26 July 2018 were the result of an accident on a trampoline on 25 July 2018.
 - iii) Denies causing any of the bone fractures or the abdominal injuries sustained in October and November 2018 but accepts the expert evidence as to the mechanism by which they were probably caused.
 - iv) Avers that some of the bruising and soft tissue injuries were the result of an accidental fall that A sustained at the beginning of November 2018.
 - v) Accepts that she failed to protect A from emotional abuse arising from the domestic violence she experienced and that she failed to seek appropriate medical attention for A following some of the injuries he sustained.
 - vi) Denies that she failed to protect A from physical assaults on him by the third respondent on the basis that, whilst she had suspicions that he may have been mistreating A, her suspicions were not such as to require her to take further action beyond that which she did.
 - vii) Accepts that she was the victim of several assaults by the third respondent which she failed to disclose to the police or to protect A from.
 - viii) Accepts that she has continued to have some contact with the third respondent but avers that this has primarily been the result of his intimidation of her.
11. The second respondent primarily seeks to progress the placement of A with him. He doubts that the first respondent is capable of having been the perpetrator of the injuries sustained by A based on his experience of her. However, he is highly critical of her failure to take action to protect A from the third respondent. He is also critical of the response of A's GP to the injuries which were observed on 26 July 2018 and invites me to take steps to initiate an investigation into how it was that no further steps were pursued in the summer of 2018 to establish how those injuries were sustained.
12. The third respondent's position set out in his response to the threshold dated 7 May 2019 is broadly speaking to deny any responsibility for any injuries sustained by A and to deny any abuse of the first respondent. In respect of the 3 significant sets of injuries he says that:
- i) The July injuries were not caused by him and he understood from the first respondent that they were sustained as a result of an accident on a trampoline.
 - ii) The bone fractures were not caused by him and he understood that A had fallen down some stairs in late October to early November 2018 which he attributed the soft tissue injuries to. He accepted the bone fractures were not consistent with a fall but could not offer any explanation as to how they could have been sustained. He did not attribute them to the actions of the first respondent either as a direct allegation or inferential.

- iii) The abdominal injuries were not caused by him. Nor did he attribute them to the first respondent. He stated that he believed A had fallen down a set of stairs in the house on 26 November 2018 and believed this was probably the cause of those injuries.
 - iv) He states that A had a good relationship with him and he had done nothing to emotionally abuse A.
 - v) He denies assaulting the first respondent on any occasion but accepts there were some arguments which did not go beyond the ordinary.
 - vi) He denies assaulting A on any occasion.
13. By the conclusion of the evidence the Guardian's position had crystallised into a submission that the third respondent was the probable perpetrator of all of the injuries sustained by A. Further the Guardian submitted that the evidence demonstrated that from July 2018 onwards the first respondent was aware of the third respondent's propensity for serious violence to her and probably to A. It was to such an extent that her failure to remove A from the home that she shared with the third respondent represented a serious failure to protect A and it amounted to a prioritisation of her interests over that of A.

This Hearing

14. For the purposes of this hearing I was provided with 5 lever arch files of documents. Of those the principal components which I have read comprise:
- i) the witness statements,
 - ii) the expert reports,
 - iii) police disclosure in particular the interviews of the first respondent and the third respondent,
 - iv) sections of the medical notes,
 - v) documents downloaded from the phones of the first respondent and the third respondent in particular photographs and text messages,
15. Miss Thing on behalf of the local authority provided a case summary together with chronologies and tables relating to the medical records. They were of considerable assistance. The other parties provided position statements or responses to threshold shortly prior to or at the commencement of the hearing. Various documents have been provided during the course of the hearing, not least the most recent statements of the first respondent and the third respondent which dealt both with the principal issues but also, at my request, descended into the circumstances and timing of the photographs of A which were included in the bundle but in respect of which there was some uncertainty over their dating given the limited information from the police in respect of when they were taken. I understand that the phones are awaiting a more detailed analysis by the police which has been delayed as far as I can ascertain by the backlog of work within that data extraction unit. Certified translations of the text exchanges were also provided to me.

16. I have heard evidence from the following witnesses:
- i) Dr Oates, consultant paediatric radiologist
 - ii) Dr Mecrow, consultant paediatrician
 - iii) Dr C, consultant paediatrician who treated A on his initial admission to hospital
 - iv) SW, the social worker
 - v) The first respondent who gave evidence over the course of about a day and a half
 - vi) The third respondent who also gave evidence over the course of about a day and a half.
17. Mr Lander the consultant paediatric surgeon who had provided an expert report was ultimately not required to give evidence.
18. It had also been expected that evidence would be given by some of the other medical staff who treated A on his admission, and who witnessed both what was said about his injuries but also the interaction between A and the first respondent at hospital. Statements had not been taken from these individuals by the police and ultimately no statements from them were provided and so they did not give evidence. Dr C's evidence covered much of the territory that those other treating medical staff would have given and the first respondent was able to put her case to Dr C.
19. After hearing submissions from the parties on Thursday 16 May, I reserved judgment to be delivered in written draft either on Friday 17 May or Tuesday 21 May. I indicated to the parties that it was likely to be a lengthy judgment and so it has proved. In order to aid the parties and the legal teams I indicated that I would include a summary of my analysis and conclusions to assist the parties to understand the outcome without the necessity for the entirety of the judgment to be interpreted to them before the hearing resumed. That summary can be found at paragraphs 58-75 below.

The Law

20. In order to make a care or any public law order the local authority must prove that the situation justifies the intervention of the State. This means that the Local Authority must establish the statutory threshold set out in s.31(2) Children Act 1989.

(2) A court may only make a care order or supervision order if it is satisfied

–

(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to –

(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or

(ii) the child's being beyond parental control.

21. The relevant date is 3 December 2018.
22. In respect of failure to protect all parties agree that the statutory framework provides for an objective standard. What would a reasonable parent do? Issues connected with the effect of domestic abuse or financial vulnerability on the first respondent's response to events might fall for consideration not at the threshold stage but rather might feature in the court's determination of welfare issues, in particular relating to risk and capability.

The burden and standard of proof

23. In respect of the task of determining whether the 'facts' have been proven the following points must be borne in mind as referred to in the guidance given by Baker J in Re L and M (Children) [2013] EWHC 1569 (Fam) confirmed by the President of the Family Division in In the Matter of X (Children) (No 3) [2015] EWHC 3651 at paragraphs 20 – 24. See also the judgment of Lord Justice Aikens in Re J and Re A (A Child) (No 2) [2011] EWCA Civ 12, [2011] 1 FCR 141, para 26.
24. The burden of proof is on the local authority. It is for the local authority to satisfy the court, on the balance of probabilities, that it has made out its case in relation to disputed facts. The parents have to prove nothing and the court must be careful to ensure that it does not reverse the burden of proof. As Mostyn J said in Lancashire v R [2013] EWHC 3064 (Fam), there is no pseudo-burden upon a parent to come up with alternative explanations [paragraph 8(vi)] although as Mr Justice Peter Jackson (as he then was) confirmed in Re BR (Proof of Facts) [2015] EWFC 41 at #41 the nature of the history given by a carer of a child who has suffered a serious injury is a matter that doctors are entitled to have regard to in forming their opinions. The weight given to that opinion is of course a matter for the judge.
25. The standard to which the local authority must satisfy the court is the simple balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing probabilities and deciding whether, on balance, the event occurred [Re B (Care Proceedings: Standard of Proof) [2008] UKHL 35 at paragraph 15]. Within this context, there is no room for a finding by the court that something might have happened. The court may decide that it did or that it did not [Re B at paragraph 2]. If a matter is not proved to have happened I approach the case on the basis that it did not happen.
26. Findings of fact must be based on evidence, and the inferences that can properly be drawn from the evidence, and not on speculation or suspicion. The dividing line between the drawing of inferences and speculation may not be a clear one; it is essentially a matter of judgment what is legitimate inference and what is insupportable speculation. The decision about whether the facts in issue have been proved to the requisite standard must be based on all of the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors [A County Council v A Mother, A Father and X, Y and Z [2005] EWHC 31 (Fam)].
27. The court is not limited to considering the expert evidence alone. Rather, it must take account of a wide range of matters which include the expert evidence but also include, for example, its assessment of the credibility of the witnesses and the inferences that can properly be drawn from the evidence. The court must take into account all the

evidence and furthermore consider each piece of evidence in the context of all the other evidence rather than adopting a compartmentalised approach. 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 a conclusion.

28. Thus, the opinions of medical experts need to be considered in the context of all of 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. Cases involving an allegation of non-accidental injury often involve a multi-disciplinary analysis of the medical information conducted by a group of specialists, each bringing their own expertise to bear on the problem. 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. When considering the medical evidence in cases where there is a disputed aetiology giving rise to significant harm, the court must bear in mind, to the extent appropriate in each case, the possibility of the unknown cause [R v Henderson and Butler and Others [2010] EWCA Crim 126 and Re R (Care Proceedings: Causation) [2011] EWHC 1715 (Fam)].

"Today's medical certainty may be discarded by the next generation of experts. Scientific research may throw a light into corners that are at present dark. That affects neither the burden nor the standard of proof. It is simply a factor to be taken into account in deciding whether the causation advanced by the one shouldering the burden of proof is established on the balance of probabilities."

29. The evidence of the parents and of any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. They must have the fullest opportunity to take part in the hearing and the court is likely to place considerable weight on the evidence and the impression it forms of them [Re W and Another (Non-Accidental Injury) [2003] FCR 346].
30. It is always desirable, where possible, for the perpetrator of non-accidental injury to be identified both in the public interest and in the interest of the child. The Court of Appeal has recently considered the law where only two possible perpetrators are identified. In Re B (a child) [2018] EWCA Civ 2127 Lord Justice Peter Jackson said,

[19] The proper approach to cases where injury has undoubtedly been inflicted and where there are several possible perpetrators is clear and applies as much to those cases where there are only two possible candidates as to those where there are more. The court first considers whether there is sufficient evidence to identify a perpetrator on the balance of probabilities; if there is not, it goes on to consider in relation to each candidate whether there is a real possibility that they might have caused the injury and excludes those of which this cannot be said: North Yorkshire County Council v SA [2003] EWCA Civ 839, per Dame Elizabeth Butler-Sloss P at [26].

[20] Even where there are only two possible perpetrators, there will be cases where a judge remains genuinely uncertain at the end of a fact-finding hearing and cannot identify the person responsible on the balance of probabilities. The court should not strain to identify a perpetrator in such circumstances: Re D (Care Proceedings: Preliminary Hearing) [2009] EWCA Civ 472 at [12].

[21] In what Mr Geekie described as a simple binary case like the present one, the identification of one person as the perpetrator on the balance of probabilities carries the logical corollary that the second person must be excluded. However, the correct legal approach is to survey the evidence as a whole as it relates to each individual in order to arrive at a conclusion about whether the allegation has been made out in relation to one or other on a balance of probability. Evidentially, this will involve considering the individuals separately and together, and no doubt comparing the probabilities in respect of each of them. However, in the end the court must still ask itself the right question, which is not "who is the more likely?" but "does the evidence establish that this individual probably caused this injury?" In a case where there are more than two possible perpetrators, there are clear dangers in identifying an individual simply because they are the likeliest candidate, as this could lead to an identification on evidence that fell short of a probability. Although the danger does not arise in this form where there are only two possible perpetrators, the correct question is the same, if only to avoid the risk of an incorrect identification being made by a linear process of exclusion.

31. So an approach which surveys a very broad canvas, which weaves all of the evidence together in all of its facets, which draws appropriate inferences from the evidence and from common sense and which incorporates the likelihood of one rather than the other being the perpetrator is the correct approach.
32. When looking at how best to protect a child and provide for his future in a pool of perpetrators conclusion, the judge will have to consider the strength of that possibility as part of the overall circumstances of the case [Re S-B (Children) at paragraph 43]

Lies/Withholding Information

33. The family court should also take care to ensure that it does not rely upon the conclusion that an individual has lied on a material issue as direct proof of guilt but should rather adopt the approach of the criminal court, namely that a lie is capable of amounting to corroboration if it is (a) deliberate, (b) relates to a material issue, and (c) is motivated by a realisation of guilt and a fear of the truth [Re H-C (Children) [2016] EWCA Civ 136 at paragraphs 97-100].
34. 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 at all times that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear, and distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything [R v Lucas [1981] QB 720]. It is important to note that, in line with the principles outlined in R v Lucas, it is essential that the court weighs any lies told by a person against any evidence that points away from them having been responsible for harm to a child [H v City and Council of Swansea and Others [2011] EWCA Civ 195].
35. In Lancashire County Council v The Children [2014] EWFC 3 (Fam), at paragraph 9 of his judgment and having directed himself on the relevant law, Jackson J (as he then was) said:

“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 accounts. The possible effects of delay and repeated questioning upon memory should also be considered, as should the effect on one person hearing accounts given by others. As memory fades, a desire to iron out wrinkles may not be unnatural - a process that might inelegantly be described as 'story-creep' - may occur without any necessary inference of bad faith."

36. All the evidence is admissible notwithstanding its hearsay nature, including the evidence in local authority case records or social work chronologies which is hearsay, often second- or third-hand hearsay. The court should give it the weight it considers appropriate: Children Act 1989 s.96(3); Children (Admissibility of Hearsay Evidence) Order 1993; Re W (Fact Finding: Hearsay Evidence) [2014] 2 FLR 703.

