

IN CONFIDENCE

A draft of the judgment was handed down on 8th July 2021 at 2pm in Court No 6. This is the version of the judgment that has been approved by the judge.

The formal time and date for the handing down of this judgment is 4.30pm on 20th July 2021. Any time limits for appeal run from this date.

Case No: ZW20C00468

IN THE FAMILY COURT SITTING AT BARNET

Date: 20th July 2021

Before :

HIS HONOUR JUDGE OLIVER JONES

Between :

LONDON BOROUGH OF ENFIELD

Applicant

- and -

(1) M

(2) F

(3 & 4) K & L

(By their Children's Guardian, Jasmine Wedderburn)

Respondents

(5) Q

Intervenor

Sarah McMeechan (instructed by **Hannah Bellis**) for the **Applicant**

Kyle Squire (instructed by **Faradays Solicitors**) for the **First Respondent mother**

Ami Bartholomew (instructed by **Duncan Lewis Solicitors**) for the **Second Respondent father**

Georgia Mitropoulos (instructed by **Eskinazi & Co Solicitors**) for the **Third and Fourth Respondent children**

The intervenor was unrepresented and had no notice of the hearing

APPROVED JUDGMENT

His Honour Judge Oliver Jones:

1. These are care proceedings brought by the London Borough of Enfield, represented by Sarah McMeechan of Counsel. The proceedings relate to two children, who for the purposes of anonymity I shall refer to as K, a girl who is now 15 years old and L, a boy who is now 9 years old. Both children are represented through their Children’s Guardian who I shall refer to as D by Georgia Mitropoulos of Counsel.
2. The parents are married according to their religion but have not entered into a civil marriage in their home country nor in this country. The mother who I will refer to as M is represented by her Counsel, Kyle Squire. The father who I will refer to as F is represented by his Counsel, Ami Bartholomew.
3. On 9th March 2021, I joined as an intervenor a man who I will refer to as Q. In that order I noted that he has been described by the parents as a family friend or relative and directed the parents to serve statements by 23rd March 2021 setting out “any information they are able to provide that may assist the local authority in notifying Q of these proceedings and the serious findings that are being sought against him”; and, “If they are unable to provide any information that would assist the local authority in notifying Q, the reason they are unable to do so.” I explained in court and included on the face of the order a clear warning that the court may draw an adverse inference from any failure to comply fully with the terms of that direction.
4. Subsequently, the parents provided statements indicating that they were unable to provide any information that would assist the local authority to notify Q. Other enquiries have been fruitless. So, the court is faced with determining serious allegations against Q, which are fundamental to determining the allegations against the parents, without Q having notice of the allegations. For that reason, I have anonymised Q’s identity. I make plain that any findings I make in respect of the allegations cannot be binding on him in the circumstances.
5. I intend for this judgment to be published in due course and so in preparation for the anonymisation process, I am going to deliver judgment using certain initials to identify individuals and countries. I have chosen random initials. I hope that the judgment is not too confusing for the parents as a result, so I have provided to the parents and interpreters a key to help identify the individuals in the judgment.

6. This is a fact-finding hearing. The allegations relate to the forced marriage of K. There are two separate incidents that relate to alleged engagement or marriage and a number of consequent allegations that flow from them.

Background

7. The children K & L were born in country A. The family came to the UK from country A in 2014. All members of the family are citizens of country A; however, their cultural heritage is a part of a group that has roots in country B and their main language is that of country B, albeit with a different dialect.
8. I should mention that the court has been assisted by representatives of the embassy of country A who have observed the proceedings at all stages and have helped the court on several occasions. I am most grateful for the assistance.
9. The parents and K have limited English. At times the parents have spoken a few simple words in English during the hearing, but they have been dependent on interpretation throughout. Despite attempts to secure interpreters who spoke their language with their specific dialect, this has not been possible. Although it is the same language, there are dialect differences. As a result, some care has been needed with interpretation.
10. When the family came to the UK, K did not attend school for a period of 18 months. She had no formal education during that period. Eventually she attended a school in 2016, she transferred to her current school in June 2018.
11. The local authority's application for care proceedings was issued on 13th November 2020. An interim care order for K and an interim supervision order for L were made on that day. A Forced Marriage Protection Order was also made in relation to K which runs until further order.
12. During the proceedings K was subject to a cognitive assessment by Dr Wolfson, dated 8th February 2021 that concluded, "I think it is reasonable for me to conclude that, on balance, it is likely that K's cognitive ability is within the range of cognitive abilities typically found in pupils who attend mainstream secondary schools, but that she is at the lower end of that range."
13. In Dr James' psychiatric assessment of K and L dated 4th March 2021, he reports:

"It is difficult to comment on the allegations given that K now clearly wishes to return to her family and says the allegations were lies. I note that the foster carer stated that she was talking about marriage a great deal, seemed very confused when she first went into

placement. There is no evidence of a psychiatric abnormality, or post-traumatic stress disorder (PTSD). As such, I cannot recommend therapeutic input.”

14. Dr James later wrote:

“I believe that K has suffered trauma in that she clearly has been bullied – being called [racial names]. Often bullying such as this can provoke considerable stress and psychological consequences in terms of anxiety depression and, sometimes, PTSD. However, examination did not reveal these.”

15. No party has sought for K to give evidence during the proceedings. Dr James recommended against it.

The Law

16. The burden of proving the allegations lies at all times with the local authority. It is not for the parents to prove they did not do something that is alleged. In order to prove an allegation, the civil standard of proof must be met – the balance of probabilities.

17. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. As has been observed, "Common sense, not law, requires that in deciding this question regard should be had, to whatever extent appropriate, to inherent probabilities" (**Re B [2008] UKHL 35** at [15])” – per MacDonal J in **AS v TH (False Allegations of Abuse) [2016] EWHC 532 (Fam)**.

18. The decision on 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)**).

19. Where sexual abuse of a child is alleged, the court should adopt a two-stage process. First, is there evidence of sexual abuse? If so, is there evidence of the identity of the perpetrator (**Re H (Minors); Re K (Minors)(Child Abuse: Evidence) [1989] 2 FLR 313** and **Re H and R (Child Sexual Abuse: Standard of Proof) [1995] 1 FLR 643**).

20. “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 suspicion or speculation.” Per Munby LJ as he was then in **Re A (A Child) (fact-finding hearing: Speculation) [2011] EWCA Civ 12**.

21. “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.” Per Butler Sloss P in **Re T [2004] EWCA Civ 558**.
22. “If a legal rule requires the facts to be proved (a “fact in issue”) a judge 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.” Lord Hoffman in **Re B [2008] UKHL 35**.
23. The failure to find a fact proved on the balance of probabilities does not equate without more to a finding that the allegation is false (**Re M (Children) [2013] EWCA Civ 388**).
24. The evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. 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 (Per Baker J as he was in **Re JS [2012] EWHC 1370**).
25. A decision by the court to make no findings, or only some of the findings sought by the local authority does not constitute a ‘failed’ or ‘unsuccessful’ outcome. As Baroness Hale observed in **Re S-B [2010] 1 FLR 1161** at [19]:

“We should no more expect every case which a local authority brings to court to result in an order than we should expect every prosecution brought by the CPS to result in a conviction. The standard of proof may be different, but the roles of the social workers and the prosecutors are similar. They bring to court those cases where there is a good case to answer. It is for the court to decide whether the case is made out. If every child protection case were to result in an order, it would mean either that local authorities were not bringing enough cases to court or that the courts were not subjecting those cases to a sufficiently rigorous scrutiny.”

26. **Re A (Children)** [2018] EWCA Civ 1718, King LJ said this:

*“57. I accept that there may occasionally be cases where, at the conclusion of the evidence and submissions, the court will ultimately say that the local authority has not discharged the burden of proof to the requisite standard and thus decline to make the findings. That this is the case goes hand in hand with the well-established law that suspicion, or even strong suspicion, is not enough to discharge the burden of proof. The court must look at each possibility, both individually and together, factoring in all the evidence available including the medical evidence before deciding whether the “fact in issue more probably occurred than not” (**Re B**: Lord Hoffman).*

58. *In my judgment what one draws from Popi M and Nulty Deceased is that:*

i) Judges will decide a case on the burden of proof alone only when driven to it and where no other course is open to him given the unsatisfactory state of the evidence.

ii) Consideration of such a case necessarily involves looking at the whole picture, including what gaps there are in the evidence, whether the individual factors relied upon are in themselves properly established, what factors may point away from the suggested explanation and what other explanation might fit the circumstances.

iii) The court arrives at its conclusion by considering whether on an overall assessment of the evidence (i.e. on a preponderance of the evidence) the case for believing that the suggested event happened is more compelling than the case for not reaching that belief (which is not necessarily the same as believing positively that it did not happen) and not by reference to percentage possibilities or probabilities”.

27. When assessing whether or not allegations of sexual abuse are proved to the requisite standard, the court should focus on all of the relevant evidence in the case, including that from the alleged perpetrator and family members (see **Re I-A (Allegations of Sexual Abuse) [2012] 2 FLR 837**).

28. Munby J in **Re A (A Child) [2015] EWFC 11; [2016] 1 FLR 1** stated:

“Much material to be found in local authority case records or social worker chronologies is hearsay, often second- or third-hand hearsay. Hearsay evidence is, of course, admissible in family proceedings. But...a local authority which is unwilling or unable to produce the witness who can speak of such matters first-hand, may find itself in great, or indeed insuperable, difficulties if [the parent denies the allegation]” ...

“It is a common feature of care cases that a local authority asserts that a parent does not admit, recognise or acknowledge something or does not recognise or acknowledge the local authority’s concern about something. If the ‘thing’ is put in issue, the local authority must prove the ‘thing’ and establish that it has the significance attributed to it by the local authority”.

29. In **Re E (A Minor)(Child Abuse: Evidence) [1991] 1 FLR 420** at 447H Scott- Baker J observed:

“It is disappointing that, despite the passage of time since the Cleveland report, several witnesses had either not read the report at all or, if they had, they ignored its conclusions in many respects. Permeating the whole case is the underlying theme of

‘the child must be believed’. Of course what any child says must be listened to and taken seriously, but the professionals must be very careful not to prejudge the issue”.

30. In **Leeds City Council v YX & ZX (Assessment of Sexual Abuse) [2008] 2 FLR 869** at [143] Holman J observed:

“I wish only to stress...the very great importance of including in any assessment every aspect of a case. Very important indeed is the account of the child, considered, of course, in an age appropriate way. An express denial is no less an account than is a positive account of abuse. It is also, in my opinion, very important to take fully into account the account and demeanour of the parents, and an assessment of the family circumstances and general quality of the parenting...Even 20 years after the Cleveland Inquiry, I wonder whether its lessons have fully been learned.”

