



Neutral Citation Number: [2022] EWFC 177 (Fam)

IN THE CENTRAL FAMILY COURT

Date: 11/07/2022

Before :

HIS HONOUR JUDGE MARIN

Between :

B

Claimant

- and -

A

Defendant

Dr C Proudman (instructed by Hudgell & Partners) for the Applicant
Mr Z Mughal through Direct Access for the Respondent

HIS Hearing dates: 13-16 June 2022

Judgment: 11 July 2022

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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This judgment was delivered in private. Mrs Justice Knowles 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.

HIS HONOUR JUDGE MARIN :

1. This case concerns X ("the child"), a seven year old little girl [redacted]. Her mother is A ("the mother") and her father is B ("the father").
2. The parties met in 2004 and married in 2009. The mother said that during their relationship, she suffered serious emotional and physical abuse from the father such that she ended the marriage in 2018. The father attributed the breakdown in the marriage to the parties growing apart and not loving each other anymore. He also blamed financial pressures as the mother was not working.
3. After the marriage ended, the mother remained in the family home. The father stayed in the summer house in the garden, the mother in the main house.
4. There was a short period when the mother left to stay with her own mother although she returned to the family home with the child after a month. The mother finally moved out in late 2019 when the parties each purchased their own accommodation. They also reached an agreement regarding their finances which was approved that year by the court.
5. Arrangements for the father to spend time with the child were agreed through mediation after the parties separated.
6. Meanwhile, the father had a new partner ("S") in 2019 whom he eventually married. The father claimed that until S came on the scene, contact between him and the child went well. However, it then deteriorated to the point that the mother gradually restricted his time with the child. For her part, the mother maintained that the child struggled with the contact arrangements and was not always willing to go to the father. She criticised aspects of the father's behaviour towards the child.
7. The father issued these proceedings in December 2020 where it was decided that a fact finding hearing should be arranged to deal with the serious allegations made by the mother against the father. This judgment is the court's determination of those allegations.
8. The parties were both represented by Counsel. I was provided with a hearing bundle which contained various statements and documents as well as written opening submissions from the mother and oral and written closing submissions from both parties. I heard evidence from the mother, the father and four other witnesses. During the hearing, further documents were produced. I have considered all the evidence before the court.
9. A schedule of allegations was prepared. There are seven allegations each of which refer to various incidents.
10. The first allegation referred to rape and sexual assault.
11. The mother said that between October 2011 and June 2012, the father raped her on one occasion and that between June 2012 and December 2017, he strangled her on many occasions when having sexual intercourse.

12. The second allegation referred to emotional abuse of the mother and the child between 2004 and 2021.
13. The mother said that the father humiliated her for example by calling her names, criticising her, referring to previous abuse she had suffered in her life and expressing frustration that she did not make money.
14. The father ambushed the mother into meeting S unannounced on three occasions. He also refused to communicate with the child and made fun of her or was unkind.
15. The third allegation related to acts of intimidation.
16. This included episodes where the mother claimed that the father would lunge at her to scare her in the dark; demonstrate how strong he was by punching his chest; threatening the mother when pregnant and she was concerned that the baby had stopped moving and grabbing her finger and pushing it backwards when the child was crying and the mother refused to hand her to the father.
17. The fourth allegation addressed economic abuse.
18. The father did not include the mother as a joint owner of their home, he expected her to use savings when unemployed to pay bills and he stopped paying maintenance in retaliation for issues with contact.
19. The fifth allegation related to psychological abuse.
20. The father was alleged to have told the child that the mother would die, and she would live with him and that Covid19 would kill off "old useless people" which caused the child to worry about her grandparents.
21. The sixth allegation was entitled erratic and inappropriate physicality and physical abuse of the child.
22. It referred to an incident in Euro Disney in December 2018 when the mother came out of the shower to find the father with his foot on the child's stomach. Other incidents included hitting the child with an umbrella, smacking her hard and biting her finger in January 2021.
23. I turn now to the law.
24. The burden of proof lies with the person making the allegation. Where a matter has to be proved, the burden of proof is the civil standard, namely the balance of probabilities. To quote Lord Hoffman in *Re B (Children)* (2008, UKHL 3520):

“...If a legal rule requires a fact to be proved (a "fact in issue" ¹), a judge or jury must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are 0 and 1. The fact either happened or it did not. If the tribunal is left in doubt, the doubt is resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, a value of 0 is returned and the fact is treated as not having happened. If he does discharge it, a value of 1 is returned and the fact is treated as having happened”.