The Parties' submissions

37. Following the conclusion of the evidence I heard oral submissions from the parties over the better part of a day. I cannot incorporate in this judgment the breadth and depth of those submissions but hope to extract the essential points made in support of the parties' respective cases.
38. Miss Thing based her submissions upon a written document provided overnight 'outline closing submissions'. As already noted the local authority's position is that the first respondent and the third respondent are both possible perpetrators of the genital injuries sustained by A in July and the rib and scapular fractures sustained by A in October/November. However, they identify the third respondent as the perpetrator of the abdominal injuries sustained in late November.
- i) The evidence establishes that A lived in a household where violence, verbal aggression and intimidation from the third respondent was a regular feature.
 - ii) The medical evidence is almost all agreed in respect of the timing, nature of the injuries and the mechanism for causation. The medical evidence all supports deliberate infliction rather than accidental mechanisms.
 - iii) The local authority rejects the explanations given in respect of any of the injuries as they do not adequately explain them.
 - iv) Neither the first respondent nor the third respondent are reliable or truthful witnesses.
 - a) By reference to a helpful tabular summary Miss Thing demonstrates by sampling inconsistencies in the first respondent's evidence (the difference between her account to police of the relationship between A and the third respondent and her oral evidence; her account of whether A had any injuries on him on the morning of 29 November); lies the first respondent has told (her police interview as to the third respondent's violence to her and A); the emergence of entirely fresh

evidence (tickets purchased to go to Lithuania after 2 August 2018); information withheld from police (third respondent force-feeding and smacking A on 26/11/18). The court can infer from her lies that they corroborate guilt having regard also to the number of opportunities available to the first respondent to seek help or report the third respondent's abusive behaviour, her detached demeanour at hospital and in the witness box and A's response to her at hospital and in contact.

- b) The third respondent's demeanour in the witness box was evasive avoidant and self-serving. He minimised any behaviour which might show him in a bad light. He has a disregard for the law as demonstrated by his driving convictions and persistent breach of bail. His evidence was inconsistent as to the number timing and circumstances of falls (the big slipper incident) and in some respects, was implausible.
- v) In respect of the July injuries, the medical evidence points to the likelihood of them being inflicted rather than accidental. Only one accidental mechanism was identified by Dr Mecrow and the first respondent's account is not consistent with that mechanism given that the trampoline had a safety net around it and A's reaction afterwards was suggestive of only a minor incident. Given that it occurred after the first recorded incident of violence from the third respondent to the first respondent it is more probable that this was not an accidental injury but rather an inflicted injury. The evidence does not sufficiently identify who caused it but only the first respondent and the third respondent are in reality possible perpetrators. The first respondent's numerous and misleading accounts of falls A has sustained together with the deficiencies in her account identify her as a possible perpetrator.
- vi) The evidence in relation to how the genital and fracture injuries were sustained does not clearly identify the circumstances in which they were sustained
- vii) In respect of the fracture injuries the medical evidence establishes they were inflicted injuries and were not consistent with any sort of fall. The accounts given by the first respondent and the third respondent of a number of falls around this time cannot explain the injuries and in any event the accounts are inconsistent as to the circumstances of and the number of falls he sustained. The absence of any sufficient explanation combined with the apparent attempt to initially blame them on falls supports the medical evidence that they are consistent with inflicted injury. The evidence does not sufficiently identify who caused them but again only the first respondent and third respondent are in reality possible perpetrators of them.
- viii) In respect of the abdominal injuries, the totality of the evidence points to the third respondent as the perpetrator. The medical evidence together with the evidence of the first respondent and third respondent suggests the injury was sustained on 26 November. The third respondent had sole care of A in the early evening of 26 November and says A fell down the stairs. The medical evidence establishes that such a fall is a highly unlikely explanation for the injuries, '*beyond the realms of reasonable likelihood*' (Dr Oates). The other evidence of the third respondent's propensity to lose his temper, to use

violence, to behave aggressively all point to the injuries being inflicted and he being the perpetrator. The first respondent's account of an incident that night of third respondent force-feeding and smacking A and assaulting her supports him behaving violently that night.

- ix) The evidence overwhelmingly supports the conclusion that the first respondent was aware that A was being harmed by the third respondent and she ought to have taken steps to protect him. She prioritised her needs over A's. This course of conduct persisted right up until the morning of 29 November when she left A in the care of the third respondent when she knew had very strong grounds to believe that he was assaulting A.

39. On behalf of the first respondent Mr Sleight submitted that:

- i) The evidence demonstrated that the first respondent was an unlikely perpetrator of injuries to A:
 - a) There were no concerns about her parenting of A prior to July 2018. His medical records and the evidence of the second respondent show she was an appropriate parent.
 - b) Injuries only begin to emerge when she begins to live with the third respondent.
 - c) The nature of the assaults causing the bone fractures and the abdominal injuries is very similar and it is improbable that two separate perpetrators were carrying out similar assaults on A.
 - d) Would she have taken A to the doctors the following day if she was the perpetrator?
- ii) She accepts she failed to protect A from emotional harm arising from his exposure to domestic violence and in failing to seek medical treatment for him sufficiently early. She accepts there was material sufficient to put her on alert to a potential risk to A from the third respondent but had not seen him assault A and so cannot be said to have failed to protect him in this way. She made up the story about police and social services involvement in November in order to ensure the third respondent did not harm A.
- iii) The court should not use any lies she has told as corroborative of her guilt as a perpetrator or otherwise. There are many other reasons which explain in particular why she did not give a truthful account to police when interviewed. Her belief that she may be returning home to the third respondent during interview is reasonable, and if she was the victim of domestic violence she would have had good reason to be fearful of the third respondent's response had she disclosed either his violence to her or her suspicions about his violence to A.
- iv) The court should be cautious as to what it reads into the photographs. Dr Mecrow has not analysed or commented on them. Their dating and what they

show is unclear. For instance, those at K411/412 probably show A eating with a spoon rather than having a swollen face at that point.

- v) The totality of the evidence supports her account of domestic abuse:
 - a) He is a man with a criminal record and has little respect for laws or social norms
 - b) He is demonstrably a man with a temper in drink
 - c) Her account of the incident in July is broadly consistent whereas his account given in his witness statement is wholly different from that he accepted in cross examination
 - d) He had a selective memory when challenged as to the details of incidents
 - e) He is capable of being threatening and abusive; the texts provide a flavour.
 - f) The evidence shows he is jealous of the first respondent and suspects her of being unfaithful. His assertion that on seeing a sexually suggestive message in August only led to him feeling sad is wholly implausible and inconsistent with other evidence about his attitude towards her. Her evidence of being hit on her right arm is consistent with him being left-handed and her evidence of being asked about the bruise and giving an innocent explanation to the health visitor is a detail which suggests her account is truthful. Further her evidence of considering leaving to go to Lithuania suggest something was badly wrong.
- vi) In respect of the July injuries she thought it was attributable to an accident on the trampoline although she accepts there may be another explanation. The medical evidence, both contemporaneous and expert, does not point conclusively one way or the other.
- vii) In respect of the rib and scapula fractures they are caused by a similar mechanism to that of 26 November. This points to her not being a possible perpetrator. The medical evidence is that A's response to those injuries would not have been such as to alert a non-perpetrator carer to the presence of such serious injuries. Her taking him to the hospital to deal with the swollen soft tissue around the frenulum is also a contrary indicator for her being the perpetrator. She denies holding A back from medical treatment whilst his bruising resolved. She took him because the frenulum had become swollen.
- viii) In respect of the abdominal injuries the first respondent's belief is that it must have happened before she got home. Although her accounts in her first witness statement at paragraphs 8 and 27 do not match up her oral evidence and her police statement paint a picture which the court can rely upon which would show the third respondent was in a highly aggressive mood that night.

40. On behalf of the second respondent Mr Roche took a broadly neutral position as to who was responsible for A's injuries. However, he did draw my attention to the following matters;
- i) If the first respondent was heavily pregnant and in a delicate state of health could she have delivered the blows?
 - ii) The impression from the first respondent in the witness box is that we haven't heard the whole truth.
 - iii) The second respondent strongly believes the first respondent failed to protect by remaining in the relationship and failing to seek medical care immediately. The photographs demonstrate very worrying injuries. There seems to be a delay in presenting A.
 - iv) Her attitude to use of medical facilities within her pregnancy suggests that she was aware of the ability to get medical assistance and her failure to do so cannot be explained by any cultural issue.
 - v) The video is hard to interpret. Same with photos. The transcript doesn't show abusive language but the appearance of the video is not reassuring as the third respondent says it was. Taken with M's account of A being wary would be consistent with A being scared of the third respondent.
41. On behalf of the third respondent Ms Williams submitted as follows.
- i) He accepts the medical evidence as to the rib injuries and is unable to offer an explanation save that he denies any punch or kick. In respect of the abdominal injuries, he attributes them to the fall down the stairs which remains a possibility having regard to the medical evidence.
 - ii) He denies causing any bruising whether by force feeding on 26th or on any other occasion or the exacerbation of the frenulum injury. He has given an explanation for the injuries seen in the photos at K423 to 425 and his belief is that all of the injuries visible were caused in that incident when A tripped whilst wearing large slippers. Ms Williams points out that bruises can be caused in many ways and it would be wrong to infer that the bruises are older and indicate another incident. There is no expert opinion to support that.
 - iii) In respect of the genital injuries in July, there is no evidence to support the conclusion that even if caused deliberately they were caused by him. The medical evidence as is accepted by Dr Mecrow is very limited in respect of this injury. The first respondent told him of an accident which he believes occurred and explains the injuries. Her evidence of seeing a change from redness to bruising in the aftermath of the trampoline incident and accidental explanation. It clearly happened whilst A was in her care not his.
 - iv) There clearly was a fall in October as the first respondent describes one which caused quite significant facial and other soft tissue injuries. Although that does not explain the fractures it is not incumbent on him to provide an explanation for them. The first respondent was the primary carer and he spent relatively

little time with A. A was taken to the doctors when the frenulum injury became infected and there was still some residue of the bruising then. The evidence does not support a deliberate decision to keep A away from doctors. The first respondent's assertion that A frequently returned from another part of the house where he had been with the third respondent with an injury is inconsistent with what she told police. In any event she now says she did not allow A to spend time with the third respondent so how could he have caused injuries?

- v) He has given an explanation which would account for the abdominal injury. He accepts that he was cross that night but this was to do with A having been left in the rain and being cold and wet. It was not because he had had to go to pick him up. The first respondent's account of him force-feeding A and assaulting her on that evening is completely inconsistent with what she told police and her own initial statement. The photo at K462 is dated 26 November and time that 19:13pm which is consistent with the third respondent's account of A falling downstairs and then perking up and going out to the shops.
 - vi) In more general terms, the third respondent's driving record may demonstrate recklessness, but in no way is it probative of guilt of these serious injuries. The way he speaks of A in his evidence is in affectionate terms and suggests he is unlikely to cause him injury. His account of limited chastisement demonstrates appropriate discipline.
 - vii) Ms Williams also cautions in respect of the use of the photos. She submits that the use individuals make of phones in 2019 is entirely consistent with the father's account of having taken photos upstairs and sent them to the first respondent downstairs. No sinister motive should be inferred; that would be insupportable speculation. The video is consistent with his account of encouraging A to make use of the shower.
 - viii) The first respondent's account of domestic violence is unreliable. She denied any violence when interviewed by police. Her subsequent accounts are inconsistent with each other and indicate they are fabricated. If he had subjected her to such violence she had many opportunities to report them and to leave him. The fact that she did not do so suggests it did not happen. She was regularly seeing medical staff in relation to her pregnancy. At the hospital on the 29th, she was alone with medics at various times and made no allegations to them. She had friends who she could call upon to assist, whether S or the second respondent or others. The third respondent has been consistent and emphatic in his denials. He describes minor arguments and accepts that he lost his temper in July. His evidence is more credible.
- a) In respect of the March 2019 incident he has given a clear account which is consistent with the CCTV evidence. She approached him and they walked in a friendly way back towards his house. This is inconsistent with her account of him forcing her to return with him. The fact that he immediately went to the police station after she rushed out is consistent with him being innocent of any wrongdoing. He wanted to ensure the police were aware there had been a breach of the bail conditions and to make sure she was not setting him up.

- b) His account of the argument in July and the absence of any violence is more consistent than the first respondent's account.
- c) Likewise his account of what occurred in August is more consistent than the first respondent's.

42. On behalf of the Guardian Ms Kaur made the following points.

- i) The Guardian invites court to take the first respondent out of the pool of perpetrators essentially for the reasons identified by the first respondent. The Guardian also points to her physical handling in contact which does not show any harshness. The Guardian also submits that if the first respondent is telling the truth about domestic abuse, as he submits she is, this clearly identifies her not as a perpetrator of violence but a victim of violence.
- ii) The totality of evidence points to M being a victim of violence as is A:
 - a) There are multiple risk factors present; a new relationship, financial pressures, loss of temper whilst in drink, jealousy, a degree of coercion or control, aggressive language in texts; lawlessness and a lack of respect for the law as demonstrated by his repeat driving convictions and breach of bail.
 - b) The message described at C53 #24 of the third respondent traumatising A together with the text referring to hysterical attacks.
 - c) Her account of telling the third respondent that police and Social Services were involved. Why else would she do it but as a feeble attempt to protect A from violence?
 - d) Her police statement contains elements which have the appearance of authenticity; not being able to sleep on her right side, the detail of her reminding him she hadn't been able to wash her own hair.
 - e) Her accounts of 26 November 2018 given in the police statement is broadly similar to her statement. Although she did not link them in her statement which appears to divide up abuse to her and abuse to A they are broadly consistent with each other and her oral evidence.
 - f) The July incident – if accepted shows him to be a violent man; persistent, violent to a third party, to his pregnant girlfriend.
 - g) The parties accept that the photographs show various injuries. It is not a question of whether they do show injuries but what the court can infer from them. It would be a legitimate inference for the court to infer that the photographs at K423 – 425 show two separate sets of injuries. It would also be legitimate to infer that they show inflicted injuries and that the delay in taking A to hospital between the end of October and 6 November was because the first respondent and the third respondent wished to wait for the bruising to subside before they did take him to a medical practitioner.