31. In **Wolverhampton City Council v JA [2017] EWFC 62**, Keehan J set out a number of principles the court must bear in mind when considering allegations made by children whether in ABE interviews or elsewhere, at [17]:

“a) no case of alleged sexual abuse where there is an absence of any probative medical or other direct physical evidence to support a finding can be regarded as straightforward: Re J (A Child) [\[2014\] EWCA Civ 875](#);

b) the greatest care needs to be taken if the risk of obtaining unreliable evidence from a child is to be minimised. Children are often poor historians and many are suggestible: Re B (Allegation of Sexual Abuse: Child's Evidence) [\[2006\] 2 FLR 1071](#) at paragraphs 34 to 35, 37, 40 and 42 to 43;

c) the 2011 revision of Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Using Special Measures;

d) the court must acknowledge and carefully analyse material where there are numerous and substantial deviations from good or acceptable practice in ABE interviews or other procedures adopted for interviewing children and must consider whether or not flaws in the ABE process are so fundamental as to render the resulting interviews wholly unreliable: Re E (A Child) (Family Proceedings Evidence) [\[2016\] EWCA Civ 473](#) at paragraph 35;

e) a court considering the hearsay evidence of a child must consider what the child has said, the circumstances in which it was said and the circumstances in which any alleged abuse might have occurred: R v B County Council ex parte P [1991] 1 FLR 470 at page 478;

f) the extremely helpful summary of the principles to be applied and approach to be taken in cases of alleged sexual abuse set out by MacDonald J in AS v TH (Fake Allegations of Abuse) [2016] EWHC 532 (Fam)."

32. In [AS v TH \(Fake Allegations of Abuse\) \[2016\] EWHC 532 \(Fam\)](#) McDonald J made a series of comments that I now repeat because they are pertinent to this case:

“Relevant Statutory Guidance and Non-Statutory Guidance

33. I have in this case heard extensive evidence from those professionals to whom the children made allegations and from those professionals who subsequently assessed the children and/or investigated those allegations (I pause to note that despite the fact that the use of the term "disclosure" to describe a statement or allegation of abuse made by a child has been deprecated since the Cleveland Report due to it precluding the notion that the abuse might not have occurred (see para 12.34(1)), every professional who gave evidence in this case (except the Children's Guardian) used the term "disclosure" to describe what the children had said to them).

34. In light of the criticisms that I make in this judgment of the conduct of some of the professionals involved with the children it is important to note the following matters set out in the statutory guidance and non-statutory guidance and, in addition, to note the following further guidance set out in the Cleveland Report.

(i) Initial Contact with a Child alleging Abuse

35. Where a child makes an allegation of abuse to a professional, the relevant guidance for professionals to whom allegations of abuse are reported makes clear the following principles with respect to the initial contact with the child.

36. In the departmental advice What to do if you're worried a child is being abused (HM Government, March 2015) (replacing previous guidance published in 2006) states that before referring to children's services or the Police an attempt should be made to establish the basic facts. Within this context, the following is said at [28]:

"The signs of child abuse might not always be obvious and a child might not tell anyone what is happening to them. You should therefore question behaviours if something seems unusual and try to speak to the child, alone, if appropriate, to seek further information"

And at [29]:

"If a child reports, following a conversation you have initiated or otherwise, that they are being abused and neglected, you should listen to them, take their

allegation seriously, and reassure them that you will take action to keep them safe."

37. The statutory guidance *Achieving Best Evidence in Criminal Proceedings* (March 2011) (hereafter the *ABE Guidelines*) makes clear at [2.4] that the need to consider a video recorded interview in respect of the allegations may not be immediately apparent to professionals involved prior to the police being informed. Within this context the *ABE Guidelines* state at [2.5] that:

"Any initial questioning should be intended to elicit a brief account of what is alleged to have taken place; a more detailed account should not be pursued at this stage but should be left until the formal interview takes place. Such a brief account should include where and when the alleged incident took place and who was involved or otherwise present."

38. The *ABE Guidance* goes on to state at [2.6] under the heading 'Initial Contact with Victims and Witnesses' that a person engaged in early discussion with an alleged victim or witness should, as far as possible, (a) listen, (b) not stop a free recall of events and (c) where it is necessary to ask questions, ask open-ended or specific closed questions rather than forced-choice, leading or multiple questions and ask no more questions than are necessary to take immediate action.

39. Within this context, having examined the *ABE guidance*, in **Re S (A Child) [2013] EWCA Civ 1254** at [16] the Court of Appeal held that, with respect to initial contact with alleged victims, discussions about the facts in issue in respect of an allegation as distinct from whether and what allegation is being made and against whom, should be rare and should not be a standard practice.

40. Again within the foregoing context, when social workers are speaking to children who have made allegations they must be very careful to consider the purpose of the exchange and whether it is being conducted with a view to taking proceedings to protect the child or for separate therapeutic purposes where the restrictions upon prompting would not apply but the interview would not be for the purposes of court proceedings (*Re D (Child Abuse: Interviews) [1998] 2 FLR 10*).

(ii) Proper Recording

41. The requirement that all professionals responsible for child protection make a clear and comprehensive record of what the child says as soon as possible after it has been said and in the terms used by the child has been well established good practice for many years. The *Cleveland Report* makes clear at paragraph 13.11 that: "We would emphasise the importance of listening carefully to the initial presentation of information and taking careful notes".