25. There is no obligation on a respondent to an allegation to provide, much less to prove, an alternative explanation for the allegations made (see Lancashire -v- R, W and N [2013] EWHC 3064. The burden of proof cannot be reversed (see Re M (Fact Finding: Burden of Proof) (2012 EWCA Civ 1580).
26. A failure to find a fact proved on the balance of probabilities does not equate to a finding that the allegation is false (see Re M (Children) (2013) EWCA Civ 388).
27. Findings of fact must be based on evidence. As Munby LJ (as he then was) observed in Re A (A Child) (Fact-finding hearing: Speculation) (2011 EWCA Civ 12):

. . . It is an elementary proposition that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation."
28. The court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. As Dame Elizabeth Butler-Sloss P observed in Re [T](http://www.bailii.org/ew/cases/ewca/civ/2004/558.html) (<http://www.bailii.org/ew/cases/ewca/civ/2004/558.html>) (2004 EWCA Civ 558):

“... Evidence cannot be evaluated and assessed in separate compartments. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof. ”
29. I also direct myself to the fact that the mother and/or the father may have had particular reasons for lying and that those lies do not necessarily mean that their evidence is also untruthful about other matters (R v Lucas, 1981 1 QB 720). Equally, the evidence of the parents is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.
30. The court's function in resolving disputes of fact in the family court is fundamentally different from the role of the judge and jury in the criminal court. The court process is to determine what has gone on in the past so that knowledge may inform the ultimate welfare evaluation (see Re R, 2018 EWCA Civ 198 and Re B-B (Domestic Abuse: Fact Finding) 2022 EWHC 108 (Fam).
31. The court also needs to be vigilant to the possibility that one or other parent may be seeking to gain an advantage in the battle against the other. This does not mean that allegations are false, but it does increase the risk of misinterpretation, exaggeration or fabrication (Re W (Children) (Abuse: oral Evidence) 2010 UKSC 12.
32. The court must follow the principle and guidance in Practice Direction 12J of the Family Procedure Rules 2010.
33. I need to consider allegations of domestic abuse in this case by reference to the definition contained in section 3 of Practice Direction 12J in the Family Procedure Rules 2010, namely:

'domestic abuse' includes any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or

over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse. Domestic abuse also includes culturally specific forms of abuse including, but not limited to, forced marriage, honour-based violence, dowry-related abuse, and transnational marriage abandonment;

'coercive behaviour' means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

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

34. The Practice Direction must also be read together with the guidance given in *Re H-N and Others (children)(domestic abuse: finding of fact hearings)* [2021] EWCA 448 (Civ). In particular, the Court of Appeal referred to patterns of behaviour and the harm caused by such behaviour.
35. While I am not concerned with the criminal implications of either parties' conduct, I observe that controlling and coercive behaviour has been a criminal offence since 2015 (section 76 of the Serious Crime Act 2015). As recently as 7 June 2022, non-fatal strangulation and suffocation are criminal offences (sections 75A and 75B).
36. Dr Proudman produced a detailed note on the relevant law which I have read carefully. She referred to many of the authorities that I have cited as well as others: in particular, *Re B-B (Domestic Violence: Fact Finding) (Rev 1)* [2022] EWHC 108 (Fam) and *re M (A Child)* [2021- EWHC 3225.
37. I turn now to the evidence.
38. I do not propose to deal with each and every issue in dispute or analyse the fine detail of all parts of the evidence. That would be disproportionate and unnecessary. Instead, I propose to highlight aspects of the evidence that have particularly informed my decision making. Nonetheless, I have regard to the totality of the evidence when reaching my decision. I have also considered how matters overlap between the various allegations and how evidence in respect of an allegation can affect other allegations.
39. I heard evidence from the mother, the father, C, D, E, F and G. Some of the witnesses gave their evidence by video link; the parents gave their evidence in court.
40. Special measures were in place to ensure that the parties could feel secure and comfortable when giving their evidence and during the hearing.
41. The mother gave her evidence clearly and without difficulty. She said that she was brought up in a Muslim background. She viewed herself as a "conservative" and "deeply private" person. She is presently studying for a PhD.