- iii) In respect of the July bruising the explanation given by the first respondent doesn't adequately explain the injury. On the history of the case the court can conclude this was an inflicted injury.
- iv) The totality of the evidence relating to 26 November points to the third respondent as the perpetrator of the injury. The mechanism described by the experts is of a very serious assault. He gives an account of something in order to explain the injury which does not accord with the expert evidence but was something he offered to the first respondent that night. On testing in cross examination his account seems wholly implausible in respect of why he took A upstairs. The medical evidence doesn't rule out A going for a walk later as neither Dr Mecrow or Mr Lander provide detail on the nature of his response over a period of a couple of hours later.
- v) M said in her statement at C56 that there were odd incidents – it wasn't said for the first time in the witness box.
- vi) The evidence establishes that she failed to protect from July onwards. She should have left after the first incident of violence. Her fabrication of the involvement of police and social services in November demonstrates her awareness of the risk the third respondent posed. She refers at C56 to her concern at the instances of A reappearing with an injury after having been alone with the third respondent elsewhere in the house and finding bloodied wet wipes under his bed. She failed to take protective action in respect of the violence A was experiencing from the third respondent which she knew or ought to have known of. In addition she failed to seek appropriate medical attention at various stages including after being informed of the alleged fall on 26 November his condition was such that she ought to have taken him for medical attention. Her continuation of a relationship of sorts with the third respondent into 2019 demonstrates a continuing failure to act protectively.

The Evidence

- 43. Attached is a detailed chronology appendix A which sets out both the factual and some of the procedural background to the case. Incorporated within the chronology is much of the documentary and oral evidence that I have read and heard although it cannot incorporate everything. Insofar as I have needed to determine matters of fact I have to some degree incorporated that evidence and my conclusions within the chronology. The chronology needs to be read together with the analysis and conclusions below.
- 44. There are some gaps in the evidence. The evidence relating to the genital injuries in July is itself limited. The medical records are very spartan. The accounts are given relatively late in the day; the first respondent's account emerges from a discussion with the social worker during the parenting assessment it not having formed part of the Threshold when originally drafted. No one else who was present, or allegedly present has been spoken to. Others who might have provided statements have not done so. The third respondent's father and his partner who were present in the house on the evening of 26 November do not appear to have been approached either by the police or the local authority or the father to give evidence. The downloads from the parents' phones are limited. They do not cover the i-messaging which the first

respondent suggested was the parties' primary vehicle for communication as opposed to texts. The evidence in relation to the photographs which have been downloaded from the phones is not entirely satisfactory in respect of the dating of the pictures, albeit ultimately both parties gave evidence which suggested that the photographs in broad terms were consistent with the dates which appeared on them. For reasons which were not entirely clear, Dr Mecrow had not had the opportunity to comment on the photographs of A and thus the interpretation of what they showed was more limited than it might have been. Dr C was invited to comment on them and did so albeit she identified the relatively poor quality of the photos as a limitation in any event. Thus some caution has to be deployed in relation to the use of the photographs. I do not consider that it is possible to draw some of the inferences that Ms Kaur on behalf of the Guardian invited me to make; for instance that the injuries seen were only consistent with a non-accidental infliction. However, the photographs and the text messages with their limitations have to be fitted into the overall canvas of evidence and play their part within it. The videos of A were also made available to me. I did not have a transcript of the comments that the third respondent was making whilst A was in the shower. Again I am cautious about what one can infer from the videos but on the other hand one cannot ignore them. They do have some evidential value.

45. I also have regard to the fact that both the first respondent and the third respondent have given evidence via an interpreter and more importantly that their communications with the hospital and social services and police were conducted through interpreters or without interpreters.
46. In determining the facts, I have surveyed a broad canvas, looking at the totality of the evidence and how the constituent parts fit together to make up a whole. I am conscious that in parts the jigsaw is incomplete and in others the picture which emerges is unclear. However in other aspects the totality of the evidence paints a very clear picture indeed.
47. Part of the problem in determining the facts is that neither of the key witnesses of fact, namely the first respondent and the third respondent are reliable historians. Plainly their credibility is a significant component in determining the facts. Fortunately the existence of some contemporaneous evidence or agreed facts provide assistance in determining which of the two is the more reliable overall. My assessment of the first respondent and the third respondent set out below draws upon and feeds into my assessment of the evidence in appendix A.
48. The first respondent gave evidence over about a day and a half. She gave evidence through an interpreter although I got the impression that she understood quite a lot of English as she answered questions before they had been interpreted for her. She herself says that her English has improved significantly over the last months so it is difficult to know with any certainty what her level of English was in November of last year. Her witness statements were provided in English and without interpreter's certificates. Dr C appeared to be satisfied that the first respondent understood in large measure what was being said to her and she was able to relay a history which Dr E and Dr C were able to take down without interpreters. The first respondent was generally polite and cooperative during her evidence; there were only very rare moments where she was argumentative – they coming at the end of a long day. She did not come across as aggressive but as a rather passive individual. Someone who is

reactive rather than proactive. At times she appeared to give up or be resigned. She did not appear to be a person who is likely to be capable of losing her temper in a way that would cause her to inflict violence upon another. There is nothing in her history which points at that as being a likely facet of her character. There were occasional moments when her body language changed. Whilst reading presentation and body language is tricky I thought it perhaps significant that when she denied ever having smacked A she appeared to become somewhat flustered, rapidly blinking. This perhaps was an indication of her knowingly lying during her evidence. This was an isolated incident though. The first respondent demonstrated little emotion throughout her evidence. There were occasions when her aura of detachment slipped and she appeared tearful. Such flashes appeared to occur when she was talking about her son. I did not get the impression that she did not care and that her detachment was a reflection of that. The evidence of her caring for A prior to July 2018 together with her attachment to A and B as seen during contact and the evidence of her distress at times at the hospital and her attempts to comfort A by holding his hand, smiling at him and speaking to him all appear to support the conclusion that she does care for her children and is engaged with her emotions. It seems to me more likely that her apparent detachment during her evidence is a protective response to prevent her being overwhelmed by events and the emotions they would provoke. She is currently homeless and without work and facing the loss of her children whilst also coping (if I so find) with the aftermath of the infliction of serious violence upon her and upon A. Whilst there were moments during her evidence where she sought to avoid responsibility, there were more where she accepted that she had let her son down.

49. There are clearly some very major issues to do with her reliability as a historian. The difference between her police interview in which she maintained she had a good relationship with the third respondent and that he had a good relationship with A are in startling contrast to her statements in the family proceedings and to the police and indeed to her oral evidence. Even between her statements in which she gives an account of domestic abuse there are significant discrepancies. There are some significant differences between her police witness statement given on 8 January and her family court witness statement given on 15 January. The account of the train of events on 9 July is significantly different. Her account of 26 November in her family court statement does not identify the force-feeding incident and the assault upon her as having taken place that night but rather on an unspecified date in November. It is clear that her recall of dates and the sequence of events is poor. What is the explanation for these differences? It could be an indicator of dishonesty but could also be a product of an unreliable memory. The overall picture which emerges from all of her evidence is a broadly consistent account of incidents of violence being inflicted upon her. I agree with Mr Roche's submission made on behalf of the second respondent that there is a sense that she has not told the full story. Again that may be because she is dishonest or it may be because she is not yet emotionally able to come to terms with some of what has happened. During robust cross examination, her core account remained intact. Some of her responses seemed to be spontaneous and to demonstrate a degree of indignance which lent credibility to her answer; for instance, when it was suggested that the third respondent had not tried to strangle her and had not smacked A on 26 November. Likewise when it was floated to her that she had herself caused the injuries she sustained in March 2019. Small details provided an authentic feel to her account. Her recall of the conversation in which she reminded the third respondent of the bruise he had inflicted on her in August and how it had made it

painful for her to wash her hair, the third respondent being picky about the way clothes were folded, her account of sausages being fed to A during the incident on 26 November. Her account of having made up a story that social services and the police were taking an interest and had visited the home is in itself corroborated by the third respondent's police interview. She said this was because A's had become unhappy in his presence and she suspected he was doing something. In addition her evidence that she considered leaving the third respondent and returning to her home country was corroborated to some extent by the third respondent's own evidence of her having said she wished to go to her home country. Given the difficulties in her pregnancy and her lack of finances seems improbable that she would have been referring to this as a holiday. She gave appropriate explanations for not having disclosed what was happening earlier in particular when she was challenged about why she had not given an account of domestic abuse and suspicion of child abuse to the police. Whilst at the police station, I'm satisfied that she did believe that she may be returning to the home she shared with the third respondent and that this would have been sufficient to make her fearful as to his response. In any event given the circumstances in which she was interviewed with A critically ill in hospital and she having been arrested on suspicion of GBH, I do not consider that her failure to give a full account to police is a matter which within 'Lucas' terms provides corroboration for her being a perpetrator of abuse or even a fabricator of an account of domestic abuse. Far more probable an explanation for that account is fear of the third respondent, fear of the situation she was in, and shame about her inaction. The existence of the abusive text messages from the third respondent together with matters such as his acceptance of his loss of temper on 9 July and his disregard for the law, as demonstrated by his driving record and his breach of bail, all tend to support the first respondent's general narrative.

50. The third respondent also gave evidence over the course of a day and a half. His presentation was very different from the first respondent. His attitude was rather insouciant or cocky, occasionally rather condescending. He repeatedly questioned the relevance of his driving convictions asserting that he had been punished and they were now forgotten. At times he appeared surprisingly candid for instance fully accepting that he had smashed the car up and had lost his temper and was shouting and swearing. At other times after appearing to be candid he would seek to alter or minimise a concession he had made. He rapidly changed an argument on 10 July into a 'discussion'; seemingly realising that an argument was more consistent with a subsequent alleged assault. He was assertive throughout and at times he came across as argumentative often taking issue with questions which had been put to him or confidently asserting that that question had already been asked and answered. He remained calm even under considerable pressure although his combativeness indicated at times he was probably quite wound up. There were flashes of irritation. He also seemed very detached from events. When questioned about the rib and scapula fractures he showed no interest in seeking to understand how they might have happened. He said he had no thoughts in his head about it and that he was hardly seeing the child and so had no explanation.
51. His statements and his oral evidence demonstrated significant inconsistencies or the suppression of the truth. His account of 9 July incident in his family court statement painted a picture of a relatively innocuous event. His oral evidence in stark contrast depicted a deeply unpleasant and frightening outburst of violent behaviour albeit towards an inanimate object. His account of the fall in October/early November which

led to the facial injuries and the injury to the frenulum is inconsistent. On one account in his statement in these proceedings he was at work when it occurred, on another in his police interview at K376, K378, and K382 he was at home. Many of his explanations seem highly implausible. His assertion that his response to the receipt by the first respondent of a sexually suggestive message was one of sadness was completely irreconcilable with his jealousy and aggressiveness demonstrated by his text messaging. His suggestion that a text message that he appears to accept sending which made reference to injecting A with water was a joke stretches incredulity. If it was a joke it was a joke which illustrates a worrying sense of humour. In cross examination in relation to the alleged assault in March he accepted that there was no one else in the property, that no one had any motive to assault him or the first respondent and could offer no explanation for how the first respondent came by the extensive injuries that she sustained on that occasion and which were immediately witnessed by the kebab shop and the police within minutes of her leaving his property. In the police interview having earlier said that A had no problems with his mobility, he later asserted that he was a clumsy child who was always falling over and walking into things and that was how he received his injuries. His assertion that the video of A in the shower amounts to a reassuring picture shows either dishonesty or a complete lack of empathy with a little boy's emotions. His account of leaving A upstairs on 26 November whilst he went to retrieve the buggy from the car made little sense in terms of why he took him upstairs and left him in his room. Even more significantly his account of not having heard anything as A fell down the stairs or of A crying afterwards or of the fact that neither his father or his partner heard or saw anything or came to A's assistance all sounded highly implausible. His assertion that A had been terribly cold and wet when he picked him up from the hospital and that he then sustained a significant fall down a set of stairs but he then considered it appropriate to walk to the shops in the rain shortly afterwards also appeared improbable.

52. Whilst neither the first respondent or the third respondent are very reliable witnesses I consider the first respondent to be inherently a more honest individual and more likely to feel the obligation to tell the truth in comparison to the third respondent.
53. Although there was little evidence of any interaction between the first respondent and the third respondent over the time they were in court or whilst they were each giving evidence, the characters which emerged from their evidence suggest the nature of the likely dynamic between them. Supplemented by what emerges from the text messages I conclude that the first respondent is the more passive and compliant of the two, a woman likely to seek to avoid conflict and to find it hard to assert her needs in the face of a stronger character. The third respondent is clearly a more dominant and assertive character, someone who does what he wishes regardless of the consequences for others. I conclude he is a man who has a brittle temper, is capable of highly abusive indeed offensive language and who whether in drink or otherwise would be capable of losing his temper.