42. The *ABE Guidance* re-emphasises this statement of good practice under the heading 'Initial Contact with Victims and Witnesses' by making clear that the

person speaking with the alleged victim or witness should (a) make a comprehensive note of the discussion, taking care to record the timing, setting and people present as well as what was said by the witness and anybody else present (particularly the actual questions asked of the witness), (b) make a note of the demeanour of the witness and anything else that might be relevant to any subsequent formal interview or the wider investigation and (c) fully record any comments made by the witness or events that might be relevant to the legal process up to the time of the interview.

43. In the context of schools, the departmental advice entitled What to do if you're worried a child is being abused (HM Government, March 2015) makes clear at [26] that professionals should record in writing all concerns and discussions about a child's welfare, the decisions made and the reasons for those decisions". The statutory Guidance Keeping Children Safe in Education (HM Government, July 2015) makes clear at [19] that poor practice in relation to safeguarding children includes poor record keeping.

44. The need for professionals working with children to record, as contemporaneously as possible, what the child has said has been recognised and endorsed by the courts as vital in circumstances where, in determining allegations of sexual abuse, it is necessary for the court to examine in detail and with particular care what the child has said (sometimes on a number of different occasions) and the circumstances in which they said it (D v B and Others (Flawed Sexual Abuse Enquiry) [2007] 1 FLR 1295). Within this context, it will also be important that, when recording an allegation, the child's own words are used and that those speaking with the child should avoid summarising the account in the interests of neatness or comprehensibility or recording their interpretation of the account.

...

Police Interviews of Children

48. Police interviews with children should be conducted in accordance with the ABE Guidelines to which I have already referred. In this case N was interviewed by both English and Scottish police officers and S was interviewed by Scottish officers. In Scotland the Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland (The Scottish Government 2011) takes the place of the ABE Guidelines.

49. ...

50. The courts have further endorsed a number of the general principles set out in the ABE Guidelines. It is desirable that interviews with young children should be

conducted as soon as possible after any allegations are made (Re M (Minors)(Sexual Abuse: Evidence) [1993] 1 FLR 822). Where a child has been interviewed on a number of occasions the court may attach diminishing weight to what is said in the later interviews (Re D (Child Abuse: Interviews) [1998] 2 FLR 10). The court will wish to see responses from the child which are neither forced nor led (Re X (A Minor)(Child Abuse: Evidence) [1989] 1 FLR 30). It is normally undesirable for a parent to be present during an interview with the child (Re N (Child Abuse: Evidence) 1996 2 FLR 214 and see the Cleveland Report para 12.35). In Re S (A Child) [2013] EWCA Civ 1254 Ryder LJ confirmed that the guidance set out in the Cleveland Report at paragraph 12.34 with respect to interviewing children remain good practice.

51. It is of note that guidance from the Children Act Advisory Committee concerning the Memorandum of Good Practice which preceded the ABE Guidelines, made clear that:

"Any joint child abuse interview conducted by police and social services must follow the memorandum of good practice. Otherwise, not only is the resulting interview of no forensic value, but it may impede or contaminate any further assessment of the child ordered by the court."

52. Where there has, as in this case, been a failure to follow the interviewing guidelines, the court is not compelled to disregard altogether the evidence obtained in interview but may rely on it together with other independent material to form a conclusion (Re B (Allegations of Sexual Abuse: Child's Evidence) [2006] 2 FLR 1071). However, where the court finds that no evidential weight can be attached to the interviews the court may only come to a conclusion that relies on the content of those interviews where it has comprehensively reviewed all of the other evidence (TW v A City Council [2011] 1 FLR 1597).

33. I note that *Keeping Children Safe in Education* has been the subject of a number of updates since 2015. The 2020 version that applied when K made her allegations repeats the importance of record keeping at paragraphs 54-55.

34. More recently, in **Re SR (A Child) [2018] EWCA Civ 2738** the Court of Appeal has reiterated that, *"the principles underpinning the guidance are, however, relevant to all investigations which include interviews of alleged victims of abuse, whether or not the interviews purport to have been conducted under the guidance"* [30], and that *"the failure to comply with the ABE guidance will often have a decisive effect on the weight to be attached to evidence obtained as a result of the investigation"* [41].

35. I give myself a Lucas direction in this case: a person can lie for a number of different reasons including shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure. Lies or dishonesty in the past do not of themselves prove the existence of lies now. Having given myself that direction, I must then reflect in the judgment how that direction has shaped my approach to relevant issues of credibility. In cases involving previous dishonesty or inconsistent statements, that is inevitably an essential part of the analysis in relation to the general credibility of the witnesses from whom the court receives evidence.
36. In accordance with good practice as identified in **Re A, B and C (Children) [2021] EWCA Civ 451** I have requested that Counsel make submissions specifically to identify those deliberate lies that they seek to rely on, the significant issue to which they relate and the basis on which it can be determined that the only explanation for the lie is guilt.
37. Where the evidence of a child stands only as hearsay, the court weighing up that evidence has to take into account the fact that it was not subject to cross-examination (**Re W (Children)(Abuse: Oral Evidence) [2010] 1 FLR 1485**).
38. In a case that turns on what the children have said, some attempt should have been made for an experienced professional to investigate the allegations in a way that was forensic and properly recorded. As HHJ Wildblood QC sitting as a High Court Judge said in **D v B and Others (Flawed Sexual Abuse Enquiry) [2007] 1 FLR 1295**:
- “It is necessary to examine with particular care:*
- a) What the children have said*
 - b) The circumstances in which they said it*
 - c) The circumstances in which any alleged abuse might have occurred”*
39. Where there has been a failure to follow the interviewing guidelines, the court is not compelled to disregard altogether the evidence obtained in interview but may rely on it together with other independent material to form a conclusion (**Re B (Allegations of Sexual Abuse: Child’s Evidence) [2006] 2 FLR 1071**).
40. In paragraph 79 of **Re W and F (Children) [2015] EWCA Civ 1300**, Baker J (as he then was) stated:

“The ABE guidance is detailed and complex. But those details and complexities are there for a reason. Experience has demonstrated that very great care is required when interviewing children about allegations of abuse. The Guidance has been formulated and refined over the years by those with particular expertise in the field, including specialists with a deep understanding of how children perceive, recall and articulate their experiences. It would be unrealistic to expect perfection in any investigation. But unless the courts require a high standard, miscarriages of justice will occur and the courts will

reach unfair and wrong decisions with profound consequences for children and their families”.

41. Where the court finds that no evidential weight can be attached to the interviews the court may only come to a conclusion that relies on the content of those interviews where it has comprehensively reviewed all of the other evidence (TW v A City Council [2011] 1 FLR 1597).

42. In Re B (Allegation of Sexual Abuse: Child’s Evidence) [2006] EWCA Civ 773; [2006] 2 FLR 1071, (quoted by McFarlane LJ in Re J (A Child) [2014] EWCA Civ. 875), Hughes LJ stated:

“[34] ...Painful past experience has taught that the greatest care needs to be taken if the risk of obtaining unreliable evidence is to be minimised. Children are often poor historians. They are likely to view interviewers as authority figures. Many are suggestible. Many more wish to please. They do not express themselves clearly or in adult terms, so that what they say can easily be misinterpreted if the listeners are not scrupulous to avoid jumping to conclusions. They may not have understood what was said or done to them in their presence.

“[35] For these and many other reasons it is of the first importance that the child be given the maximum opportunity to recall freely, uninhibited by questions, what they are able to say, and equally it is vital that a careful note is taken of what they say and also of any questions which are asked. All this and many other similar propositions, most of them simple common sense, are set out in nationally agreed guidelines entitled Achieving Best Evidence in Criminal Proceedings...’

“[40] There is no question of this evidence being inadmissible for failure to comply with the ABE guidelines, and that has not been suggested in argument for either parent. In a family case evidence of this kind falls to be assessed, however unsatisfactory its origin. To hold otherwise would be to invest the guidelines with the status of the law of evidence and would invite the question: which failures have the consequence of inadmissibility? Clearly some failures to follow the guidelines will reduce, but by no means eliminate, the value of the evidence. Others may reduce the value almost to vanishing point’.

“[42]The purpose of the ABE guidelines is not disciplinary: it is to present the court and for that matter the parents with the most reliable evidence which can be obtained. In every case the judge cannot avoid the task of weighing up the evidence, warts and all, and deciding whether it has any value or none. Everything will depend on the facts of the case”.

43. Section 31(2) of the Children Act 1989 sets out the “threshold criteria” namely that:

“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".*

44. It is necessary to link the facts relied upon in threshold to why that justifies the conclusion that a child has suffered, or is at risk of suffering, significant harm of types X, Y, Z

45. The court must be careful to avoid “the temptation of social engineering”. There is a need to recognise the inevitable diverse and unequal standards of parenting. (Per Hedley J in Re L [2007] 1 FLR 2050)

46. In L-W Children [2019] EWCA Civ 159; [2019] 2 FLR 278, King LJ made the following observations about findings of failure to protect:

“62. Failure to protect comes in innumerable guises. It often relates to a mother who has covered up for a partner who has physically or sexually abused her child or, one who has failed to get medical help for her child in order to protect a partner, sometimes with tragic results. It is also a finding made in cases where continuing to live with a person (often in a toxic atmosphere, frequently marked with domestic violence) is having a serious and obvious deleterious effect on the children in the household. The harm, emotional rather than physical, can be equally significant and damaging to a child.

63. Such findings where made in respect of a carer, often the mother, are of the utmost importance when it comes to assessments and future welfare considerations. A finding of failing to protect can lead a Court to conclude that the children's best interests will not be served by remaining with, or returning to, the care of that parent, even though that parent may have been wholly exonerated from having caused any physical injuries.

64. Any Court conducting a Finding of Fact Hearing should be alert to the danger of such a serious finding becoming 'a bolt on' to the central issue of perpetration or of falling into the trap of assuming too easily that, if a person was living in the same household as the perpetrator, such a finding is almost inevitable. As Aikens LJ observed in Re J (A child) [2015] EWCA Civ 222, "nearly all parents will be imperfect in some way or another". Many households operate under considerable stress and men go to prison for serious crimes, including crimes of violence, and are allowed to return home by their long-suffering partners upon their release. That does not mean that for that reason alone, that parent has failed to protect her children in allowing her errant partner home, unless, by reason of one of the facts connected with his offending, or some other relevant behaviour on his part, those children are put at risk of suffering significant harm.”