42. 42, The mother described her own childhood as "abusive, violent and completely dysfunctional." She took an overdose of drugs at one time. The mother did not share this with anyone until she told the father in 2012 after she suffered a miscarriage. When she finally told her own mother, she seems to have received little support or comfort and family relations appear to have been strained
43. The mother explained that it was only in more recent years that she understood the full nature of the abuse she allegedly suffered from the father. The mother strongly viewed the father as a perpetrator of serious physical and emotional abuse.
44. I formed the view that the mother was doing her best to assist the court. Nonetheless, I viewed her evidence with caution. It contained certain deficits to which I shall return. The mother also gave me the impression of having taken a strong view that the father could only be a perpetrator of abuse and she was closed to viewing matters objectively. It seemed that everything he did had to be an indicator of abuse. I was left with the concern as to how much the mother's own past and the abuse she suffered clouded her view of the father.
45. The father was adamant that most of the allegations were untrue. He did concede that at times, he acted badly.
46. I gained the impression overall that the father lacked insight into many matters. He did not understand how he may have hurt or upset the mother and the child or that his behaviour was at times insensitive or unacceptable. He came over at times as somewhat arrogant.
47. I gained little from G's evidence. She appeared rather confused about matters. F was a truthful and reliable witness. C, D and E did their best to assist the court although they were very much aligned to the mother. I did not feel that the case gained any real value from their evidence.
48. I turn now to the various allegations and my conclusions.
49. Regarding the first allegation, the evidence revealed several deficits in the mother's evidence.
50. First, the mother could not give any date for the rape. She instead said that "to the best of my knowledge it happened sometime between October 2011 and June 2012" and then continued to say that it was more likely to have been between December 2011 and April 2012. In fact, her first statement placed it as "between 2011 to 2012.
51. The mother's recollection of events to the police ten years later in 2021 was in contrast clear and fluent. She was able to explain exactly what transpired when she was raped. I found it difficult to accept that an intelligent lady could not place the alleged rape within a very short time window given that the incident was certainly etched in her memory.
52. Second, the mother's story to the police differed to her evidence.
53. To the police, she said that "he just climbed on me" but in her evidence the mother said that the father suddenly turned around and started to remove her pyjamas.

54. She said that he removed her pants as well as her pyjama bottoms; she made no mention of removal of pants to the police.
55. The mother said that the father put on a condom. She did not say this to the police. She told them:

. . .he just took my pyjama bottoms off and he put him..ya know and then he just put himself inside me and then yeah..and then it was. .ya know I don 't have any kind of recollection of how long it was before he finished or anything like that, but he seemed like ready ya know... ’
56. The mother continued shortly afterward in the interview:

“...like almost he'd gone through the steps of it in his mind beforehand, he's like I'm gonna do this, I'm going to put her legs up, I'm gonna do it, go straight in and all that, it was so timed, so quick
57. Third, there was no contemporaneous evidence of the alleged rape or strangulation. The mother did not tell her GP or the hospital when she was pregnant. The police were first notified in 2020 and their interview was in 2021 when the mother gave her account for the first time. Social services were also not informed.
58. The mother said that she contacted the charity [redacted] in 2012, a charity for those who suffered childhood abuse. If they had been told about rape in the mother's marriage, I am sure they would have told her to go straight to the police and to leave the father.
59. This means that the court was only left with the parties' accounts given a decade later as to what transpired.
60. Four, the mother said that the effect of her suffering from Lyme Disease was that she could not move and was in a very debilitated state. She produced her GP notes for September to December 2011 which covered part of the period of the alleged rape.
61. The GP notes do not produce a picture of a person who could not move or manage to do much.
62. There are references to itchiness, rashes, tiredness but it is specifically recorded that there was no arthralgia. The medical notes therefore do not fit the mother's description of her illness for part of the period when she alleged the rape occurred.
63. The father did accept that the mother was unwell at times and that on one occasion he showered her. However, taken together with the GP notes, the mother's claim about the continuous severity of her illness is not sustained.
64. Five, the mother said that the father tried to have anal sex which she did not allow. It was put to the father that this was a "kink" of his.
65. The father denied that he wanted anal sex saying that it made no sense if he wanted the mother to fall pregnant. It also seemed that if this was a "kin? or fetish, there was no explanation why it only started much later into the relationship.

66. Six, the mother sent a long email to the father on 3 March 2018. Its stated purpose was to explain why she felt that she could no longer be in a relationship with him.
67. The email contained many headings such as the "outbursts" "family" and "money". It also referred to the parties' sex life. The mother said that the father showed her no affection and never complemented her. It continued:
- «. . . You showed me no affection. No hugs or kisses. You didn't want to comfort me. You 've never complimented me about the way I look only making a big deal of your minute weight gain, I know you're thinking I've put on a lot of weight and don 't look nice anymore.
- That made sex really impossible for me because since X was born it's felt that you don 't respect me and that you 're looking down at me. It always felt that it was just a physical release rather than the two of us together. Maybe I was guilty of that too from last summer onwards.
68. The email was written with care and was thorough. Its purpose was to explain why the mother could not continue the relationship. Crucially, it made no mention of rape or strangulation.
69. Seven, the mother moved out of the family home after the parties separated in 2018 and went to stay to her mother. She did not get on with her other and returned to the family home around a month later. The mother finally moved out the following year in 2019.
70. To my mind, it made no sense for the mother to return to the home of an alleged perpetrator of such heinous acts. The mother had friends with whom she could have stayed; she could have initiated court proceedings to obtain an occupation order, or she could have gone to a refuge. The fact that the one of them lived in the summer house does not detract from this observation because ultimately, it was the same property.
71. Eight, there were messages passing between the parties on occasions such as in 2012, when the messages reflected happiness and the mother telling the father that she missed him and him replying in similar terms. This again raised the question about the nature of the relationship.
72. It was suggested that such messages reflected the mother's fear of upsetting the father and wish to avoid conflict and keep things going.
73. I would accept this explanation save that it does not fit with a message sent by the mother to the father on 19 May 2018 before she returned to the family home from her mother's home.
74. The mother complained that she had confronted her mother about her father's abuse which was met with a rather cold reaction. It was questionable why the mother felt the need to confide in such personal matters to a man whom she believed had abused her.
75. Nine, the mother said nothing about the rape or strangulation allegations in her divorce petition.

76. I accept that some petitioners water down allegations in a petition to avoid further conflict. However, the mother included reference to the father's alleged controlling behaviour and his threat to leave her if she did not fall pregnant. It seemed strange that no reference however oblique or politely framed was made to these serious allegations.
77. Ten, until 2019 the father was having unsupported contact with the child. Contact clearly deteriorated after S came on the scene.
78. The mother sent an email to the father on 16 October 2018 saying that X could not spend time at the father's home until the mother had details about S and from there, matters became more hostile and allegations were made against the father.
79. The father's evidence was also not without its difficulties.
80. First, the father strongly denied this allegation. It was noticeable that although the father was content to be open and detailed when talking to the police, his evidence about intimate matters was very restrained. He said little to explain how he believed the parties conducted themselves to demonstrate his view that they had a healthy and normal sex life.
81. Second, it seems to me that the father felt able to tell the mother when they met that he was sexually experienced only at some point to say that he was a virgin like her.
82. Given the mother's background, there was no need for him to make this comment. That left the possibility either that he was not a virgin and was untruthful to the mother, or that he believed it was necessary to impress (as he saw it) the mother, or that he said it to ensure that the mother lived up to his sexual expectations.
83. Third, it was suggested that the father watched pornography.
84. The mother said that he had a collection of CDs which he disposed of when they lived together. She did not know what they contained.
85. The father denied watching pornography and said that he never downloaded pornography as it could introduce viruses into his computer. However, he was able to accept that he downloaded Microsoft or similar programmes onto his computer from unauthorised sites which may equally have caused viruses.
86. Four, the father told the police that he had sex daily with the mother save for three occasions when she was unwell. He also accepted that the mother had Lyme Disease which must have restricted the mother on some occasions as even given my comments on the GP notes, the mother had some pain and was suffering from tiredness.
87. The mother maintained that the father insisted on regular sex because he wanted her to fall pregnant. The father said that their sexual relationship was natural; the mother even put on appropriate lingerie.
88. However, in his oral evidence, the father tried to back away from his previous statement that they had sex daily. He was clearly trying to distance himself from this remark. He suggested that he was nervous when speaking to the police although faced