Medical Evidence

54. Mr Lander sets out a summary [E82] in relation to the serious abdominal injuries.

It is my conclusion that A suffered a violent blow to the upper abdomen, this was delivered by blunt object such as a shoe or boot delivered in a kick, or by a fist in a

punch. This was, in all probability, an inflicted non-accidental injury. It is more likely that A was standing at the time but it is possible that he was lying down. There may have been two blows, but one blow provides a sufficient mechanism to cause all the injuries. The injury was most likely inflicted between Monday, 26 November 2018 and Wednesday 28th November. The perpetrator would have been aware that he or she had inflicted suffering and pain and that serious damage was likely to have been caused by the blunt injury. The injury lacerated the liver and it was life-threatening. The fact that the liver itself has needed no surgery does not detract from the seriousness of the injury. It is only by good fortune that the liver injury was no worse since had the laceration been a fraction more extensive it could have been fatal. The initial blow also compressed the mesentery of the small intestine against the spine, damaging the mesentery and the blood supply to 40 cm of jejunum. The pancreas was injured but has probably recovered. A was taken to the GP and then hospital. He lost a quantity of blood into the abdominal cavity and became quite unwell as a result. He went into pre-renal failure and needed a lot of intravenous fluid to keep his circulation going. He had an acute kidney injury but this was because of blood loss and not trauma and his kidneys recovered. A was fortunate that his liver injury was manageable without an emergency operation. Unfortunately, the devascularised jejunum died over the next few days and an abscess and inflammatory mass developed around it. On the 3rd or 4th of December 2018 the wall of the dead jejunum failed from gangrene and it then leaked a lot of intestinal content into the abdominal cavity and A became very unwell once more. At a life-saving emergency operation on 4 December the 40 cm of dead jejunum was removed, but A was too sick to join the bowel together and he returned to intensive care for 2 days rest after which he had a 2nd operation at which the bowel was repaired.

55. The photographs taken on 29 November at the hospital show the extensive bruises that A had sustained. They are unpleasant and concerning to view.
56. The evidence of the 3 medical experts is set out in detail in their reports. It was supplemented by the consolidated schedule of agreement [E263].
57. The conclusions from the medical experts is largely agreed and unchallenged. Attached at appendix B is a table summarising that evidence.

Analysis

58. Thus the fundamental issues that I need to determine having regard to the medical evidence and the positions taken by the parties are:
 - i) Were the injuries observed in July 2018 the result of an accident or an assault on A and if the latter was it the first respondent or the third respondent who assaulted A?
 - ii) Were the rib and scapula fractures sustained by A in October/November 2018 caused by the first respondent or the third respondent?
 - iii) Were the liver laceration and other abdominal injuries sustained by A between 26 and 29 November 2018 caused by the third respondent?

iv) Did the first respondent fail to protect A from serious physical abuse in that knowing or having good reason to believe that it was taking place she failed to remove A from that environment?

59. In answering these questions and in the discussion that follows, I draw upon all the evidence, analysis and conclusions on matters of fact, great and small, that are contained earlier in this judgment and in particular in the chronology. The extent of the documentary and oral evidence that has been heard on central and peripheral issues is considerable. Even this lengthy judgment can only include reference to evidence which bears centrally upon the issues I am determining. I do however have in mind much else that I have read and heard but which cannot be incorporated in this judgment or chronology.
60. I conclude that it is unlikely that the first respondent is a perpetrator of any of the 3 significant sets of injuries that A sustained. Indeed I do not consider that she would deliberately cause any injury to A, although I conclude it is more likely than not that she has on occasions smacked A as a form of chastisement. Her denial of this was an example of dishonesty arising through fear or shame. However, all of the other evidence about the first respondent points away from the likelihood of her as a perpetrator of violence upon her son. The evidence is that she provided appropriate care to A prior to July 2018. This emerges both from the medical records which show a child being presented appropriately for inoculations or minor problems and developmental checks but also from the acceptance that she provided appropriate care by both the second and third respondents. Having seen her give evidence and having heard something about her interaction with her children, there is no sign of her having a personality which would be consistent with the infliction of a high level of violence upon a child. Her general meekness or passivity and the absence of evidence of a temper support this conclusion. The fact that she was experiencing a fragile pregnancy would also point away from the likelihood of her using highly physical violent behaviour. Nor is she a drinker or consumer of drugs which might render her emotionally unstable. I do not consider that the lies she has demonstrably told can be deployed to corroborate any evidence which might identify her as a perpetrator of violence. However she has clearly failed to protect A in a variety of ways. Those failures to act however are qualitatively different to the infliction of violence upon him. I do not consider that her failure to protect him adds any support to an argument that she was the perpetrator.
61. The medical evidence in respect of the injuries strongly supports deliberate infliction by the use of serious violence in respect of the rib and scapula fractures and the abdominal injury. Although both Dr Mecrow and Dr Oates could not entirely rule out the possibility that a fall down stairs could have caused the abdominal injury, even that remote possibility only comes into play if A landed on some blunt boot or fist-shaped object at the foot of the stairs with the equivalent force of a kick or a punch. There is no suggestion that this was the nature of the fall that occurred. In respect of the rib and scapula fractures the falls described by the first respondent and the Third Respondent are simply inconsistent with the injuries A sustained at that time. The medical evidence as to the relatively low-level injuries sustained by young children through falls downstairs based as it is on some research provides a firm evidential foundation for the opinions expressed by the doctors based on their own clinical experience. The fall down a few stone steps described by the first respondent might

well cause some soft tissue injuries such as those seen on his shin or perhaps even some on his face. A fall down a few stairs as described by the third respondent might cause some minor grazes or bruising. However they do not get close to explaining how this little boy sustained 6 left-sided rib fractures and a most unusual fracture to his left scapula. They are however consistent with a forceful blow delivered to A's chest while he was backed up against a wall or perhaps a stamp or punch whilst he was lying on the floor.

62. The medical evidence in relation to the genital injuries observed in July 2018 is less clear and satisfactory. Dr Mecrow himself noted that he would have been reluctant to offer any opinion had there not been the subsequent injuries which can be deployed to support the conclusion that those injuries were more likely to be inflicted than accidental. Dr Mecrow considers that the injuries could be accidental but only by the unusual mechanism of A having fallen with legs akimbo on to a hard surface. This could have occurred on the metal edge of a trampoline. I do not think Dr Mecrow offered an opinion in respect of the degree of protection that a nappy might have afforded in such a situation but as a matter of common sense it seems likely to have cushioned any impact to some degree. The first respondent's account of the alleged accident is far from full or satisfactory. She did not see it happen but says she became aware of A on the ground outside the trampoline crying. Both the first respondent and the third respondent say that initially redness was observed around his groin which developed into bruising and swelling by the following day. The fact that they are in many ways highly unreliable witnesses is far from a conclusion that they never tell the truth. The medical records in respect of the visit to the GP the following day do not illuminate matters much. A reference to an abdominal injury, no description of the history, a reference to A&E. No referral on to social services suggests the GP was either satisfied with the explanation given. The alternative is laziness or incompetence; both of which seem less likely. The circumstances in which the explanation came out about this injury namely in the course of discussions between the first respondent and the social worker in the course of the parenting assessment do not suggest fabrication on the hoof. Although this is the least serious of the injuries it is one which has caused me considerable deliberation. Had the bruising to A's groin which was noted in November 2018 been considered to be a product of deliberate infliction rather than blood tracking that may have added support to the conclusion that the injury in July 2018 was deliberate but that is not so. Nor is there any evidence to suggest any sexual or element of sadism in the other injuries inflicted which would probably be required if this injury was deliberately inflicted by pulling or twisting of the genitals. Taking all of the evidence together I do not conclude on the balance of probabilities that this injury was inflicted by deliberate assault upon A.
63. The evidence from the photographs of A through October and into November including those taken by the hospital appear to show a little boy who was carrying significant bruising for much of that period. The photographs at K423 to 425 taken in the aftermath of the 'big slipper' accident show a variety of injuries. They appear to show grazes which would be consistent with a carpet burn. However they also show a significant bruise on the right jaw line and two bruises to the centre-left chest area. They are sufficiently different in appearance that they cannot be in my view of the same nature. The darker marks which appear to be bruising do not appear to be carpet burn grazes. It is also hard to see how that combination of injuries could be caused by a fall onto a carpet or between a bed and a wall or radiator. The appearance of the

marks on the chest and jaw are of bruises which would not be likely to come up within the moments that had elapsed between the alleged trip and the taking of the photographs. I therefore consider that those photographs do show two sets of injuries.

64. It is of course possible that A has at times suffered accidental injuries as well as inflicted injuries. Little children do have accidents. The description of the first respondent of an accident when A fell down some stone steps itself has a sound of authenticity to it. It may be that he then suffered some soft tissue injuries to his legs and face.
65. The timing of the rib and scapula fractures is placed by the experts in the window of 30 October to 22 November. Dr Oates in his report [E67-8] emphasises this is an approximation and that the two studies he refers to would place it in the 8-35 days or 1 - 5 weeks old categories. In oral evidence he said they could be up to 2 months old although he thought it unlikely. Five weeks or 35 days before 29 November is 25 October. The dating of the photographs taken by the first respondent and third respondent of A is not established with certainty but their evidence together with that of the dates themselves puts some of them in the period 26 October to 5 November. It appears likely that the photographs at K450 dated 27 October are taken shortly after an incident in which he was injured and that those at K409, 411 and 412 show the bruising having developed by 29 October. Those at K413 and 415 appear to show the bruising slowly reducing such that by the time A visited the hospital on 6 November the bruising was no longer very obvious. Given the extensive nature of the bruises which are visible at that period it seems likely that they were sustained during the same incident that caused the rib and scapula fractures. The difference of 3 days between the photos of 27 October and the opening of the window identified by the experts for the causing of the fractures seems to me to be reconcilable given the experts accept that there is a degree of imprecision in the dating of the fractures. There was thus some very significant event which not only fractured A's ribs and scapula but also caused significant bruising to his face and probably an injury to his frenulum. The experts agree that the most likely cause of the fractures was a direct blow to the chest by punching, kicking or being pushed very hard onto a hard object. It seems probable that in the course of the delivery of that punch, kick or push that A also banged his head so as to cause those injuries. That was a very significant and violent assault which the perpetrator would have known was likely to cause very serious injury. As Dr Oates noted it was more chance that no internal injuries were also caused given the severity of the blow. A must have been in considerable distress immediately afterwards and considerable pain. At his age and with his limited language he may well have been unable to communicate what had happened to a non-perpetrator. The experts agree that the symptoms he would have displayed thereafter would not have put a non-perpetrator carer on alert to the fact that he had sustained fractures to his ribs and scapula.
66. However even to the non-perpetrator it was obvious that this little boy had sustained a serious injury. The extent of the bruising to his face and the swelling to his jaw area is obvious from the photographs of 27 October and 29 October.
67. When A was taken for medical treatment on 6 November 2018 to the Hospital they were told that he had fallen down some steps 4 days ago and hit his face. Having regard to the photographs and the parents' accounts it appears that that account was wrong. In fact, he had sustained the injuries more like 10 days before. Thus the

photographic evidence and the medical evidence and the parents' accounts of the dating of the photographs broadly align. It is in the aftermath of this visit to the hospital that the first respondent told the third respondent that police and social services had been contacted and were visiting the house. She herself says that she told him that because she had become concerned that A was fearful of him. He confirms he was told this and that he understood social services and/or police had visited the home. The combination of the evidence that A had sustained very serious fracture injuries together with obvious facial bruising and the first respondent's evidence that she was sufficiently concerned to fabricate a tale of social services involvement point to the likelihood not just that she was suspicious but that she believed that the third respondent had seriously assaulted A. She describes how on occasions A would return from another part of the house sporting an injury which the third respondent attributed to an accident. I conclude on the balance of probabilities that on an occasion in late October she observed A with the serious facial bruising that is seen from the 27 to 29 October and that she was given an explanation that this was the result of an accident, but that she by that stage at the latest had come to believe that the third respondent was the cause of the injuries rather than an accident. Only that level of belief is consistent with her fabricating the social services story. I do not conclude that the first respondent had directly witnessed an assault of the nature which caused the fractures and facial bruising because I do not believe that even she would have tolerated that and nor do I believe that the third respondent would have committed such an act in her presence. Perhaps the explanation of the fabricated social services story is that the first respondent and the third respondent did indeed delay taking A for medical attention because they were aware of and discussed the possibility of social services involvement given the severity of the facial injuries. Whether the delay was the result of a joint decision, or the third respondent placing the first respondent under pressure not to seek medical attention I am unable to discern. However I am satisfied that there was a delay in seeking medical attention that was linked to a fear of social services intervention and that the first respondent then played that card after she had taken A to the hospital in, as Ms Kaur described it, a feeble attempt to provide some protection to A.

68. Taking all of the evidence together leads me to conclude that the third respondent is a man who is capable of serious violence. His loss of control and undisputed use of physical violence to the car on 9 July illustrate how for him the relatively modest event of a car breakdown could translate into a serious loss of control. That he was under the influence of alcohol only to a modest extent is a more rather than less worrying feature. It suggests that only relatively minor frustrating events or minor changes to his physiology can lead to loss of control. The text messages display a threatening attitude towards S and her partner. I accept that the third respondent also sent offensive texts to the first respondent and that there is evidence that he was jealous and suspicious. I accept the first respondent's evidence (corroborated in part by the third respondent's own response) that she accused him of causing trauma to A, and that he responded with a further threatening text referring to injecting A with water. The evidence in respect of his propensity to use violence is graphically illustrated by the photographs of the first respondent's injuries taken by the police after the incident on 20 March 2019. The evidence of the first respondent together with the contemporaneous or near contemporaneous evidence from the police and the kebab shop and his implausible account show that on that occasion he subjected the first respondent to a vicious beating using implements such as a tablet and a rolling

pin. It is inconceivable that the first respondent would have inflicted the injuries shown in those photographs upon herself and why on earth would she, within moments of an assault by a stranger, run into a kebab shop and complained that the third respondent had assaulted her. Her evidence of the assault upon her on the 9 or 10 July is consistent with the father's behaviour on that occasion. I also accept her evidence in relation to the August and 26 November assaults upon her. All of these strands of evidence weave together to point to the conclusion that the third respondent is capable of serious violence with relatively little prompting. He has little respect for the law; within 6 weeks of being banned for 12 months he was again arrested for driving whilst disqualified, he has been in breach of bail conditions on at least two occasions that we know of. He was working long hours, he was under financial pressure, he was suspicious of the first respondent's fidelity, he was about to become a new father, he was looking after and financially supporting a 2-year-old. He has a quick temper. I conclude that this toxic combination led him to inflict serious violence not only upon the first respondent but also upon A.