Witnesses and evidence

47. I have read a core bundle of over 600 pages as well as a supplemental bundle of foster carer logs and contact notes of about 100 pages.
48. The hearing has been conducted as a hybrid. At the parents' request, I attempted to conduct the whole hearing as a hybrid, but the process of doing so generated significant disruption and some delays. Instead the case proceeded so that it was fully remote for the local authority's witnesses. When the parents gave evidence, they did so in the courtroom with the advocates also present and the other professionals observing remotely.
49. I heard evidence from the safeguarding officer at K's school, who I shall refer to as V. She was previously employed as a police officer and is not a teacher. She has not been trained in ABE interviewing, but has undergone level 3 safeguarding training.
50. V had the benefit of being a speaker of the same language that the family spoke, albeit with a different dialect. V did not know K well at the time K made allegations to her in November 2020, but she was known to K because she had acted as an interpreter during a meeting with M and K about her school attendance and attainment.
51. I deal in more detail with V's evidence later in the judgment. Overall, I found her to be an honest witness who was trying to help but I had concerns about the way in which she conducted her discussions with K and her record keeping.
52. I heard next from a teacher at K's school, who I will refer to as W. I was impressed with W. He gave his evidence in a careful and professional way. He demonstrated a considerable level of insight in the cultural sensitivities that may be present in this case. He showed himself to be a clear thinker who was able to draw distinctions between his role and that of other professionals
53. W brought a great deal of personal skill and experience to his involvement in the case. He speaks the same language as K and her family – having lived in country B where his wife comes from. He was evidently knowledgeable and experienced in some aspects of the culture of both countries A and B, although he was careful not to present himself as any sort of cultural expert.
54. W recognised the differences of dialect between K and her family's language and the more classical version he had learned. He explained that he was always careful to check K's understanding when they spoke. However, he considered the need for doing that was rooted in her poor cognitive level of understanding rather than a language gap.
55. W's evidence focussed on the allegations of 2019, the earlier of the two incidents. He accepted fairly there was some disparity in his written documents between the words, "engaged" or "married" however he was not able now, almost 2 years later to say with certainty which it was, and it is possible that a mistake had crept in at some stage.

56. W and the Safeguarding officer at the time (not V) took the sensible step to preserve photographs and two short clips from the livestream video. He told me the video was about an hour long and he did not watch it all but had watched about half to see whether any other children from the school were present.
57. I heard from the social worker, who I will refer to as N. She worked on K's case for about a month in 2020 and then left the employment of the local authority. She has not had access to the files since then and as a result was quite vague about events. Although she asserted that she had made notes in relation to several discussions, she no longer had access to those notes because they were contained on the local authority's system. The local authority has not been able to produce those recordings. I found her evidence to often be quite generalised and it appeared to me that at times she was giving her overall impression rather than being specific about events. That said, in relation to her recollection of K's "account" in relation to the 2020 allegations, she appeared to have a better level of recollection.
58. I heard from another social worker who I will refer to as Y. She was the social worker who investigated the 2019 allegations. I found her to be intelligent and capable social worker. However, I was concerned about apparent gaps in her investigation. She appeared to have only considered one aspect of the information provided by the school in relation to the recordings that had been provided. She could not remember having watched the videos. She did not appear to be aware of their contents and it appears that she would have approached the case differently if she had appreciated what they contained. I am not clear as to where responsibility for this lies, whether with her, with her managers, with some form of systemic failure within the local authority, a combination of these or some other reason I do not know about. For that reason, I do not attach any blame to social worker Y for the criticism that I will be making of that investigation by the local authority.
59. I heard from the mother. I will deal with her evidence in more detail later in the judgment. I must be careful with her evidence which was provided through an interpreter. At one point in her evidence, her interpreter indicated that he was not sure whether there was some difficulty as a result of their dialect differences. I swapped to use the other interpreter for the mother's evidence from that point. However, I am mindful that the potential always exists for misunderstanding and this is exacerbated when interpreters are used.
60. Overall, though, I found the mother to be an unreliable witness. There were a number of inconsistencies in her accounts.
61. I heard from the father. Similarly, I will deal with his evidence more later in the judgment. I am also mindful of the potential impact on his evidence of interpretation. I also found the father to be an unreliable witness and there were a number of inconsistencies in his accounts. During his evidence, when the father was maintaining denials he looked very uncomfortable.

ALLEGATIONS:

62. I turn to the LA's schedule of findings.

63. **Allegation 1** – *In Nov 2019 K then aged 13 travelled to country A with her mother. M told K's school that K would not be returning to the UK. Whilst in country A, K participated in a ceremony akin to an engagement with a view to her being married to P.*

64. It is accepted by all parties that the gathering involving P's family took place in England and the images were taken in the family's home.

65. Almost a year earlier, on 3rd December 2018, teacher W, completed an entry in the incident log. It read:

“After seeing [a different student] being married off at such a young age I am especially concerned for these two students.

[then mentioned the other of the two students].

K has very little English is illiterate and functionally innumerate. She originally shared the news about [the student who was married] and was excited about the event which makes me extremely concerned for her.”

66. On 20th October 2019, L had a party to celebrate his circumcision. This was a large event that took place in England. I have seen photographs of the family for the celebration with F in a smart suit and M, K and L very dressed up in extravagant outfits.

67. On Friday 1st November 2019, the school was informed that K would be travelling to country A as her grandmother had passed away and M informed the school that K may not return to the country.

68. The school sent two referrals to SSD on Monday 4th November 2019 in relation to K (who was 13 years old at the time). The first set out that another student in the school who is from the same group as K, and was described by teacher W as her close friend, informed her teacher that K was engaged to be married on Sunday 3rd Nov and this had been posted on Facebook. The school's referral report sets out that other students in the language centre (where K and the other student are based) had been discussing the engagement but had told that student not to tell the teacher as K and her family would get into trouble. The referral states that it is believed that K is still in this country but living at the home of her fiancée who is described as tall chubby and about 18 years old.