with serious allegations, one would have expected him to tell the police everything to establish his innocence. My view is that is exactly what he did when he told them about his sex life with the mother.

89. Five, the father accepted that he was not sympathetic to the mother when she told him about her own father's abuse. This demonstrated tremendous lack of insight.
90. The mother opened up to him and his reaction was pitiful. At the very least, the father could have volunteered to help her to seek professional help and actively guide her on that path.
91. Taking everything together, I reach these conclusions.
92. The father was a man who saw sex as important in a relationship and something that he was entitled to from the mother. He wanted sex regularly. He bragged about being sexually experienced so the mother could live up to his sexual expectations. I make no finding though if he (like the mother) was a virgin when their relationship started. The father also at some time wanted sex regularly to make the mother pregnant.
93. The mother had a complex personality borne of her childhood experiences of which the father was ignorant. I suspect the mother may well have been struggling at times with the emotions of her past and trying to fall pregnant. Against this background, she allowed the father's demands for sex. I accept that the mother may well have felt worthless and lacking in self-esteem, but this was not something that the father would have realised.
94. I am not satisfied that father realised that on any occasion the mother did not want sex or that he knew she did not consent to sex. The evidence does not permit any finding that the father raped the mother.
95. I also make no finding that the father strangled the mother during sex on various occasions.
96. I do not accept that the mother simply allowed strangulation to continue for so many years. She is intelligent. She felt able to approach [redacted] in 2012. She was capable of seeking advice from her GP over the years about the father strangling her during sex. She came across as someone who would not have just accepted such conduct. The evidence overall does not permit a finding especially given the deficits in the mother's evidence overall.
97. Regarding the second allegation, I find that the father's behaviour was at times unacceptable.
98. In February 2021, when social services were investigating the incident about the child's finger being bitten, the father accepted that he provided them with false information when he said that the mother's father raped her.
99. The father accepted that he called the mother an Orc. He made unnecessary fun in front of friends of the fact that the mother wore the wrong clothing on a trip to Peru where she was trekking. He accepted that he did not really react to the mother's disclosure about the abuse she suffered as a child.

