



Neutral Citation Number: [2022] EWFC 179

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27/07/2022

Before :

MR JUSTICE KEEHAN

Re Z (A Child: Transfer of the Child to Live with the Other Parent) (No. 1)

Between :

A LOCAL AUTHORITY

Applicant

- and -

Z and others

Respondents

Fiona Munro (instructed by **Legal Services**) for the **Applicant**
Dorothea Gartland & Klara Slater (instructed by **Freemans Solicitors**) for the **First Respondent**
Katie Williams-Howes (instructed by **Sternberg Reed**) for the **Second Respondent**
Philip Squire (instructed by **Thompson & Co Solicitors**) for the **Third Respondent by his Children's Guardian**

Hearing dates: 18th-20th, 22nd and 27th July 2022

Approved Judgment

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MR JUSTICE KEEHAN

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.

Mr Justice Keehan:

Introduction

1. In this matter I am concerned with one child, Z. He was born in in 2018. His mother is the first respondent, (M) and his father (F). Up until March of this year, after the parents had separated, Z lived with his mother. Thereafter, in circumstance in which I shall set out later in this judgment, he moved to live and remains living with his father.
2. The first application in time in this matter was an application for a spend time with order made by the father in respect of Z dated 14 October 2019. The application by the local authority for public law orders was made on 6 November 2020 and Z was made the subject of an Interim Supervision Order ('ISO') on 11 December 2020. This matter is listed for a fact finding hearing in relation to allegations of domestic abuse and coercive control made by the mother against the father and, in respect of the local authority, findings in respect of a number of matters which have arisen over the course of this case.

The Law

3. The burden of proving the threshold of section 31(2) of the Children Act 1989 ("the 1989 Act") are satisfied in respect of Z rest solely with the local authority. The burden of proving findings of fact rests with the party who invites the court to make those findings. The standard of proof is the balance of probabilities *Re B* [2008] 2 UKHL 35.
4. When considering the evidence, particularly the evidence of the mother and the father, I give myself a revised *Lucas* direction namely that I should only take account of any lies found that have been told if there is no good reason or other established reason for the person to have lied.
5. I also take account of the decision of the Court of Appeal in *Re H-C (Children)* [2016] EWCA Civ 136 where McFarlane LJ, as he then was, said at paragraph 100:

"One highly important aspect of the *Lucas* direction and, indeed, the approach to lies generally in the criminal jurisdiction needs to be borne fully in mind by family judges. It is this in the criminal jurisdiction the lie is never taken of itself as direct proof of guilt. As is plain from the passage quoted from Lord Lane's judgment in *Lucas* where the relevant conditions are satisfied the lie is capable of amounting to a corroboration".

In recent times the point has been made most clearly in the Court of Appeal Criminal Division case of *R v Middleton* [2001] Crim LR 251 where it was said:

"In my view there should be no distinction between the approach taken by the Criminal Court on the issue of lies to that adopted in the Family Court. Judges should therefore take care

to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as proof of guilt”.

6. I entirely accept that the mere fact that a lie has been told does not prove the primary case against the party or witness should they have been found to have lied to the court. Ms Gartland, counsel for the mother, with Ms Slater referred me to the case of *Re B-M (Children: Findings of Fact)* [2021] EWCA Civ 1371 where at paragraphs 23 and 25 Peter Jackson LJ gave guidance on the appropriate approach of a judge to the demeanour of a witness in reaching conclusions about their credibility and reliability as a witness. I respectfully agree with the observations of Peter Jackson LJ.
7. I have had regard to the Article 6 and Article 8 rights of the mother, the father and the child but I bear in mind that where there is a tension between the Article 8 rights of the child on the one hand and the rights of a parent on the other the rights of the child prevail (*Yousef v The Netherlands* [2003] 1 FLR 210).
8. Notwithstanding that the mother sought findings of domestic abuse, she did not require any special measures to be put in place for her pursuant either to Practice Direction 12J or Practice Direction 3AA.