69. I am unable to determine the precise circumstances in which he came to punch, kick or forcefully push A into a wall or similar so as to fracture his ribs and scapula. I am satisfied that he caused those injuries though.
70. The medical evidence identifies that the abdominal injuries were sustained between the 26 and 29 November. The account given by the third respondent and the first respondent of A's deteriorating health from the morning of the 27th onwards leads me to conclude that an event occurred on 26 November which resulted in him suffering those near fatal injuries. That the third respondent himself gives an account of an event on that day which he would say explains those injuries indicates that it was indeed on the evening of 26 November that A sustained those injuries. Were those injuries the result of a fall down the stairs as described by the third respondent or were they result of a punch or a kick delivered by the third respondent? The totality of the evidence leads me to the inevitable conclusion that on balance of probabilities it was the result of a punch or a kick delivered by the third respondent. I reach that conclusion because of:
- i) The medical evidence as to the probable causation of the injury together with the improbability of the mechanism of a fall down the stairs.
 - ii) The implausibility of his account of his actions from collecting A throughout the evening until the first respondent's return.
 - iii) The history of the third respondent having previously assaulted both the first respondent and A.
 - iv) The pressures that the third respondent was experiencing with an imminent court date where he might face prison, financial pressure, imminent fatherhood, his anxiety about the first respondent's fidelity, the long hours he was working.
 - v) This little boy's fear or wariness of the third respondent demonstrated by the first respondent's evidence and the video as well as A's demeanour in hospital whilst his mother and the third respondent were present.

- vi) The fact that the third respondent behaved aggressively to A whilst giving him his tea and later assaulted the first respondent.
71. Although of relatively little consequence given my findings in respect of the two very serious sets of injuries I also conclude having regard to the totality of the evidence that the third respondent hit A on at least one other occasion so as to inflict bruises on him. The evidence is insufficiently clear to enable me to identify on how many occasions this may have occurred. The significant number of bruises photographed on 29 November together with the photographs taken by the parents showing a number of occasions of bruising being present satisfy me that on at least one other occasion bruising injuries were inflicted on this little boy by the third respondent.
72. The first respondent accepts that she failed to protect A from exposure to domestic violence and that she failed to seek medical treatment for him sufficiently promptly in late October and immediately after 26 November. However I conclude that her failure to protect A goes beyond this. She was aware of the third respondent's propensity to violence, she having experienced it herself. By late October I am satisfied that she believed that he was inflicting injuries upon A as well as upon her. Whilst she cannot have been aware of the severity of the injuries that A had sustained in the form of the fractures the other injuries which she was aware of were sufficiently worrying to require her to immediately take steps to protect A. Her fictitious reference to social services and the police of itself is a sufficient demonstration of her awareness of the risk the third respondent posed to her son. By any objective measure she failed to act as a reasonable parent would. Subjectively she may be able to rely on her own fear of the third respondent and his likely reaction to her seeking to remove herself and A. Subjectively her lack of action may be explicable by her own vulnerability in terms of housing, finance and the imminent arrival of her second child. Even up until the morning of 29 November she continued to expose her son to the risk that the third respondent posed. Thereafter she did not disclose to police and social services the truth of his violence to her and her suspicions until early January. She failed to give a full account to the treating team at the hospital or the QMC; this could have had consequences. When interviewed by police she shielded the third respondent by failing to disclose his domestic violence to her and her concerns about his being violent to A. Whilst I accept that she may have been fearful that upon her release from the police station she may have been returning to a home she shared with the third respondent and that he may have discovered what she had told the police it was still an example of her putting her own interests before those of her critically ill son. She continued to conduct a liaison of sorts with the third respondent up until March. I understand to some extent the predicament she by then was in, being homeless and with limited resources she could call upon to sustain her. However as a consequence of her failure to protect A from the third respondent he suffered injuries which could have killed him. When Mr Roche submitted that the second respondent believed the full story was still not being told I believe he is right. Perhaps the guilt that the first respondent carries arising out of her failure to take steps to protect A has prevented her so far from fully recognising her failings.

Conclusion

73. I am therefore satisfied on the balance of probabilities that:
- i) The injuries A sustained in July 2018 were accidental.

- ii) In between October 2018 November 2018 the third respondent assaulted A on at least one occasion and inflicted bruising on him.
 - iii) On or about 27 October 2018 the third respondent assaulted A by punching, kicking or pushing him against a wall fracturing 6 left ribs and his left scapula and causing serious facial bruising.
 - iv) On 26 November 2018, the third respondent assaulted A by punching or kicking him in the abdominal region lacerating his liver and causing the associated damage to his mesentery which resulted in the secondary organ failures and gangrene leading to the operations on 4 and 6 December,
 - v) From August 2018 onwards the first respondent failed to protect A:
 - a) From the risk of serious physical injury she having good reason to believe that the third respondent was assaulting A and causing serious injuries to him.
 - b) By seeking timely medical treatment for him.
 - c) From significant emotional harm through exposure to domestic violence perpetrated upon her by the third respondent.
74. The threshold criteria are therefore fulfilled. In respect of A the care plan is agreed. The only realistic option for A is to go to live with his father and I approve the proposal for a transition.
75. The position in relation to B requires further assessment of family members and perhaps of the first respondent. That will be the subject of further consideration following the delivery of this judgment.

MR JUSTICE WILLIAMS
Approved Judgment

APPENDIX A

05/02/93	Second respondent is born, father of A	
09/05/97	Third respondent is born, father of B	
24/01/99	Mother is born	
Late 2015/early 2016	First & Second Respondent meet in home country	C46/C32
13/09/2016	A born	
May 2017	First & Second Respondent decide to come to live in UK. Second Respondent obtains work in meat processing factory. The first respondent obtains work	C32
August 2017	A registered with GP	E122
18/09/17	Home visit to A by HV no concerns noted; thriving, very active, no concerns re sight or hearing	J5/E122
06/12/17	A attends nurse for immunisation	J7
22/12/17	A presented to GP with coughing and discharge from eyes diagnosed conjunctivitis/RTI	J8
03/01/18	A presented to GP cough and nasal discharge. Amoxicillin. Acute upper RTI	J8
August 2017 - July 2018	First respondent employed by an employment agency and between April 2018 and July 2018 by the same agency as the Third Respondent	C49
15/10/17	The Third Respondent cautioned for possessing an offensive weapon in a public place.	K78
Autumn 2017	M and the Third Respondent make contact with each other.	
31/01/18	Immunisations via GP [The medical evidence to this point suggests nothing out of the	E122

	ordinary for A and that R1 and R2 were seeking medical attention appropriately. No sight or balance issues noted which would be relevant to subsequent injuries.]	
February/March 2018	<p>First respondent and Second Respondent separate (the Second Respondent's dating)</p> <p>The Second Respondent cares for A for several days each week when he is not working.</p> <p>Neither M or R3 were entirely clear about when their relationship commenced. It seems likely they were at least in the early phases of their relationship by February 2018. R3 said the first time he met M he also met A who she brought with her. In any event she very quickly became pregnant with B.</p>	C46/C32
March – July 2018	Second Respondent has regular contact with A including weekends	C33
28/06/18	First respondent & A move to live with Third Respondent.	C47/J1
09/07/18	<p>Alleged DV Incident. First respondent alleges that Third Respondent assaults her and a friend of his around this time at their house warming party</p> <p><u>In her statement M says R3 was drunk and was picking on her because she was talking about going out. He pushed her against a wall a few times. One of R3's friends intervened and R3 then punched him. R3 told him to leave with A. And she packed some things and left. R3 followed them and demanded she got into the car. He threw A's pushchair in the car and told R1 and A get in. It wouldn't start. R3 started hitting R1's arm. He then tried to push the car and then when police came he told M to help push it out of the road. He then smashed the windscreen and kicked the back door. A in rear of car. The police drove by and breathalysed R3 and arrested him. Another police car took R1 and A home. She had bruises on her arm the next day. In her police statement M gives a somewhat different account. In that she does not describe being assaulted either at the house or in the car. However she describes that following his release from the police station he returned home and</u></p>	C47/K66

an argument developed over whose fault it was that he had been arrested for drink-driving. M says that when she told him it was his own fault he pushed her into the wall and punched her to her upper arm which left her with bruises which lasted about 2 weeks.

R3 says he was not drunk although had been drinking and that he did not either hit R1 or push M. In his statement he says they had a disagreement but it was only verbal. He denies hitting his friend. In that he said M came out into the parking lot where he was and that he then pushed the car to a point where the police arrived. He denied driving the car at any stage. In his statement he makes no mention of having lost his temper and damaged the car. However in his oral evidence he also gave a different account. He told me that there was an initial disagreement and that he then drove his friend home and as he drove back he saw M and A. He stopped and asked her to get in. The car would not start. He says that R1 came out with A and she was helping him push the car when the police arrived. He agrees he kicked car and broke the windscreen whilst shouting and swearing. He also acknowledged that the following day upon his release from police custody he returned home and there was an exchange about whose fault it was that he had been arrested. He initially described it as an argument but later said it was a discussion in which he simply acknowledged that it was his own fault and that was an end to it.

It is difficult to discern clearly the course of events on the 9th and 10th of July. I conclude that the first respondents account is closer to the truth than R3's. Her initial account includes most of the components which it appears R3 now agrees occurred. There was a disagreement between them, the first respondent left the home with A, the third respondent drove and picked them up, the car broke down in response to which he smashed the windscreen and kicked in the body panels whilst shouting and swearing. He plainly was under the influence of alcohol although not much over the limit. He was trying to sell the car and it may be that the breakdown and the consequent financial loss was the cause of his loss of temper. This

	<p>suggests both that there was some financial stress but more importantly that even modest alcohol consumption was enough to make him lose control of his temper. Given that both M and R3 agree that there was a discussion about whose fault it was he had been arrested it seems more likely that R3 somehow sought to blame the first respondent for his arrest rather than meekly accepting that he was at fault. That does not seem to me to be in his nature. Given by this stage there would be the additional frustration of an imminent extensive driving ban and further financial penalties together with the first respondent disagreeing with him it seems more probable that an assault took place at this point rather than the day before. The first respondent's evidence of the bruise and the covering up for it with the health visitor together with her evidence of the discussion in November as to how she had been unable to wash her hair appear to me to be authentic recollections which are consistent with an assault which caused a painful injury. Although the R3 may not have been under the influence of alcohol at this point I do not consider that this is inconsistent with the possibility of him assaulting M. The impression that emerges from the evidence together with his demeanour in the witness box leads me to conclude that he has a quick temper which he is capable of losing in the absence of alcohol. The presence of alcohol may make it more likely but is not a precondition. A was present in the car when R3 was smashing it up whilst swearing and shouting. The force used to smash the windscreen whether with his bare hands or an implement must have been considerable and A must have been scared and confused. The evidence as to whether R3 forced M to help push the car was not sufficiently clear to enable me to draw that conclusion. At this stage I think it equally probable that M offered to push.</p>	
09/07/18	R3 arrested for drink driving, driving whilst disqualified and uninsured. 44microgrammes of alcohol per 100ml of blood.	K77
July 2018	First respondent ceases employment. <u>R1 said her pregnancy became</u>	C49

	<p><u>problematic.</u></p> <p>Contact between R2 and E ended. R2 says this was because R3 had a car accident and could not bring A.</p> <p>Although R1 said in oral evidence the problem was caused by pushing the car there is no medical evidence which would enable me to determine the cause of her difficult pregnancy. Given R3 continued to drive up until at least October 2018 the reason R2 was given for contact ending is likely to be untrue.</p>	
25/07/18	<p>Incident - M reports in the parenting assessment that an incident occurred around this time when A had been playing on a trampoline in a neighbours' garden and fell bruising his groin area.</p> <p><u>R1 says A was playing with a 7-year-old and 18m old in a communal garden on a large trampoline which had a safety net. She heard A cry and saw him on the ground next to the trampoline. Later when she took his nappy off she noticed redness and next day she noted he was bruised and swollen.</u></p> <p><i>R3 says R1 told him of the accident but he was not at home at the time.</i></p>	Parenting Assessment dated 12/03
26/07/18	<p>A presented to GP Dr H 'abdominal injury - fall yesterday- significant bruising and swelling penis and scrotum – referral to Emergency Department'</p> <p><u>R1 accepts she did not take him to the A&E saying it was a suggestion by GP not a direction.</u></p> <p>Dr Mecrow did not interpret the note as indicating a straddle mechanism however he also acknowledged that the absence of any further action being taken by the GP could indicate the doctor was satisfied with the explanation given to him. He pointed out that the awareness of the significance of genital injuries was not as heightened as it should be.</p> <p>This is one of the main components of the Threshold and is analysed in the main part of the judgment.</p>	J9/E123
	<p>Incident</p> <p><u>R1 says R3 punishes A for breaking a laptop by putting him in corner for</u></p>	C?? K364