100. The father showed a lack of sensitivity and common sense around S. It was plainly obvious to him that the mother was not happy about the relationship. Despite this in May 2019, he showed her around the family home when the mother was staying there; in December 2019, he invited her to stay over at his home even though the child was there and it was obvious that the mother would not be happy and in October 2020, he allowed S to interfere and ask the mother why the father's time with the child was reduced.
101. The father's behaviour towards the child was also questionable. The father accepted that he called her rude although a parent is entitled to do so.
102. However, he gave her no Christmas present in 2020 or 2021; he did not telephone or give her a birthday present in 2021; he refused to take up the indirect contact that had been provided for by the court. The father said that he did not ask for this although that was no reason for not taking it up; it was better than the option he chose of doing nothing. The father lacked insight into not understanding the impact his insensitive behaviour would have on the child.
103. Overall, these matters evidenced a certain arrogance and nastiness towards both the mother and the child which was unnecessary.
104. Turning to the third allegation, the father accepted that he would lunge at the mother and that he did so in the dark when he had turned off the lights. He said that it was a game and part of the playfulness of their marriage which the mother enjoyed. Equally though, he accepted that the mother was afraid of the dark. I accept that the mother did not like this behaviour and that she asked the father to stop.
105. I regard this as an example of the father's insensitive behaviour. I found it quite ridiculous that he wanted to play such a game when he knew the mother did not like being in the dark and would have obviously not welcomed such a game. I do wonder if taken with other matters, it was his way of asserting himself over the mother.
106. I make no finding that the father asked anyone to punch him in the chest.
107. I also make no finding about the father hitting his shins with sticks to show his strength. I found G's evidence overall to be unreliable and confused. Moreover, she said that she heard people in the office saying that they had seen the father use sticks. She never saw anything.
108. E's evidence was also of little value in this regard. He said merely that the father referred to groups who raised their children by using sticks to hit their bones. If anything, his evidence fit more with the father's evidence that at one time, he did Muay Thai boxing.
109. Regarding the events on 29 November 2015, the father did not recall that the mother was admitted to hospital for five days. He thought she attended for a few hours. He went to the gym and a work trip to Amsterdam that day.
110. To my mind, this again evidenced insensitivity on the part of the father. I make no finding on the exact words he used towards the mother save that he is likely to have

voiced his disappointment at what was happening and led the mother to feel alone and rejected.

111. Regarding allegation four, I find that the father wanted to be the one in control of financial matters. He saw money as a way of emboldening his position. He also expected the mother to do her bit to contribute towards the finances. I detected a certain unreasonableness about his expectations.
112. The father gave no cogent reason why the mother's name was not registered as a joint owner of the house. This is a typical arrangement for most families and made sense in the parties' set up.
113. He also did not explain why the mother was forced to use her savings to pay bills when she lost her job in 2015 as opposed to having a constructive discussion together of what to do.
114. The evidence seemed to point overall to the father treating his financial dealings with the mother rather like a business than a marriage. He seemed to want to be in charge but at the same time expected the mother to pay up her contribution come what may.
115. The father's behaviour towards paying maintenance also evidenced the mindset I attribute to him.
116. After the parties separated, they reached an agreement in relation to finances. This was embodied in a consent order approved by the court in 2019. The order contained provision that child maintenance and spousal maintenance would together not exceed E850 month. The portion for the child would be assessed in accordance with the Child Maintenance Service guidelines and the mother's periodical payments would be €395 each month. The mother's payments would cease if her net monthly income exceeded E1 700.
117. Around April 2020, the father reduced the payments without warning to €395. Matters were eventually resolved when the CSA stepped in at the mother's request. On one occasion, the father merely sent €0.01 to the mother.
118. The father replied to the mother's solicitors in clear terms that he saw payment of maintenance dependent upon seeing the child. The father accepted that he did not make the payments. He also said that his reply was sent in what he termed as a "moment of madness". I disagree. The father wanted to claim some leverage over the mother.
119. I make no finding in respect of the matters under allegation five. They all revolve around what the child is supposed to have said and the interpretation placed on that by others. That is insufficient to make an informed finding
120. Regarding allegation six, I start with the events of December 2018 at Euro Disney.
121. The mother said that she came out of the shower to find the father with his foot on the child's stomach. The father looked at the mother and jumped over the child. The mother was distressed and told the father that he could have killed the child. In her first statement, she said that the father "looked at me" and only then stepped over the

child. The father said that he was using his foot to tickle her tummy. This episode ended the marriage.