Background

9. The facts of this case are complex and have been largely in dispute between the parties. The relevant facts are set out below, and the court’s findings on disputed facts will become clear throughout this judgment.
10. The mother and the father met in 2016. Their relationship progressed quickly, with a civil ceremony in March 2016 and an Islamic marriage ceremony in February 2017. Between the two ceremonies the parties did not cohabit and the mother continued to live with her family, who she says were unaware of her civil marriage to the father. At the start of their marriage, following the civil ceremony, the mother made concerning allegations about her relationship with the father to the authorities. She made reports that she had been encouraged to undergo the civil ceremony by friends of the parties. Though she now says she did not allege forced marriage, this is what was recorded by the police at the time in September 2016. In October 2016, it is further recorded by the police that the mother states she did not know where the forced marriage suggestion came from and wanted this investigation to be closed. During the early stages of their relationship, the mother was pregnant and underwent two terminations. The parties also began receiving anonymous messages, critical of both the parties and their extended families.
11. The parties began to cohabit following their Islamic marriage ceremony, and both suggest this is when the problems in their relationship began. The mother alleges that the father became controlling towards her and says she was unhappy during that time. She began self-harming and her family’s discovery of this resulted in difficulties within the family. The father says that this is when the mother began to go behind his back. During this time, the mother alleged there were problems in her relationship with the father during an appointment with her midwife. The mother suggests she did not use the words ‘domestic violence/abuse’, but that these were the words used and recorded by the midwife.

12. The relevant child was born in 2018. Problems in the parties' relationship continued, as did the anonymous messages. Reports made to the police about the purported danger the mother would be in should she travel to Pakistan resulted in an Osman warning being issued in March 2019. The parents separated following the Osman warning, though they reconciled in November 2019. The parents eventually separated in April 2020.
13. There has been a complicated history of litigation, in both the public and private law arena.
14. In respect of the public law proceedings, the child first became known to the local authority in 2018 due to concerns about the parents' relationship following a referral made by a midwife as a result of comments made by the mother in an appointment. In April 2020, the child was made subject to a Children in Need ('CIN') plan and a s47 investigation was directed by the court. This order was made without notice to the parents and was not to be disclosed to either party. The subsequent report, dated 14 May 2020, did not propose the issuing of public law proceedings at that point. However, following an incident on 27 August 2020 whereby the mother was stabbed in a local park in the presence of Z, the local authority issued care proceedings in October 2020. Z was made the subject of an ISO on 11 December 2020.
15. With regards to the private law proceedings, the court was first concerned with the child when the father applied for a Child Arrangements Order to formalise the time he was spending with Z. His C100 Application was issued on 12 October 2019. A hearing was listed on 16 December 2019, but neither parent attended, and the mother informed the court that the parents had reconciled. After the parents separated in April 2020, the father's contact was supervised by the then social worker. This coincided with the first pandemic lockdown and contact centres were closed. Contact between the father and Z moved to a contact centre in August 2020 but was suspended after the stabbing incident after only 1 session. The private and public proceedings were consolidated by an order dated 11 December 2020. As a result of the mother's application (dated 3 March 2021) to keep her statement made to the court confidential from the father, the case was allocated to the High Court. The first hearing was on 14 April 2021 and there has been judicial continuity since that time.
16. Contact between the father and Z recommenced and moved to overnight contact in January 2022. On the first occasion the police attended the father's home address at 6.00am for a welfare check. There were times when concerns were raised by the mother about the safety of Z when he spent time with the father.
17. At a hearing on 4 March 2022, following concerns about non accidental bruising, Z's residence was transferred to the father. On 7 March 2022, the Local Authority's application for an Interim Care Order was refused and a Child Arrangements Order was made for Z to live with the father and have supervised contact with the mother. The mother sought permission to appeal this decision on 24 March 2022, which was refused.
18. On 14 April 2022 two blades and a note containing threats were discovered during Z's contact with the mother in a contact centre. Following this, the father was arrested and bailed and the Local Authority made a further application for an Interim Care Order which was refused. Following concerns regarding further bruising on Z, he was taken

into foster care on 17 June 2022 but later returned to the father's care on 20 June 2022.

19. On 23 June 2022 a blade was discovered during Z's contact with the mother in a contact centre. The mother's supervised contact has since been suspended and is now virtual.

Expert Evidence

20. I had the benefit of two reports from a consultant paediatrician, dated 16 July and 18 July 2022 in respect of a number of bruises which had been sustained by Z in recent months. Both in her reports, and as she clarified in her oral evidence, all of the bruises save for one set were non-specific for non-accidental injury and could well have occurred accidentally in an active toddler such as Z. The exception were those bruises that were seen at hospital on 1 March of this year. There were three bruises close together which in the opinion of the Doctor aligned with that of two fingers and a thumb mark, the child having been grabbed. It was her concluded view that on the balance of probabilities these represented inflicted trauma on the child.