	<p><u>1 hour. She says R3 said if she interfered A would stay in the corner longer. Her evidence is inconsistent as to whether R3 was present or at work and how it was that A came to break the laptop.</u></p> <p><i>R3 agrees A broke a laptop but denies inappropriate punishment The evidence is insufficient to enable me to reach a conclusion on what happened. In the context of the other allegations further investigation into this or its determination is unnecessary.</i></p>	
2/3 August 2018	<p>Incident - first respondent alleges that the Third Respondent assaults her whilst at his parents' home</p> <p><u>R3 had been drinking on his father's birthday. R3 became jealous because of a message R1 received. He pushed her and started hitting her arm which caused a bruise. A was present</u></p> <p><i>R3 alleges R1 received a sexually explicit text from a friend; he was checking her phone as she checked his. He admits blocking the friend but not arguing or hitting her. He says he was sad. He says he drove and was not drinking</i></p> <p><i>His suspicion over her and his reaction in texts in November suggests he was likely to react angrily to such matters. His account of them not talking about it is not consistent with his general attitude. In evidence he said he was simply sad which I conclude is most unlikely. The receipt of any message which might suggest M was involved with another would provoke a suspicious response; the receipt of a sexually explicit message would be likely to provoke a more extreme reaction. Having regard to my overall conclusions on their respective reliability as witnesses of fact I consider that it is more probable than not that an event of this nature occurred and R3 reacted angrily and violently.</i></p>	C48/K66-7 C113
August 2018	Parents of Third Respondent move to live with First and Third Respondents	C47
	<p><u>R1 says she mentioned getting tickets to go back to Lithuania in context of leaving R3. She says R3 removed her tickets and travel documents.</u></p> <p><i>R3 agrees she mentioned it. He denies removing her tickets or</i></p>	

	<p><i>documents.</i></p> <p>Albeit R3’s evidence was unclear as to whether he understood this to be a holiday or leaving M’s situation with a problematic pregnancy and limited finance tends to support M’s assertion that she was considering leaving R3 because of his behaviour rather than going on holiday. The evidence I heard does not enable me to determine whether R3 removed the tickets and documents and it is unnecessary for me in the context of the other allegations to consider this further.</p>	
15/08/18	R3 convicted of drink driving and other offences. £565 fine and 12m disqualification.	K77
August 2018	M brings A to Second Respondent’s home for contact whilst M is visiting a friend who lives close by. R2 says when R1 left with A he was hysterically crying.	C33
13/09/18	A’s birthday. Second Respondent maintains that he was unable to see A but texted M to ask if he could see A the following day and M refused	C33
02/10/18	R3 arrested for driving whilst disqualified	K77
October 2018	<p>R2 drops off clothes for A at R1’s house. R1 does not allow him to see A as he was ‘asleep in bed’.</p> <p>The evidence I heard does not enable me to determine whether this was because A was asleep or he was being ‘hidden’ so that bruising could not be observed by R2.</p>	
11/10/18	<p>R3 -?? ‘be happy that I don’t know where you live, cock’</p> <p>R3 says it was his number but he wouldn’t have sent that.</p>	K305
11/10/18	<p>Photo of A with bruises and possible grazes (carpet burn) to shoulder, chin, head.</p> <p><u>R1 says she can’t tell when it was taken.</u></p> <p><i>R3 took the photo. He says he took it to show M the injury A sustained when he slipped on carpet whilst wearing slippers too big for him. His</i></p>	C221/K425

	<p><i>account of what happened was unclear. At one stage he suggested he had seen him trip, later he said he hadn't see the actual trip but the immediate aftermath and suggested A had got off the bed and tripped over.</i></p>	
20(?) October 2018	<p>Video clips taken from the telephone of the 3rd respondent. They show A in the shower naked holding the showerhead and being apparently instructed to either put water on him or to hold the showerhead over his head. It appears either that the water is on cold or that A is either very cold or frightened. He can be seen to be visibly shivering both in his lips and in his hands at times it is not clear whether there are tears in his eyes or it is water. He does not say anything or make any sound or reply to the 3rd respondent's apparent instructions which are given in a measured voice.</p> <p><i>The 3rd respondent says that he took them because A was scared of water and he was encouraging him to overcome his fear he says he took the videos to show the first respondent that A was able to shower</i></p> <p>The overall picture which emerges from these videos is of a little boy who is scared but will not protest. It seems improbable that he was shaking as a result of a draught from the door being opened but rather because he was either very scared or very cold.</p>	
27/10/18	<p>Photo of A with undeveloped bruises around eyes. Appears to be swelling to cheek.</p>	K450
26/29 October 2018	<p>Photos of A with injuries.</p> <p><u><i>R1 says taken around 29 October and shortly after A fell.</i></u></p> <p><i>R3 says he thinks they were taken a few days after the first fall down the stairs and they were taken about 3-4 weeks before he was admitted to hospital.</i></p>	K409/411/4
28 October 2018	<p>Texts over poor credit rating and need for money</p>	K302

	<p>M says A's behaviour towards R3 changed a few days before the 'fall' incident he appeared to have become afraid of R3. M says after this she did not leave A alone with R3. She says she lied to R3 and told him that Social Services and the Police had become involved and were doing checks on her. M says R3 was unfazed and did not understand why they would do anything if they had done nothing about his lip.</p> <p>It is not clear when this took place. M's reference to it being after the lip incident would place it sometime after 6 November. In his police interview R3 refers to the 'fact' that social workers and/or police had visited the property. It thus appears clear that the first respondent did indeed make up this untrue story of social services and police investigation and told R3.</p>	C51
November 2018	<p><u>first respondent states that at the beginning of November A fell on some steps resulting in marks to his knees and shins, swelling to his lip and forehead and a bruise to forehead developed a few hours later as well as generalised facial bruising. Two days later the flesh from his lip was hanging down. She did not take him to the doctor that day but attended A&E at hospital 2 days later.</u></p>	C50
03(?) / 11 / 18	<p>Video of A showing frenulum injury</p>	
05 / 11 / 18	<p>Photo: R1 says this was taken on that day. It shows bruising has almost gone.</p>	K415
06 / 11 / 18	<p>Incident - first respondent states A fell down the stairs she is present at the time <u>M says she took A to GP and A & E in order to have him checked over. She says she was concerned bruises kept appearing.</u></p>	C52
06 / 11 / 18	<p>A seen in A&E at Hospital 'brought in by [redacted]?? With swelling to mouth. Fell down for steps 4/7 ago and hit face. No LOC/vomiting. A has been fine since the fall but then 1/7 ago?? Noticed some swelling near mouth. Today swelling was worse and when she looked in the mouth there was swelling to the</p>	J9/E123/J2

	<p>top gum.</p> <p>A has been eating and drinking and behaving normally. No history of pyrexia</p> <p>O/E</p> <p>swelling above top lip and out towards left cheek. No redness. Swelling to top gum above incisors, causing gum to cover over the front incisors. No puss/exudate. Reviewed with Mr G, ED consultant, - treated as wound to gum and infection. Given amoxicillin TDS for 5/7 and to F/U with own dentist.</p> <p>The history given puts the alleged fall at around 2 November. The evidence of M and R3 as to the photographs puts it a few days earlier somewhere between the 26 and 29th of October.</p>	
November 2018	<p>Incident - Upon her return home first respondent told by Third Respondent that A has fallen down the stairs whilst she has been at the hospital. Third Respondent smacks A on his bottom & M alleges an assault on her.</p> <p><u>M says she told R3 not to touch A and they argued. She threatened to leave at which point R3 grabbed hold of her throat and tried to strangle her. M told him to stop. A witnessed this incident.</u></p> <p><i>R3 says in early November A fell down the stairs during the afternoon. He did not see it but heard it. He says A was crying but did not appear to be in much pain. He was bleeding a little. He says R1 was upstairs at the time. He had a bruise and lump on his forehead from this fall.</i></p> <p>M's account seems to mirror that which she later attributes to the 26th November. In evidence she said it happened that night and was unable to satisfactorily explain how the two accounts which are recorded separately in her statement and which are different in important respects were both in fact accounts of the same night. R3 appears to be describing another fall which is separate to that when it is said A falls down some outside steps when he was there and separate again to the fall which it is said occurred on the 26th November.</p>	C49

09/11/18	R3 works 49 hours this week	Payslip
12/11/18	<p>A seen by GP.</p> <p>10.02: Vomiting last 24 hours – afebrile, eating biscuits, no diarrhoea. Abdomen soft, non tender. [Mother] worried as she saw blood in vomit but has had nose bleed. See later.</p> <p>17.10: - reviewed – no more vomiting – miserable, but is wake, alert, pyrexial, well hydrated. See tomorrow or sos.’</p> <p><u>M says A was poorly and vomiting badly. His nose started bleeding and when he was sick there was blood in it. M says GP advised just a virus.</u></p>	J9/ E124
16/11/18	R3 works 63 hours this week	
19/11/18	first respondent states she observed bruising to A’s spine on this day but nothing else in terms of injury or bruising	C52
22/11/18	<p>A visits dentist.</p> <p>M gives history he ‘fell off the stairs a week ago’ and hurt his lip. Swelling to lip observed o/e. Antibiotics & to see own dentist/seek registration.</p> <p>There is no account of an alleged fall about 15 November.</p>	G1-5
22/11/18	<p>First respondent says she receives threatening text message from Third Respondent whilst she and A are out with a friend</p> <p>R3-R1: ‘Your phone will be taken away today, that’s it’</p> <p>‘you fucking me up,’ ‘<u>how</u>’ ‘Fuck, never replying and not picking up...Fuck, more important to go to S, to screw (with others)... <u>‘I’m in Boots, waiting for A’s medicines’</u> ‘from what money are you buying’ ‘<u>A has free medicines by prescription</u>’ ‘aha don’t fuck around’...’fuck I don’t reproach, less screwing with others’.... ‘with that S and her f***er’... ‘need to smash that bitch’s and her f***er’s head with a sledgehammer.’.... ‘fuck off who knows what you are infected with’....</p> <p><u>‘its ok, I will somehow bring both [kids] up its just terrible to behave like this when my due dates right here, let it be, I will survive’</u> ‘no need screwing [with others] at such a time’ ‘I will bring up two [kids] you</p>	C52

	<p>almost f**ked up one, what to say about the other'..... 'if I was with you just because of the baby...I wouldn't tolerate your hysterical attacks and all the other nonsense'</p> <p>The exchanges show an unpleasant argument; R3 is clearly jealous and demonstrating a degree of control, abusive and threatening language. R3 accepted they were sent and said they weren't aggressive, just sent quickly without thinking too much M said they also communicated by i-messenger. Those are not available.</p>	
23/11/18	R3 works 81 hours this week	
23/11/18	<p><u>Texts on M's phone show R3 being mild abusive; 'Fuck, pick up'. first respondent alleges Third Respondent sent her text messages including a message that if she left him he would kill her. M also says that she messaged him saying 'don't you think you have done enough trauma to my child' and R3 threatened to send photographs of A with injuries to the police and alleged that she had been hurting A by hitting him and electrocuting him. M also alleges that R3 texted her to say that he would inject water into A's blood. She says this is the day they had a discussion about violence and she reminded him how she had been unable to wash her hair after the incident in August.</u></p> <p><i>R3 agrees he sent a message about injecting water into A's blood but says it was a joke and he was just telling her what sort of people are out there.</i></p> <p><i>There are no copies of these alleged texts. It is not clear whether it is said they were sent by i-messenger or by text. It is significant that he accepts that at least part of this exchange happened. His account was very hard to understand as to why he said he had sent it – he said in evidence that he did it to show her what sort of people were out there.</i></p> <p><i>On balance I'm satisfied that there was an exchange of text or iMessages on or around this date which included a reference to R3 injecting water into A's blood. This can only have been said in a threatening way albeit I do not conclude that it was made as a serious threat.</i></p>	C53/K67/C

<p>26/11/19 (Monday)</p>	<p>M goes to hospital with pains and takes A with her. She remains there for several hours.</p> <p>17.33 R3-R1: fuck where are you 17.35 R3-R1: fuck, pick up 17.36 R1-R3: in hospital 17.36 R3-R1: fuck, pick up 17.37 R1-R3: no network 17.40. R3-R1: do I have any money to go to work tomorrow? 17.41 R1-R3: just think what will you do, if I give birth today 17.44: R1-S: Gosh I don't know how long I will stay here, you better go with A to your place and I will come to pick him up later, if everything is ok. 17.45 R1-S: Or R3 will come, just spoke to him'</p> <p><u>R1 goes to hospital as she was having severe pains. A collected by R3 around 6:30 PM and taken home by Third Respondent whilst first respondent remains at hospital. R1 arrives home around 8-9 PM. Upon arriving home, she notes A 's lips were blue and his hands were cold. She also noticed A had a slight swelling between his eyebrows and states the Third Respondent tells her that A had fallen.</u></p> <p>In her police statement from January she gives an account which is similar to that contained within her family court statement. In her oral evidence she amalgamated the two.</p> <p><u>Before she got home R3 told her that A had fallen down the stairs. When she arrived home he was in the living room trying to feed A. He was trying to force sausages into A's mouth. She told him to stop forcing him to eat which made him angry. He lost his temper and slapped A on the bottom at which point she intervened and told him to stop. He grabbed her by the neck and let her go when his parents' door opened. She was left with marks around her throat. She took A up to his room and locked them both inside. R3 came and said sorry.</u></p> <p><i>R3 says that he collected A from outside the hospital. He collected him</i></p>	<p>C54 K67</p> <p>C113</p>
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	<p><i>from S and he says that she was standing under a shelter and had left A out in the rain and he was cold and wet. In his oral evidence he says he appeared petrified. When they arrived home he took A inside and went upstairs and put A in his bedroom while he went to the car to get his pushchair. When he came back into the house A was at the bottom of the stairs. He was not crying but was lying still. He thought he may be scared and in pain. He gave him some water and sat with him on the sofa. He says A seemed to be okay and they then went to the shop and A was happy. He says he called R1 when she was at the hospital to tell her. In his second statement R says he rarely looked after A for more than an hour -the statement distances himself from any role in day to day care of A. He says A was very clumsy and walked into furniture and always had bruises. He says when he picked him up from the hospital this day A had been outside in the rain and was freezing and was pale. He says he later took A for a walk down to the shops to get some snacks.</i></p> <p><i>Third Respondent gives account in his Police interview that A fell down the stairs. Mother was at the hospital. He had collected the child from hospital when he arrived home he took the child upstairs and went back to the car to pick up the buggy when he came back with a pushchair he noticed that the child was on the floor downstairs near the stairs picked him up washed his face put him in bed and told mother what happened</i></p>	K377
26/11/18	19.13: photo of A outside with umbrella.	
27/11/18	<p><u>first respondent states that A has developed bruising between his eyebrows and didn't look his usual self and was not as active, was weak and quiet and eats only small amounts of food. They spent a quiet day on the sofa as she was not feeling well. He did not go to visit his guinea pigs. A asked to go to bed early and he went upstairs at around 8 PM and he was asleep.</u></p> <p><i>R3 was working from about 6 AM until 5 or 6 PM. He says when he got up to go to work he found vomit around A's face and on his bedclothes. He says he quickly cleared it up before leaving for work.</i></p> <p>Although in his statement R3 was unclear on the date that this</p>	C55