69. In the second referral of the same day from the then safeguarding officer who I will refer to as X, sent three pieces of evidence which were described as “Facebook evidence of marriage yesterday” with comments in the language of country B stating “congratulations

you are married, may God never separate you". The MASH officer who processed the referral later summarised, "The school has attached photos and videos which appear to show evidence of K's engagement."

70. As a result, Y a social worker telephoned the mother at 3.14pm to discuss the concerns about K getting married. Although it is not mentioned in the note, I am satisfied that an interpreter was used during the call.
71. According to the note, the M said that the only reason K left school was because her grandmother had passed away. M said the whole family is going to country A and that if no one is available in country A to look after her father, the family may need to stay there to care for him and the children will need to start school in country A if that is the case.
72. The recording specifies it was the maternal grandmother, however she had passed away long before when the M was still a child. In evidence the mother clarified that she thought of the paternal grandparents as if they were her own parents and used this to explain the inconsistency. I am mindful of the potential for terms such as maternal or paternal to be easily mixed up or mis-recorded. However, the reference to the mother's "father" in my judgment makes that less likely to be the explanation.
73. Y asked about the social media images which have been sent to children's services which feature K hugging an older male with a comment stating, "Congratulations you are married". M asked the social worker if K was wearing a red dress in the picture and Y confirmed she was. M stated that this was a family party and K was with her cousin. She stated she would not allow K to do anything like that and stated she is far too young to get married. She stated the family were packing up to leave the UK for country A in the next few days but agreed to Y visiting K that day.
74. Y conducted a home visit that same day on 5th November 2019 at 4pm. K was spoken to privately in her bedroom with an interpreter of language of country B assisting by telephone. K said she had no desire to get married so young and did not plan to get married until she is at least 35 years old, that she wished to get a good education and become a teacher.
75. The SW asked about the picture of K on social media of her with an older male and the caption "congratulations you are married". K stated that she does not have any social media accounts. However, she recalled that her aunt took a photo of her hugging her cousin while they were at a family party at the weekend. K then showed the social worker some videos and photos of a party which she explained was organised to celebrate L's circumcision.
76. K also stated she had been having problems with other students recently at school with them calling her names and making fun of her. K said she did not know who had written the comment, but she believed it may have been done out of malice.

77. K also said she is very worried about her grandmother and became distressed. She stated she was like a mother to her and they are worried about her grandfather as there is no one around to care for him in country A.
78. Social worker Y spoke to L, who showed her a picture of the circumcision party with him dressed up in his white outfit.
79. Y spoke to the parents who confirmed K's account about the family party to celebrate L's circumcision. M said K is much too young to get married and she would never allow this. She said if K planned to get married then she would call the police to stop this. F said he had brought the children to the UK to get a good education and that this allegation is completely untrue.
80. The parents confirmed their plan was to leave UK in the next few days to attend the grandmother's funeral. Father said they need new passports and visas before they can return to the UK but hoped to return so the children can resume their education.
81. When discussing K's poor attendance record at school – the parents said she has had problems with other students calling her names and they planned to obtain a place at a different school when they returned to the UK.
82. K was then absent from school for the next 2 weeks. Returning in the week of 18th November 2019. She attended for the next two weeks. The local authority completed its s.47 investigation on 25th November 2019. The local authority decided that the concerns were not substantiated but it would continue with a Children & Families Assessment. In the reasons for the outcome section it states, "The family have denied that K has gotten married and given a clear and consistent account of the photo of K with an older male said to be K's cousin which was posted on social media. It remains unclear as to who posted the image on social media or why the comment was made about K being married, however the family have suggested that this may have been done as a malicious attempt by one of the other students to get K into trouble. It seems that K has been having some problems with some of the other students and has advised of instances of bullying."
83. Although the s.47 report mentions the school having attached photos and videos, there is no description of their contents other than of the photograph of K hugging an older male.
84. A different social worker who had processed the MASH referral from the school identified that "The school has attached photos and videos which appear to show evidence of K's engagement".
85. There is no indication in the s.47 report that the videos had been watched by the social worker who conducted the assessment. The records do not mention their contents being

explored with the parents or K. In her oral evidence, SW Y told me she did not recall having watched the video clips.