Evidence

21. I heard evidence from a contact supervisor supervising the mother's contact with Y on 23 June of this year. She described how the contact progressed well as other contacts have done and were entirely positive. There came a time towards the end of the contact session when Z needed to go to the toilet, he was taken by his mother, accompanied by the contact supervisor who stood at the door as the mother assisted Z to take down his trousers and pants. It was at that point that the mother then said, "What's this?" and produced an article or an item which turned out to be the torn corner of an envelope in which was a bladed item with some fragments of tobacco. The contact supervisor never saw it on the person of Z and only saw the blade being produced by the mother. The mother asserted that when she produced the item Z said, "That's mine, I made it". The contact supervisor was quite clear that she did not recall that being said and when asked again in cross examination by Mr Squire on behalf of the children's guardian she said, "I did not hear Z say that".
22. Next I heard from another contact supervisor supervising the mother's contact with Z, on this occasion, on 14 April of this year. She said that she did not see the mother pass anything to Z in the room where contact took place nor in the toilet but there came a time during the course of the contact where Z produced from one of his pockets a piece of paper which was a picture he said of a monster that he had made for his mother, and he gave it to her. He then almost immediately afterwards produced from his other pocket a wrapped item; this was wrapped in paper which when opened revealed two blades.
23. I heard from the current social worker. She told me first that she had spoken with Z at the hospital on 3 March 2022 in the presence of a police officer about his bruises. He was not communicative with them and was limited to nodding. She produced a smiley face and a sad face on her laptop and using those two faces elicited from Z that it was his father who had caused the bruising to his arm. He was then spoken to by the police officer very briefly.

24. Next, and of particular note, the social worker told me about her involvement in collecting Z from the maternal grandmother's home where the mother lives and with whom Z then lived late in 2021 and early this year. The mother asserted that she and Z in December had tested positive for COVID-19. Some short while later the mother asserted to the social worker that once again Z had tested positive for COVID-19. The social worker was sceptical that that could possibly be the case and having consulted with her managers she collected Z and took him for a PCR test which proved to be negative. She was of the view that the mother had lied to her about Z having Covid for a second time.
25. Around the new year, late in 2021 early in 2022, she described that there was a marked change in Z's presentation. When she arrived to collect him for contact with his father, he was hugely distressed, he was refusing to go, he was lying on the floor, and he was holding onto furniture. On at least one of these occasions, members of the maternal family who were present, were urging the social worker to cancel the contact. She told me that she did not do so but that she persevered, on one occasion for upwards of 20 minutes, and engaged the father in speaking to Z either by voice call or a video call.
26. Of note each and every time she took Z out of the family home to her car to drive to contact either immediately or within a few minutes, Z had regulated his emotions, as she put it, and was perfectly calm and happy. Of further note, the moment he saw his father he was very happy and ran over to him where he enjoyed very positive contact.
27. She told me, thirdly and finally, that the father has been consistent and has prioritised contact between Z and his mother during the time that Z has been in his care. Over the last three to four weeks Z has been more settled at nursery. The social worker told me that Z's attendance at nursery had been inconsistent when he was living with his mother, but she was pleased to note that it was consistent now that he was living with his father.

The Mother

28. The mother told me that as far as she was concerned the problems in their relationship started after the Islamic marriage in March 2017. She told me that the father was not happy about her working, and neither was the paternal grandmother, and she spoke of what she said was controlling behaviour by the father of her. That said she described the commencement of their relationship as being a fairy tale. But she then told me that she had trusted the father more than she should have done. She said that after the Islamic marriage things changed and they, the mother and the father, did not laugh or talk as much as they had done. The father had said to her that she, the mother, should focus on their marriage and then consider going back to work. The mother asserted that if she wanted to see her mother there would invariably be arguments between her and the father.
29. In relation to anonymous messages that had been received by her over a considerable period of time she asserted that they had not been sent by any member of her family and that she trusted them.
30. In relation to the findings of blades at contact on two occasions that I have just described, the mother queried whether there was a third party in the car with the father

when he had transported Z to contact, and it may have been that third party who had planted the blades on Z. In relation to the recording of a court hearing before me the mother said that she was alone at home during the course of that hearing. When asked about what motive the father would have for planting blades on Z the mother said that he had wanted to jeopardise her contact with Z and wanted to remove Z from her life.