	occurred it seems probable it was the morning of the 27th given that he was in court on the 28th and did not go to work that day or on the 29th.	
28/11/18	7.30am: First respondent states that A had vomited during the night and started to experience diarrhoea, His appetite is further diminished but he is drinking a lot of water and will not allow his stomach to be touched. R3 in court over driving whilst disqualified on 2 Oct. Suspended prison sentence; 12 weeks suspended 12 months. Fine £550, £85 costs, £115 victim surcharge, 150 fine for driving uninsured. <i>R3 says he bathed A on this occasion and saw bruising on him and that he had a blown up stomach. '</i>	C55 C111
29/11/18	R1 has appointment for scan. <u>She and A have breakfast. A eats yoghurt but is then sick. R1 says she asked R3 to monitor him because of the vomiting.</u>	
	There are no text exchanges from this day. It is not clear whether there are any i- messenger exchanges which have not yet been located.	
	8.30am: R1 leaves for hospital appointment.	
	09.54: R3 takes photograph of A in bath.	
	?????: after appointment R1 calls R3 who says A is still not well.	
	12 noon; R1 meets R3 with A in town	
29/11/18	12.36 A presented at GP, Dr C H history: 2 months bruising on face, one week bruising on back, 24-hour vomiting and diarrhoea, not past year in 420 4H, high temp yesterday, normal this a.m. Lethargic examination: temp 36.8, HR1 20, are our 24, lethargic, HS normal chest clear, Abdo tender all over but normal BS, particular rash around neck-since vomiting (last night and unchanged and none elsewhere)	J9

	diagnosis: feels unwell plan: need to admission needs urgent bloods? All related to current infection? Underlying problem	
29/11/18 @ 3pm	<p>A admitted to children's ward at hospital</p> <p>notes refer to Dr R but Dr C said it was Dr E who made the notes and took the history.</p> <p>Hx from mother</p> <p>‘Bruise started over week back but was well and active till yesterday when he started to have loose motion and vomiting, today he vomited 7 times yellow in colour and multiple loose stools watery no blood or mucus. Today he is very lethargic. Bruising more at head. He has bruising 2 months back then disappeared they didn’t seek any medical advice.... no history of trauma...</p> <p>Examination:</p> <p>looks unwell. Pale. Drowsy. Nauseating. Sepsis presumed.’</p> <p>M and R3 present together for most of afternoon. M spoken to by treating staff.</p>	H10 PH9
29/11/18 @ 3:15pm	<p>A seen by Dr C. History taken from Mother by Dr C and examination. Notes of History taken contemporaneously.</p> <p>‘Started yesterday from the morning vomiting and later on diarrhoea. Bruise on face 2 months and lip came out. Lump on lip first appeared. Seen by GP then dentist. Bruises come and go seen by GP 2 weeks ago. These bruises 3 days ago. Active. Not lost weight. C/O pain in tummy. Worse on back..... No history of easy bruising in family..... ‘</p> <p>Dr C said she had a clear recollection of A. She said he was covered in bruises and he winced when she touched his abdomen. She considered he was critically ill and the priority was to get tests done and to transfer him to a tertiary unit. She was conscious of the first respondent’s language but she answered the questions clearly. In relation to the bruising the first respondent seemed to be saying that they came spontaneously came and went. She said the first respondent’s partner (who she initially thought was the father) did not contribute to the history. She thought the first respondent seemed detached and</p>	H 13-14

	<p>considered that she had made clear A was seriously ill.</p> <p>M said she had some difficulty understanding what was being said and originally had thought a lung problem was being referred to not the liver.</p>	
29/11/18 @4pm	<p>Ultrasound Abdomen - moderate free fluid throughout upper abdomen, flanks and pelvis.</p>	PH 35
29/11/18 reported @ 6:33pm	<p>CT of chest abdo/ pelvis/ head revealing no definite acute intracranial findings, large liver laceration, suspicion of small mesenteric haematoma, multiple rib fractures enhancement of kidneys</p>	H30-31
	<p>Photographs taken of A by medical photographer.</p>	H59-71
29/11/18 @ 7pm	<p>Transfer form completed</p>	
<p>After CT and pre-transfer 7.30pm??</p>	<p>Dr C speaks to mother and R3. She considered she had made clear to the first respondent that A had a very serious torn liver and fractured ribs and that they had been inflicted on him by someone. She said when the first respondent was told she appeared to smirk (the language used by nurse Hill in the notes). She recalled nurse Hill turning back to the first respondent and saying 'do you understand what Dr C is saying' and the first respondent nodded her head. She said she saw A turn towards his mother and hold out his hand and saw the first respondent hold his hand. She did not recall him crying. Overall her impression was that the first respondent was more detached than she would have expected. She thought A was wary of anybody. The effect of Dr C's evidence was that at no stage during either the earlier discussion of the history or the later discussion did the first respondent offer an explanation as to how A had sustained any of his injuries.</p> <p><u>M said she had not understood all that was being said to her. She said she smiled at A in order to reassure him when he was having a needle put in him. She said she was trying to remain calm for A's sake.</u></p>	<p>H17-18 K82 & 104</p>
29/11/18	<p>21.30 Third Respondent arrested by Police</p> <p>Police say he opened door as they pulled up and they appeared to be</p>	K82/K104

	expecting him.	
29/11/18 @ 8:15pm	Decision made to transfer A to QMC. M travels with A in ambulance.	PH22, PH2 PH49
8:20pm	Transfer to QMC	H49
29/11/18 @ 10:25pm	Admission to PICU	QMC 1 pg.
29/11/18	Referral to Children's Services from hospital	C6
30/11/18	R3 works 56 ¾ hours this week	
30/11/18 @ 02:30am	M arrested at QMC for GBH & neglect	I272QMC 1 248
30/11/18	Examination record and body map completed by Dr GV	QMC 1pg 2 247
30/11/18 @ 6pm – 7:42pm	<p>Police interview of first respondent M Dc W</p> <ul style="list-style-type: none"> - Scratches to legs from carpet; (Sunday) - Scratch to neck from acid/vomit (Wednesday) - Bruise to stomach – egg shaped – vomit – (seen Wednesday) - Bruise to forehead – caused after R3 picked A up on Monday – R3 said he fell – he was ok when she got home – it was small but at hospital it was going bigger - Bruises on spine – (2 weeks ago) - More back bruises appeared over previous week - Tuesday he was weak, - Wednesday – woke and vomiting – dark green – same as 3 weeks ago – didn't want tummy touched - If pressed he vomited – hard – woke up 5 x in night – after Third Respondent came home – she had shower and R3 looked after him – more 5-6 red marks on tummy and arms – on Thursday diarrhoea in morning – at hospital more bruises on chest than in 	K332

	<p>morning</p> <ul style="list-style-type: none">- Hospital asked if he fell and she said no hadn't seen him- R3 has bad moods is picky – buys beer – goes to room- No problems in relationship – no DV- R3 spoils A- Has fallen down stairs 3-4 months ago – she in shower and heard rolling down stairs – A at bottom – crying - a bit weak for 10 minutes and then came round – bruise on leg – lump on forehead- Month ago problem with lip where he slipped and injured lip –- Ran into work surface – small bruise for 2 days- A afraid of R3 lately – A listens if he says NO – never seen him hit A – never heard anything worrying –- M says her sister has blood disorder and bruises easily and she took A to Dr to get check.	
<p>30/11/18 @ 2:24pm</p>	<p>Police interview of Third Respondent: DC W: Duty Solicitor</p> <ul style="list-style-type: none">- When asked at the commencement of the interview if he could tell them anything about any of the injuries he says 'he fall down the stairs'- solicitor suggests he starts with a couple of months ago- "2 months ago, he fell down the stairs. My girlfriend took him to the hospital, I was working...They told her they can't do anything about the injury because it is too small. He had cut on his lip.... And a bruise on the forehead.'- "He fell down the stairs again on Tuesday night"- "then we came back, I took my child upstairs, and I went back to the car to pick up the buggy. When I came back with a pushchair I noticed my stepson: he was on the floor downstairs, near the stairs. I picked him up, put him on the chair, washed his face, then I put him in the bed, and put some cold towel, and I called my girlfriend to tell what happened. He looked okay that night. Next morning, they[??] left early, and they weren't at home all day.	

	<ul style="list-style-type: none"> - Later he confirms he was lying on his side at the foot of the stairs and he had a lump on his forehead, his breathing was normal he wasn't making any noise and he looked at him. He didn't hear anything when he was out of the house. He says he becomes quieter if he hurts himself - Confirms he has fallen twice; once 2 months ago and secondly on Tuesday. - He confirms that the last 2 days he was walking very carefully before that he was fine. - He says he would come downstairs himself and he's never fallen down before - he refers to being told by his girlfriend that police or social services came to the house after the first fall. - He becomes upset at one point when talking about his feelings for the child - he says everything looks normal when he changed his nappy yesterday morning - clarification he says he had a bruise on the forehead and some marks on his chest and his tummy was bloated. - The following morning he had been vomiting which was on the bed on the pillow. And he cleaned it up before he went to work. 	
30/11/19 @ 7pm	Examination Dr M & Dr GV	QMC1 pg. 311
01/12/18	Discharge from PICU to ward	QMC 1 pg. 311
03/12/18 @ 4pm	Examination and updated body map	QMC 1 pg. 311
03/12/18	LA issue care proceedings and ICO granted stop	
04/12/18	Laparotomy & small bowel resection performed	E131
06/12/18	Operation: Bowel repaired.	
07/12/18	A has observed contact session with F whilst in hospital	C17

07/12/18	A has observed contact session with M whilst in hospital. M v distressed when she saw E and stood by him talking quietly and stroking his hand.	C18
11/12/18	A has observed contact session with F whilst in hospital - No real interaction. A asleep	C19
11/12/18	A has observed contact session with M whilst in hospital - A puts arms up to mum – - He cries - He calms when she is removed and doesn't make eye contact when she returns	C20/21
14/12/18	CMH. Case allocated at High Court level. R3 not in attendance,	
	Contact: M and E: M pregnant. SW observes behaviour by A of him being wary of M and withdrawing from her (see contact note of 24.12) there are various references to A showing a degree of wariness of them both noted on the 29th and thereafter. Dr Mecrow now was cautious about the issue of frozen watchfulness. Given A was being subjected to very intrusive medical examinations, surrounded by doctors and was in a very poorly state he was cautious about drawing conclusions as to the dynamic between A and the first respondent at this point. It should also be noted that R3 was present at the hospital for most of the time A was there. There are instances in the notes of M offering A comfort and him seeking it from her. The observations of the dynamic during contact were that A was wary in the early days but subsequently the rapport has improved.	Evidence
18/12/18	B born R3 not entered on birth certificate as Father.	C22vi
18/12/18	M offers Section 20 consent in respect of B	C22vi
19/12/18	Discharge planning meeting held at Hospital and B placed in foster care	C28

21/12/18	LA issue care proceedings relating to B	
24/12/18	Contact: Supervised A and M	Notes
28/12/18	A discharged from QMC to foster carer F was present at hospital when A went to the FC. He allowed F to sit and read books with him.	F35
03/01/19	R1 says R3 approached her and said he was doing DNA and would kill her if she wasn't his.	R1 St
04/01/19	Contact: A not engaging with the first respondent	Contact not
07/01/19 10:33am	Emergency telephone call from the first respondent assaulted last night at rear of shop in town now in A&E <u>M alleges assault which she believes was prompted by R3. She alleges the Thursday before he had threatened to kill her and R2 if B was not his. He also said he knew a foreign lawyer who can make a guilty person not guilty.</u> <i>R3 denies having anything to do with the assault that occurred in January and does not recall bumping into her the week before.</i>	K2
08/01/19	first respondent's Police statement regarding assault and wider dv to Police	K12-14 K66/67
	Contact with M and A suspended due to M not wanting A to see her bruises. Contact continues with B.	
15/01/19	M files witness statement setting out her account, - Says she wants NMO against the Third Respondent and wants nothing to do with him	
18/01/19	SW sees Third Respondent at the address of first respondent in breach of his bail conditions. She says he did not have his shoes on or his coat and appeared comfortable there. <u>R1 says R3 was demanding she contact SW about the court and to get</u>	C102