122. I do not find that the father intended to hurt the child. I accept that he was playing with her. I do not accept that the father jumped over the child in the way suggested by the mother as she would have been injured or hurt of which there was no suggestion.
123. The evidence of D and C took matters nowhere as all they said was that the mother was upset which I accept. They did not see the incident.
124. The mother said that this incident "could have killed" the child. If that were true, it made no sense that she continued to allow the father to have contact with the child and did not report it to social services.
125. Allegation seven is not proved. The mother referred to specific instances as well as a general theme that the child was upset or hurt by the father.
126. I note that when social services finally became involved in 2021, their assessment noted that:
- "There are concerns around the impact of parental acrimony on X 's emotional and behavioural development. However, school are offering emotional support. Parents are required to sign written agreement before case can close around the impact of parental acrimony on emotional and behavioural development...."
127. D and E gave evidence about the child's manner. I accept that the child expressed unhappiness or complaints about the father to them at various times in the past. However, the gap in the evidence is what transpired before the child saw these people in terms of her exposure to parental conflict and the mother's increasing upset at the father. This would have certainly influenced the child and explained how social services viewed the child's presentation in the context of the parental acrimony. Accordingly, their evidence does not take matters in terms of fact finding anywhere.
128. In my judgment, the mother's view of the father was coloured by a combination of her own life experiences and her perception of what had transpired.
129. Thus, the father referred to the November 2020 incident with the umbrella as sword fighting and playing, the mother saw it as unacceptable behaviour.
130. The mother saw the 3 January 2021 biting incident as a vicious act perpetrated by the father. He portrayed it as an accident.
131. I reject the suggestion that the father changed his story about this incident. His written accounts together can be read without reaching this conclusion. The fact that in his reply to the schedule of allegations he referred to losing his balance and accidentally closing his mouth and in an email to the social worker on 12 February 2021 he referred to accidentally closing his mouth but did not elaborate how this occurred is hardly a change of story. Moreover, the father told the social worker that the child accepted his apology and was fine. She only became "inconsolable" later.
132. Social services took no action specifically about this incident. They did note that the mother said:

"He bit her finger on the 3rd January and there were teeth marks and complained about [sic] it and to her godparents. Mum did not report it to anyone." [my underlining]

133. The only other evidence was from F, a neighbour of the mother. She said that the child came to see her on 3 January and said that the father bit her. She reported that the finger "was still a little red". The mother then gave her version of events to F. F said nothing about bite marks.
134. The mother also alleged that in January 2021, the father hit the child on the back, pushed and shoved her and tried to make her nervous. The father said that he would nudge her in a fun and loving way and denied behaving inappropriately.
135. I have referred to the evidence of the mother's friends about the child's presentation and what she has told them. As I have already said, this is indirect in the sense that the child presented to them after being with the mother,
136. The child had expressed upset about the father although I do not find that this was definitely because of anything he had necessarily done wrong. It is equally possible that the parental acrimony identified by social services was taking its emotional toll on her together. Obviously, his failure to nurture his relationship with the child did not help matters and may have contributed to some negativity.
137. Overall, the deterioration in the parties' relationship requires professional consideration in the context of the child's negative feelings towards the father. I suspect that the ill feelings arising from the mother's view of the father have had some effect on her as well as the father's behaviour at times. This will all need to be explored.
138. Outside of the specific allegations and looking at the parties' relationship as a whole, what emerges in my judgment is that the mother with a complex background borne of the trauma of her own childhood coming from a somewhat sheltered background who was maturing in the more secular world found herself with a man who believed that he had to run things his way and who lacked insight and behaved in ways that were at times unacceptable as I have said in my findings. I do not find the father to be malevolent though.
139. In terms of the father spending time with the child, I do not feel that the findings I have made should stand in the way of him having a relationship with her. Where the court will need assistance from Cafcass is in determining how to ensure that the child's relationship with the father can be productive and what sort of parenting work is needed by both parties to ensure this aim.
140. That therefore is my judgment which I shall hand down without the parties being present. The court will email the judgment to the parties.
141. If any points arise from the judgment, they should be put in writing in ten days when I shall endeavour to deal with them on paper. Time for any appeal will run from the date the judgment is sent to the parties by the court.

142. I would invite the parties to agree directions to advance this case towards a final welfare hearing. This will include Cafcass preparing a report. The alternative is for the parties to agree the appointment of an independent social worker if they can afford to do so. A draft order should be sent to the court in the next ten days. If directions cannot