31. She confirmed in cross examination that the father had been, between October 2019 and March of this year, very happy that Z was living with his mother and that he had not at any stage applied to have care of Z full time. She accepted that it was, in fact, the court who raised with the father whether, in light of the circumstances of February and early March of this year, he would be prepared to take care of Z rather than Z being placed in foster care.
32. She denied that she had been obstructive of the father's contact with Z. She claimed that on the first overnight contact that the father had with Z in early January of this year she had anonymously received a recording of Z crying and it was that that had caused her to contact the police with a request to carry out a safe and well check, which was performed by the police in the early hours of the morning. She claimed that she did not put the blades on Z and that she and the father had last lived together in April 2020.
33. She accepted that when the father had expressed a desire to move from the London area to Reading or to Glasgow she had not wanted to move. And she accepted that to achieve her end she had contacted the letting agents and explained the position to them. She said she was advised by the letting agent that they should revise the terms of her tenancy, remove the break clause and that would prevent her from bringing the tenancy to an early end. This was done. The mother then sent an email to the letting agents asking for early termination of her tenancy but was told there was no break clause so that could not be done.
34. She accepted that she had deceived the social worker by telling the father not to speak the truth to the social worker. She accepted that she had deceived the police, particularly around the time of the first Osman warning, when she had been instructed not to contact the father when, in fact, she had been in almost constant communication, by text messages or WhatsApp messages, with him updating him about what was occurring. She accepted that, during the course of the closed material procedure in this case in the middle of last year, she had deceived the court by not informing the court that she and Z had met with the father in May 2021 on at least one, if not two, occasions.
35. She accepted that the day before in February this year, when she was due to hand over both of her mobile devices for interrogation that they, she asserted, had been remotely wiped clean. She accepted that no spyware or malware had been found on those phones.
36. In relation to the anonymous messages, she was asked how it could be that when the police undertook some triangulation of those messages it was found that those messages had been sent from a point in a road, where the home of the maternal grandmother is situated. Her only response was that it was not a member of her family who sent those anonymous messages.

37. She asserted that she had not inflicted any bruising on Z and certainly not in late February/early March of this year. When it was put to her by Ms Williams-Howes on behalf of the father that the father's bank statements demonstrated quite clearly that he had transferred sums of money to the mother, she replied that he had done in particular in relation to a beauty course that she went on, but that she had repaid it.
38. She no longer asserted that the father had any role in the stabbing of her in August 2020. She accepted that there had not been any untoward or precipitating event between the end of their relationship, as she asserted to be in April 2020 and August 2020, when there was the stabbing incident in the park. She told me that in her heart she knew it was not the father who had planted the blades on Z. She told me that prior to the relationship with the father she had been an independent person.
39. When asked whether she had deceived her family by not disclosing to them that she had undergone a civil ceremony of marriage with the father in March 2016 she contradicted herself by first saying that she had not deceived them and then accepting that she had done. At the time of the Islamic ceremony in February 2017 the mother's mother, probably, and three of the mother's brothers were not aware that she had undergone the civil ceremony with the father the year before. They only discovered that in July or August 2017 and they then did not speak to her or see her for some six months. Previously one of her brothers had come to know of the civil ceremony but the mother persuaded him not to tell her mother and not to tell her other brothers.
40. The mother spoke briefly of being so sad in her relationship with the father that she begun to self-harm in June or July of 2017 which when her family found out about this accidentally, they wanted her to leave the father and end their relationship. She told me that when she knew she was pregnant with Z she had delayed telling the father but when she did tell him she said he was shocked and surprised albeit the next day he was happy.
41. There was a holiday in June 2018 when the mother and the father went to Pakistan. The mother was asked why it was she had not told her family about this holiday. The mother, I am afraid, could not give any form of satisfactory answers.
42. She told me that prior to Z's birth, her family had been telling her to leave the father whereas after his birth they were saying that she should stay in the relationship. She told me that in particular when she lived in with Father, she felt very isolated, the father was very secretive and that she had no friends that she could trust but that she got on well with the then social worker.
43. It was put to her that she had sent an email to the then social worker, on 20 November 2019 in which she said the following, "I lied to F and I said to him in July time that you had suggested putting Z into care temporarily as I wasn't giving him stability due to moving around so much and because his dad was coming and going from his life. He didn't seem to care too much and just said they can't dictate what we do". She then said, "If it is possible to then explain to my husband either on Friday or after the weekend that you guys have mentioned before that Z has no stability and is always moving around. He's already moved twice in the past year due to problems me and my husband are having so you need to see Z is stable and our problems aren't affecting him. Will it be possible to do something like this? I don't know I just want him to be aware that it's not a joke that he can't come back after eight months and

dictate everything or take me miles away”. She was asked whether that was an example of her exercising controlling behaviour towards the father and she said no.