	<p><u>her (SW) to contact him. When I couldn't get hold of her he came round.</u></p> <p><i>R3 agrees that he attended. He said he waited in the hall while his friend spoke to R1. He denied being in breach of his bail conditions which were not to contact her. He said remaining in the corridor did not amount to a breach.</i></p> <p>The evidence of SW was that this was an unplanned visit and that she suspected R3 might be there because she had recently received information via his employer of an updated address. Her account of him appearing relaxed and without shoes or coat satisfy me that he was not there merely to accompany a friend and waiting in the hallway politely taking his shoes off but rather that this was a more substantial contact between R1 and R3 which was in breach of bail.</p>	
27/01/19	Hearing	
	R1 moves out of her home. R3 moves in.	
February 2019	<p>During Parenting Assessment meetings, M mentioned that A had been injured when he fell on a trampoline and bruised his groin area.</p> <p>SW says this was all the information she offered</p>	C101
06/03/19	Hearing.	
March 2019	Contact between A and M much better. Emotional warmth shown and responded although A still not responding at commencement of contact	C103
14/03/19	R3 sees B for the first time.	
15/03/19	<p><u>M alleges sexual assault by R3</u></p> <p>This has not been the subject of evidence during this hearing.</p>	
	<u>R1 says in the period 15-20 March she stayed at R3's house and she felt under pressure or threat.</u>	
20/03/19 @ 9:09pm	Assault of first respondent reported in call to police from Kebab House in town. Police attend and first respondent states she has been assaulted by Third Respondent	K220/221 K246/C195

	<p><u>R1 alleges that at around 8 PM R3 approached her and began talking to her. He was under the influence of alcohol. R3 said to R1 it would be better if she went with him and he took hold of her underneath her arm and led her back to his flat. He was being aggressive to passers-by. He took her to a kebab shop and they then went to his flat. He then picked up a Lenovo tablet and threw it in her face making her nosebleed. She stood up to get a paper towel and R3 then started to punch her hand and back and picked up a rolling pin and started to hit her. She was crying and asked him to stop but he carried on. She says that he smashed her mobile with the rolling pin and then started throwing eggs at her. She tried to escape but he caught her. She was screaming and he grabbed hold of her throat and started to strangle her before forcing her back into the kitchen and hitting her with the rolling pin. She alleges that he threatened to kill her. When he went into the kitchen she ran out of the flat down the stairs and shouted for help. She ran into the kebab house nearby and asked them to telephone the police. The staff there allowed her to hide at the back of the store.</u></p> <p><i>R3 says R1 called him and said she was at his house and she then came to meet him at a friend's house after which they walked back to his home. She went to get food and then he went to get some cash and when he got home she had her hand over her mouth, ran into the toilet and then ran downstairs. He says something must have happened to her whilst he was getting his rent money. He saw no injuries on her when he was at his friend's house. He suggests she planned the route through town to get them on CCTV cameras.</i></p>	
	A witness describes how she had a cut under her right eye, bruises to one of her arms and fried egg in her hair. She said, 'call the police call the police, my ex-partner hit me'. She was clearly very upset.	K248
	R1 and R3 walk across town linked arm in arm or hand in hand.	K326
9:13pm	Police attend Kebab House. R1 crouched behind a counter. No shoes. Pieces of eggshell and raw egg	K252

	<p>matted in her hair. Injuries noted. She informs them her ex-partner had assaulted her.</p> <p>21.43 Police photographs taken at the Kebab shop show bloodied and cut nose, welt on shoulder, swollen eyebrow, swollen arm</p> <p>Rolling pin located in property – police suggest it was concealed.</p>	
	<p>R3’s friend approaches police and says ‘my friend finished work and when he came home his ex-girlfriend was laying in the living room with blood on her face and egg on the walls.</p>	
	<p>It is hard to determine precisely how this incident developed. It seems likely that given M’s homelessness and financial difficulties that she was still drawn to R3. Equally he was still drawn to her. Her account of a sudden loss of temper and the use of significant force with little reason or explanation is consistent with other examples of what I have heard about R3. He had consumed alcohol – either two bottles or more. Her appearance in the kebab shop and the immediate reference to being assaulted by R3 together with R3’s response in going to seek out the police are consistent with an assault by R3 on R1. His account is wholly implausible. She is fine beforehand, has injuries later inflicted by an unidentified stranger in his flat and then goes immediately to a shop and immediately blames R3.</p>	
20/03/19	Police statement from Mother regarding alleged assault on 20.03.19	K239
21/03/19 @ 9:50pm	Third Respondent arrested by Police at Police station by PC R for GBH / assault	K230
21/03/19	Third Respondent interviewed by Police regarding alleged assault on first respondent on 20/03/19 wherein he denies the assault. <i>Account recorded above</i>	K240
25/03/19	M says to SW she doesn’t want contact as it is painful for her.	
28/03/19	R3 has contact. R1 sees him at railway station. She suggests it was	

	<p>planned. <i>R3 denies this.</i></p> <p>I am unable to conclude that this was a deliberate attempt by R3 to contact R1. He had to travel to contact and may have been at the station for entirely innocent reasons.</p>	
29/03/19	<p>First respondent's police statement in which she states that on 26.03.19 the Third Respondent grabbed her upper left arm whilst she was in town & on 28/03/19 the Third Respondent waved her over to him whilst she was at train station - both incidents causing her to feel harassed.</p>	K290-291
18/04/19	<p>R3 interviewed by police about sexual assault allegation</p>	

Annex B

	Injury	Dr C (Treating) Consultant Paediatrician	Dr Oates (Exp) Consultant Paediatric Radiologist	Dr Mecrow (Exp) Consultant Paediatrician	Mr Lander (Exp) Consultant Paediatric Surgeon	Experts Schedule [E263]
1	Bruising and swelling to scrotum (26.7.18)			Could be caused by a legs akimbo fall off trampoline. Highly unlikely and never seen in practice although see many trampoline injuries now. Could be caused by twisting or a direct blow to the penis. The very limited information limits any theorising.		Exceptionally rarely caused by medical reason or accidental trauma; most probably NAI
2	Bruising (a) Extensive bruising involving the periorbital regions of both eyes and left forehead (b) Purple red discolouration of the upper lip and large piece of pinky, fleshy tissue arising from the inner aspect of the upper lip measuring 1.5 cm (c) Bruising to the neck on	(a)- (e) noted by Dr C who also noted bruising to groin, genitalia, penis and scrotum Never seen frenulum injury with this appearance. Thought unlikely to be tracking.		Observed bruising to groin, genitalia, penis and scrotum are likely to be caused by blood tracking down from internal organ injury Most likely the bruises were caused in period 5-7 days before 29.11.18 The frenulum is v.unusual in	The bruising to groin, genitalia, scrotum and penis could be from trauma or from trauma to the abdominal wall	Observed bruising to groin, genitalia, penis and scrotum are likely to be caused by blood tracking down from internal organ injury or from injury to the abdominal wall. The bruises would have been painful

Annex B

	<p>both right and left sides and bruising to the left jawbone and at the midpoint of the right jawbone (d) Bruising to the chest, purple and red discoloration near the mid-line and below the nipple measuring 1 cm each (e) Abrasion to the left shin measuring 6 cm (f) Bruising causing red-purple discoloration in-front of the right ear</p>			<p>appearance; could be caused by infection. Probably between 5 to 10 days old at least to develop this appearance. Could be caused in fall or forcing spoon in mouth. If a fall then likely external injury to mouth/upper lip/under nose.</p> <p>The bruising in groin could take between 1-4 days to appear from fluid tracking down. The flank injuries could be due to tracking down but all the other bruises including those on the upper legs are not likely to be associated with tracking</p>		<p>when they were inflicted.</p> <p>The number,sites and distribution are far more likely than not be the result of inflicted injury.</p>
3	Torn Frenulum			<p>Injury is unusual and likely NAI rather than from a minor fall. A reasonable carer</p>	As per Dr Mecrow,	

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				would have taken A for medical treatment.		
4	<p>Intra-abdominal injuries</p> <p>a. Laceration to liver</p> <p>b. swelling and disruption of the pancreas,</p> <p>c. injury to bowel and mesentery</p> <p>d. injury to left kidney.</p>		<p>Diffuse pancreatic and kidney injury may be directly related to initial trauma or secondary to the response of the body to significant liver and mesentery bowel injury. Initial CT scan of 29.11. shows pancreas/kidney injury which favours direct trauma.</p> <p>A fall down stairs is unlikely to cause this sort of injury; they occasionally cause wrist of clavicle fractures. Can't exclude it but beyond realms of any reasonable likelihood. We see stair falls frequently. Seen in older children where bike handlebars forced into abdomen in high</p>	<p>Studies show that adults are more likely to suffer serious injury in stair falls as the fall the whole length of the staircase. Children tend to fall in a series of smaller falls and the consequences are more benign. Stair falls result in some fractures but no abdominal injuries. It is conceivable but unlikely that a fall onto a hard linear object at the bottom of the stairs could have caused the injury but it is very unusual and not at all likely.</p>	<p>There is a long-term risk of abdominal obstruction which may require emergency surgery.</p>	<p>The injuries occurred within 3-4 days before CT scan on 29.11 and probably no earlier than 26.11 and no later than 28.11.</p> <p>Most likely cause for liver laceration (in the absence of v. significant accident i.e. an RTA) is violent blow to upper abdomen like a kick from a shoe/boot or punch from a fist.</p> <p>The nature of the injury itself is suggestive of abuse.</p> <p>It could not be self-inflicted, spontaneous or minor trauma to</p>

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			<p>speed crash.</p> <p>The injury to the liver and the mesentery are close to each other in the abdominal cavity. The liver is well protected by the rib cage.</p>			<p>inflict.</p> <p>A would have screamed, cried possibly vomited and experienced shortness of breath. It would contribute to A experiencing nausea, weakness and lack of mental energy, He would have felt profoundly unwell.</p> <p>The perpetrator would have been aware they had caused serious harm to A.</p> <p>The injuries were probably caused in one incident.</p> <p>There is no evidence of congenital condition which would contribute.</p> <p>Without resuscitation,</p>
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						surgical intervention and PIC the injury would have been fatal and A would have likely died within a few days.
5	Fractures to left 6 th (posteromedially and laterally), 7 th , 8 th , and 9 th (all posteromedially) ribs		<p>A compressive injury is possible but less likely.</p> <p>Could be a blow to ribs whilst back against wall or floor to fracture scapula at same time as ribs. More likely 2 blows. Can't identify point of impact; rib fractures are not all aligned. Unlikely to be fall down stairs although can't rule out. Stair falls usually cause wrist or ankle fracture.</p> <p>Timing: caused between 30.10-22.11; they were not recent.</p> <p>Not likely to be 2</p>	<p>Non-perpetrator carers will often not be alerted to rib fractures as symptoms are non-specific and difficult to pinpoint to a particular area. A was seen by medical practitioners during the window he was carrying this injury. A might have demonstrated more distress or pain on handling and might have played contentedly.</p> <p>There would often be no external sign of the injury to alert a non-perpetrator carer or a doctor.</p>	<p>This injury and (6) were much more likely to be caused by significant forces than a slip down some steps as the forces likely involved would be within the tolerance of young normal bones. BRD slip is not an explanation</p> <p>Timing: caused between 30.10-22.11; they were not recent.</p> <p>Hard to say if rib and scapula fractures occurred at same time.</p>	<p>The most likely cause was forceful direct blows to the chest, punching, kicking or being pushed very hard onto a hard object.</p> <p>A would have experienced extreme pain at the time of infliction and cried or expressed pain such that it would have been obvious to a perpetrator excessive force had been used.</p> <p>Later the symptoms may have been non-specific such that a non-</p>

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			<p>months old.</p> <p>Possible and very reasonable that the rib and scapula fracture occurred at the same time.</p> <p>A turning away or crouching at the time of infliction would explain the pattern of fractures to ribs and scapula.</p>			<p>perpetrator may not have been alerted to the fractures but he would have been in pain on handling</p> <p>A slip and fall on some steps does not sufficiently explain this nor does other normal handling.</p>
6	Scapula fracture to left			<p>The scapula injury also causes non-specific symptoms like the rib fractures</p>	<p>Timing: caused between 30.10-22.11; they were not recent.</p> <p>Hard to say if occurred at same time as ribs.</p> <p>Possible A was turning away or crouching but possible.</p>	<p>A slip and fall on some steps does not sufficiently explain this</p> <p>Most likely inflicted by a forceful blow.</p>
7	Skull fracture		<p>The evidence reflects on BP a depressed skull fracture although subtle asymmetry is possible. V. hard to</p>			

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			<p>say what it looked like when acute.</p> <p>It cannot be clearly dated. Unlikely to be timed to the abdominal injury due to lack of observed scalp swelling and lack of clarity faint and ill-defined fracture line. Could date to same time as rib fractures.</p> <p>Could be 2 months old.</p> <p>Possible causation by impact with relatively small object or ‘memorable impact’ hitting wall, bannister rail or floor.</p>			
	OVERALL		<p>There is no radiological evidence of a pre-disposition to fracturing.</p>	<p>A presented at hospital with frozen watchfulness and wariness of adults. This is consistent with A experiencing inflicted injury on at</p>	<p>Agrees with Dr Mecrow.</p>	<p>There is no evidence of a pre-existing condition or illness which would explain any of the injuries.</p>

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				<p>least 2 occasions but also A was a very frightened and unwell little boy and might have been unwilling to engage with people around him. Some reservation about what one can read into the medical notes on this.</p> <p>There is no evidence of blood clotting abnormality, abnormal bone biochemistry or metabolic bone disease.</p> <p>No further tests are recommended.</p>		<p>There are 2 separate sets of injuries; the fractures and the abdominal injuries were not caused by the same insult. They are separate in time and the forces applied.</p>
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