44. She was asked whether in a message sent to the father on 21 April 2020, when she had asked him not to tell the social worker that she, the mother, had told him everything, that that was a lie, she denied it, and eventually accepted that it was indeed a lie. She told me that when she met with the father and Z in May 2021 she was not frightened of the father nor were either herself or Z at any risk of harm although I note that those answers were given somewhat reluctantly.
45. In cross examination by Mr Squire on behalf of the guardian the mother accepted that she had serially lied to professionals in this case, namely the social workers, the police and the court. When it was put to her that she would in terms tell a lie whenever it suited her purposes, she denied that. She did accept that she had engaged in sexual relations with the father before the Islamic marriage and acknowledged that that was strictly forbidden by the Quran. In response she said that she was not a perfect Muslim. In relation to her assertion that in June 2022 when the second blade had been found and she asserted that Z had said, “That’s mine, I made it” and that the supervisor had not heard this, she told me that the supervisors were talking to each other and had probably missed it.

The Father

46. The father commenced his evidence by talking about Z and how very well he was doing at school and the fact that he was, on the day of the father’s evidence, going on a school trip which he had been very excited about and how Z had won a creative award at nursery. When speaking about Z the father had a broad smile on his face. He agreed that there were lots of arguments between himself and the mother over the course of their relationship but that they had tried to ensure that Z was not present. He denied that he had planted the blades on Z on those two occasions at contact. He denied undertaking the recording of the court hearing earlier this year. In relation to the gentleman known as RK, he had no knowledge of this individual and had not done any of the things asserted by that person.
47. He told me that on the weekend of 25 to 27 February this year he had taken Z to visit his brother in Manchester and stayed at the home of his wife and also stayed at the home of his mistress. There had been an occasion when Z asked for his mother and wanted to go home, and his father thought that was because he did not like sleeping in a strange bed. The father described how on the morning of Monday 28 February he had given Z a bath prior to taking him to nursery and had not seen any bruises on Z at all.
48. He confirmed that he was due to have a second period of direct contact with Z on 20 August 2020, the day the mother was stabbed, but that did not take place and thereafter he did not have any direct contact with Z for over a year.
49. He told me about the circumstances in which the police safe and well check took place in early January this year in the early hours of the morning.
50. The father was asked about the commencement of his relationship with the mother and the evolution of their relationship. He told me that having met the mother he had

feelings for her which he had never felt before. He agreed with the mother that it was a fairy tale relationship, and it was a very good relationship to start with but then as time went on he did not know what was going on much of the time and it appeared then, and subsequently, that the mother was doing many things behind his back. He asserted that when they lived a distance from the maternal family, he would drop the mother off at the maternal grandmother's every weekend.

51. As to the Osman warning and a report to Crimestoppers that on a proposed family holiday to Pakistan in March 2019, he was intending to obtain a gun to cause harm to the mother, he said there was no truth in that at all and at this time, with the mother keeping in communication with him about what was happening with the police, he was very concerned and worried about what was going on.
52. He was asked by Ms Gartland on behalf of the mother whether he thought that the mother loves Z, and he said quite frankly that after the last June blade incident he had changed his thinking. He said he would not put his son in danger, he would never do that. He told me that her family had never accepted him and were always against him. In his view the anonymous messages were the result of teamwork but denied that either he or his family had any involvement.
53. He accepted he had worked in a shop using his brother's name because under his student visa he was not permitted to work. He had, at the time that he met the mother, issues with seeking to renew a visa to enable him to remain living in this country. It was put to him that he had begun a relationship and married the mother for the purposes of obtaining a spousal visa. He said in response it would have been unethical for him to use the mother for the purposes of him obtaining a visa and he would not do that.
54. He denied that he had exercised any financial control over the mother. He denied that he had access to her bank accounts. He told me that he would never compromise his son's needs and that, of course, the maternal family gave the mother money. He denied that he had any issue with the mother meeting her uncle. He denied, when the mother was self-harming, that he said to her that she was a 'psycho'. He said he did not recall the exact words that he had used to the mother, but it would have been something like why did you do that or are you mad. He was asked whether he was kind and caring towards the mother at that time and he said that yes surely, he was.
55. He gave a very different account to the mother of the circumstances which surrounded the visit of the mother's aunt, to their home on the occasion of Z's first birthday on 28 November 2019. He was asked whether at that time he was living with the mother at her home and Z. He said he was not sure but then he accepted that his clothes were indeed there, and he was living there.
56. He was asked about why, on the occasion of one of the mother's two terminations, he had taken a selfie of him and her as she lay recovering from the procedure. He said that it had been commonplace for them to take selfies of each other. Well, in my view, at best, it was a very odd thing to have done.
57. He denied knowing how Z sustained the bruising in February/March of this year. When it was put to him that some of the messages that were on what is termed as "his burner phone" he said those were messages that had not been sent by him and he

denied that during the course of his relationship and marriage with the mother he had had an affair.

Analysis

58. The mother was born outside this jurisdiction and moved during her childhood with her family to this jurisdiction. She is the only daughter of her mother, and she has a number of brothers. She is, as she accepted, an independent, intelligent woman. The father was born in Pakistan. He came to this jurisdiction in 2011 for the purposes of undertaking an accountancy course and studies. They met through mutual friends. It appears plain to me from what they both say that in colloquial terms they both fell head over heels in love. Within three weeks the father had proposed marriage to the mother and by March of 2016 they underwent a civil marriage ceremony, but they did not then live together, not least because the maternal grandmother and the maternal family did not know that they were married. They did live together after the Islamic marriage in February 2017. It may be that that is when the mother says problems arose when they were living full time together for the very first time. It is plain on any view that they lived or had to live in substandard accommodation having left the paternal brother's home. It is plain that they were living on a limited financial budget.
59. It is of note, and there is no question of force being employed, that because they were so in love they did engage in sexual relations before the Islamic marriage, indeed, the mother underwent two terminations. In those circumstances I did not gain any sense of the father being overly controlling or domestically abusive towards the mother. I am not persuaded that he financially controlled her and whilst it may well have been his desire that she focus on the marriage, plainly their financial circumstances meant that it was to the benefit of both of them that both the mother worked and the father worked. I do not condone the fact that the father worked illegally and beyond the terms of his visa. But I do not consider this has an adverse impact on his credibility as a witness.
60. The father asserted that the maternal family were antagonistic towards him from the start. I am rather inclined to accept that evidence. That would explain why there was most probably a reluctance on the part of the father to be involved with the maternal family and why he would desire to move to a place which put the two of them at some distance from the maternal family. This is simply part of human nature and it is not, in my judgment, abusive or controlling behaviour.
61. The father was, in my view, less than frank about the reconciliation effected between the parents, or attempts at, between November 2019 and April 2020. In his written statement he rather sought to put some distance between them as to when they were effecting a reconciliation, but by the end of his evidence he had accepted that he was living with the mother pretty much full time up until April 2020. In my judgment, the parents, as their relationship developed, had different goals and different thoughts about how they would lead their lives. That may have caused unhappiness for both of them, but it is not, in my judgment, domestic abuse.
62. What I do note is the actions of the mother where she very frequently went behind the father's back. That started as early as September 2016. They had both attended the police station in relation to some incidents involving the mother. The CRIS report of 23 September 2016 notes as follows, "She" – that is the mother – "is not entirely sure

if her husband is involved in all this conspiracy and hence did not want to make any allegations against him at this stage as he might be doing this because his application for a spouse visa is being refused in July 2016 by the UK Border Authority and he might be using this as a ground to stay in the United Kingdom”. And a little later it is recorded that she said, “She has also requested not to disclose any information or her personal account which she has given to the police in relation to this and any of the linked CRIS reports with her husband”.

63. So far as I can tell there was no factual basis for the mother then suspecting the father of any involvement in wrongdoing. I do not understand why at that very early stage in their relationship, indeed in their marriage, that she was asking the police, the authorities, to keep information from the father.
64. As I have mentioned the mother accepts that contrary to the advice of the police, she deceived them at the time of the first Osman warning by remaining in constant communication with the father. She lied to the social worker in her email to him. She invited the father to lie to the social worker and not to tell him that she had been telling him everything. She, in terms, lied or deceived her own family, her mother and her brothers, by withholding the fact that she had undergone a civil marriage with the father. But, in my judgment, the most egregious lie told by the mother was to this court. In April of last year, the matter was reallocated to me because the mother was applying to withhold her then most recent statement from the father. Over the course of no less than five months I was being asked to withhold that statement from him and the fact of a police investigation because it was said that the mother feared very greatly what the father would do to her if he knew of what she had said in the statement and the police asserted that they considered the father and/or the author of the anonymous messages, if another person, posed a high risk of harm to the mother. Indeed, she was moved to a property away from her mother’s home which had panic alarms and the like installed.
65. In the position statement filed by previous leading counsel for the mother on 26 May this year the following is asserted, “The resulting document maintains the position of the Police as to risk and prejudice to its investigation. The investigation having progressed little since the last hearing as it relies on information requested from Instagram. The mother continues to be guided by the police and subject to one matter supports the position of the Police”. A little later it is asserted, in relation to messages received by the mother’s solicitor, “It is clear that the two are linked and that consequently there is clear evidence demonstrating a very close intimate connection between the author of the message and the father”. Just prior to the filing of that position statement the mother had met with the father taking Z with her when she now tells me she was not frightened of the father and neither she nor Z were at any risk from him. That information was never given to the court by the mother, and she maintained the position that she was in fear of the father for more than five months. This delayed the court considering the father’s application for contact. He had last had direct contact with Z in mid 2020. After the stabbing episode his contact was restricted to weekly virtual contact by video. As I have expressed before it is a testament to the devotion of this father, to his love for his son and of his abilities as a father that he was able to engage Z, then aged two, in virtual contact for upwards of an hour. And all of the reports of this contact were entirely positive. It was only

when the father became aware of the closed material and the closed procedure that he was able to tell the court of the meeting with the mother in May 2021.

66. On 30 December 2021 the mother sent an email to the court. In this long email where she asserted that she had wanted to withdraw all her statements made against the father she said this, “When I spoke to my midwife it was solely because I had no support and no one else to talk to that’s why I didn’t take the matter further I just confided in her and left it at that. I didn’t speak to the police or make statements against F as that isn’t what I wanted to do”. A little later, “I was told by F to lie to the court and say we are separated and not in a relationship, but we were living together and had a husband wife relationship. Lying to the courts didn’t feel right for me”. Nowhere in that email does the mother disclose meeting the father in May 2021.
67. I also take into account that the father was ordered to hand up his mobile phone for interrogation and he did. The mother’s account of, quite coincidentally, both of her phones being remotely wiped of all information the day before she was supposed to hand those in for interrogation is, in my judgment, simply incredible and not worthy of belief. I am bound to conclude that the mother, or somebody on her behalf, quite deliberately wiped those phones of all information to conceal the extent of what the mother had been up to.
68. I agree with the question asked by Mr Squire in cross examination of the mother that she will lie with alacrity whenever it suits her purposes to do so. I also accept the submission of Mr Squire that unless there is corroboration of what the mother asserted the court should not believe her.
69. It is against that background and those findings that I consider specific events. The stabbing of August 2020. I accept it was not put to the father that he was the perpetrator or that he had instructed the perpetrators. I go further. I am satisfied that he was not involved in any way with that stabbing incident of August 2020. It strikes me as too coincidental that on the day of the father’s second direct contact that two strange men should approach the mother in the park and stab her. I find and I am satisfied that this event was staged by the mother for the purposes of obstructing the father’s contact.
70. The anonymous messages that have been received. It is of note that by about August 2021 those anonymous messages had abated. When in late 2021 I ordered the father should have supervised contact and then thereafter when I ordered that he should have unsupervised contact in the community with Z, just a few days later the mother, once again, received anonymous messages. Similarly, when after a pause I ordered the father should have overnight contact, once more threatening messages were allegedly received by the mother. I am quite satisfied that the father had nothing whatsoever to do with the sending of those anonymous messages. The fact that triangulation points to those messages having been sent from somewhere in the road where the maternal grandmother’s home is, leads me to conclude that those anonymous messages were sent by people close to the mother. The nature of the details set out in those messages from time to time can only have been known by somebody who was very close to the mother and/or the father. I am satisfied that they were sent on the instruction of the mother to once again hinder and obstruct the father’s contact.

71. In relation to the recording of court proceedings before me, I accept it most probably is either the father or the mother. There may be other explanations. In light of the findings that I have made, and I will make in a few moments, I think it is safer to make no finding in relation to the court recordings.
72. The blades. Miss Munro and Mr Squire both made the same sort of submissions. If it had been the father who planted the blade on 14 April, he would have put those blades into his son's pocket and let him go to contact where he would have had no control over the child at all, putting him at risk of suffering really serious harm particularly because he is so active and boisterous a little boy. On the other hand, if it was the mother who planted the blades, she would know they were there, she would know that she had control of Z and that she could remove them and/or prevent him from harming himself. In any event I note that on this occasion those blades were very carefully wrapped in paper with no part of the blades exposed.
73. The same points can be made in relation to the second incident on 22 June. But there are two crucial differences. Nobody saw the blade in Z's possession or on his person. The first time they were seen is when the mother said something to the effect of "look at this" and was holding the torn part of an envelope with the blade in it in her hand. She then asserted that Z said, "That's mine, I made it". That, in relation to a torn envelope with a blade in it, makes no sense whatsoever and I am satisfied that after the first incident the contact supervisors would have been hypervigilant of what was said by Z and in particular when he was taken to the toilet. I regret to conclude that I am entirely satisfied on the balance of probabilities that the mother is lying when she says Z said those words. I am entirely satisfied and find that the blade was never on Z's person on this occasion, that blade was in her possession, and she constructed a scene where it was purported that it was on Z's person, and it was presented to the contact supervisors. This helps inform me about the events of 14 April. In any event, I reject any suggestion that the father would have placed his son, whom he greatly loves, at such very, very real risk of serious harm and on the basis that both the mother and the father agree it can only be one or other of them, I am satisfied and find that it was the mother who planted the blades on Z on 14 April as well. I am satisfied that she did so to seek to put blame on the father that it was he who planted them on him in an effort either (a) to secure the removal of Z from his father's care; and/or (b) to have an adverse impact on the father having contact with Z were he to be removed from the father's care.
74. In relation to the bruising found on 1 March 2022, the father spoke warmly of that weekend which he had spent with Z with his brother in Manchester. He was frank enough to say that, yes, there was a time when Z said that he missed his mother and he wanted to go home but otherwise he had a very happy time with him and with his cousins.
75. I accept the father's evidence that on the morning of 28 February that he had bathed Z prior to taking him to nursery at which time there were no bruises on Z, in particular not on his arm. It had been the mother's habit to very carefully check Z for bruises when he had been on contact with his father. On this occasion for reasons that she could not explain adequately, she did not. She said it was the maternal grandmother who looked after Z and bathed him in the evening of 28 February when he returned from nursery and the following day because she was very busy in the morning. I am quite satisfied that the father did not inflict the bruising on Z. I accept the evidence of

the expert paediatrician and I accept that those bruises seen on 1 March were for the reasons given by her inflicted injuries. Z would have been cared for by various people within the maternal grandmother's home and therefore it would be unwise for me to make a finding against the mother. What I do find is and I am satisfied is that those bruises were inflicted when Z was in the care of the mother, but I am unable to identify who may have inflicted those injuries on Z.

76. As Miss Munro submitted on behalf of the local authority the unifying motive for all of these matters is contact. In her evidence the mother asserted that the father claimed that it was her that planted the blades because he sought to jeopardise her contact with Z and to cut her out of his life. That is plainly not true at all. Nothing the father has done has given any real basis for asserting that he wanted to remove Z from his mother's care. He had never made any application to care for Z. He had never made any threat of that. It was, as I have already said, the court that asked him to care for Z on 4 March this year. He has been, as the social worker confirmed in her evidence, consistent in promoting contact between the mother and Z although, understandably, in light of the second blade incident, that has caused him to pause and to reflect on what is in Z's welfare best interests. As a result of that second episode the mother's direct contact was suspended and replaced with weekly indirect contact only.
77. From August 2020, as I have found, the mother has actively taken steps to obstruct the father's contact. So, whilst in court late last year and early this year she, on the face of it, appeared to agree to increases and changes to the father's contact, she was either working behind the scenes or actively seeking to disrupt it. Why she has done that and what her motivation was is not a matter for this judgment but for the welfare judgment in due course.

Conclusion

78. Accordingly, I find that I am not satisfied that the mother has proved to the requisite standard that she was a victim of domestic abuse at the hands of the father. I am satisfied and find the father did not subject the mother to domestic abuse including coercive control. In relation to the stabbing incident of August 2020 I am satisfied and find that was staged by the mother. In relation to the anonymous messages, I find that they were not sent by the father, they were not necessarily sent by the mother because she is not fluent in written Urdu, but they were sent by somebody on her behalf and most probably a member of her family or members of her family. I am satisfied and find that the father did not plant bladed items on Z either in April or June of this year, but I regret to say I find it was the mother on both occasions. The bruising of 1 March was once again not the father, that it was a non-accidental inflicted injury, and it was sustained when Z was in the care of his mother.
79. I find and accept the evidence of the children's guardian of the visit made to the father's home in early March when on the guardian's evidence there was self-evidently a warm and loving relationship between Z and his father to whom Z would go for comfort from time to time. I am satisfied and I accept that during that visit Z told the guardian that it was his mother who had told him to tell people that his father had hurt him. Finally, I find and accept that the mother has, over the period of these proceedings, sought to obstruct the father's contact and relationship with Z.

80. So, in conclusion, those are the findings of fact that I make and there will need, in due course, to be a statement from the mother setting out whether or not she accepts my judgment. There will, no doubt, have to be a risk assessment undertaken and there will need to be given future consideration as to the nature of the mother's contact to Z both in terms of frequency, length and nature.
81. That is my judgment.