86. The evidence that was sent on to the local authority had included two photographs and two video clips. The first is a photograph of the Facebook page of P. In her evidence the M confirmed it was P. He identifies himself as “married”. Under his name, the date of 31.10.2019 is written with heart icons on both sides. That date is in the week immediately before the allegations were made that K had been engaged or married.
87. The second still photograph is taken from P’s Facebook wall. There is text on it which is written in another language and the photograph is poor quality so that it is difficult to read. I have not been given a translation of what this text says but it ends with four heart icons. I can make out that the text was posted on a Friday. Below it is a photograph of P and K. They have their arms around each other and are facing the camera and smiling for the photograph. P is dressed in a white T-shirt with a pattern on it. K is wearing a red dress. She has makeup on, with her hair up and a white flower or flower-like hair fixing of some sort. She is wearing jewellery: a gold bracelet, a gold necklace or chain and large earrings. This photograph appears to be the one that SW Y spoke to the family about.
88. There are two short video clips. The first is identified as IMG 0065. It is 22 seconds long. It shows K sitting down. She is wearing a red dress. Her hair is down although she is wearing the same or similar earrings to the photograph. At the beginning there is a boy in the shot, wearing ordinary dark clothes. He quickly leaves the shot. K is sat on a sofa or a bed surrounded by three women. The woman behind her is cradling a baby. The two other women are talking and putting rings and bracelets onto K. Only K appears to be dressed up.
89. This is a video recording taken from the Facebook live video that teacher W had observed. There are thumbs up icons being steadily accumulated throughout the video from observers. At one point an observer’s written comment in the language of country B is seen. I asked for that comment to be translated by the court’s interpreters and was told that it translated as, “What a rude thing”. This was further clarified with the interpreter whether it could also mean, “What a shame” and she agreed that it could mean “What a shameful thing”. Although she preferred the translation as rude, she agreed it could potentially mean shame.
90. The second video is also from a Facebook live video. It is 20 seconds long. There are two men observing who can be seen in a superimposed window. One of them is drinking from a long-stemmed glass. In the main part of the video, it shows four men in sequence, one talks to the camera, one is eating, then the camera turns to show K. She is standing in what looks like a kitchen and wearing a red dress. She has considerably more jewellery on. Her hair is well up, in a striking tiara or headdress. When she turns her head, the white flower-type piece from the still photo can be seen in a different position. A woman is standing next to her holding her hand. Another woman is stood the other side, who is also filming K. Behind her is a man at the sink who appears to be distracted while picking his teeth. Apart

from K, no one else is dressed up. There is a comment that is posted onto the screen. When I asked for the translation, I was told it was “Ava friend, whose daughter-in-law did she become?”

91. I heard from Teacher W that those two clips were taken from a much longer Facebook livestream video. The student that had told him about the events had given him the name of P and teacher W had searched for P’s Facebook page which was open. In his statement (which was prepared long after he watched the video) W stated that he and safeguarding officer X had watched about half of the hour-long video. He describes that other adults were coming online to congratulate the newly married couple; the video was mostly in a dialect of the language of country B. K was clearly at the centre of the video and was being made up, K’s brother rarely featured and was not wearing any special clothes or costumes. The words married and marriage were used on numerous occasions. The word for circumcision was never used. Additionally, the word for bride was on the screen and used by some of the people present.
92. He told me he would have presumed that social services would have been able to find the whole 1 hour of footage which in his words, “clearly showed K being married”. He said we were “very very convinced that this was a marriage or possibly betrothal for K”
93. W told me he had no dealings with SW Y who was investigating. Clear to me at some point there was a profound failure of communication so that what W had observed was never appreciated by SW Y, with the video clips not being watched or not being translated and the full 1 hour video never being secured and viewed.
94. From 2nd December 2019, about a week after the s.47 investigation completed, K was absent for the remainder of the school term.
95. The school made a further referral to social services from safeguarding officer X on 10th December 2019. It stated that on Monday 2nd December K wrote a note in the language of country B to a friend which was subsequently retrieved from the bin by staff. According to the referral, the note stated that she no longer wants to be married but wants to continue with her studies.
96. That note has not been provided to the court. It is obvious that the note should have been photographed and kept. As a result of that not being done, the primary evidence has been lost and it has not been possible to check teacher W’s translation.
97. That is particularly important because there is an inconsistency in the evidence. The referral and the incident log that were both completed by safeguarding officer X on 10th December 2019, refer to K saying she no longer wanting to be married but wants to continue studying.

98. It was Teacher W who read the note and who provided the translation to X. In his statement, which was prepared as a first draft in December 2020 but signed on 22nd April 2021, he stated that in the note K says she wants to, “end the relationship and continue at school”. In the context of the allegations that is a material difference.

99. There is another incident log from the school dated 2.12.19, completed by teacher Z which states:

“Mum came into school to tell us whole family travelling to [Country A] today, boarding passes for outward bound flight provided. Reason for trip is K is suffering with anxiety and panic attached, hates school. M is taking her to live with her grandmother in country A. M and younger son are travelling back to UK but K will be staying there. M did not show us any return flights boarding passes. M to inform the school of school details in country A once they have applied for and been offered a place. Another staff member spoke to M in [the language of Country B] as no English. V contacted another school regarding the younger sibling. Mum had shown them return boarding passes for 9th December 2019. M gave her new home address in Country A.”

100. X’s referral of 10th December goes on to say that on Tuesday 3rd December 2019, M attended school and spoke to a member of staff who could speak her language. M stated that due to K’s anxiety and panic she would be going to country A with the family to stay with “Nan”. The rest of the family would be going to country A but leaving K there. M showed her boarding passes for the trip.

101. The referral states the following:

“Our concerns remain the same as the previous referral. K has been married in her culture to an older male and against her will has now been taken to country A to undertake her marital duties.

“The family has lied on many occasions about absences for K – she has been seen in the area by staff when she is supposed to be abroad and told the social worker doing the assessment the celebration on Facebook was for a siblings circumcision. That was clearly another celebration and not the betrothal/marriage of K. Facebook showed images of K being prepared by females in the family for marriage. The alleged husband posted images of the two of them and put his status on as married.”

102. The dates do not quite tally up. According to the school attendance record K was not in school on 2nd December when it is stated the note was retrieved from the bin and according to Z’s incident log of 2nd December, that was also the day that M attended to say they were leaving for country A.

103. The referral to SSD follows that same timeline of events but places them all one day later. I prefer the contemporaneous note of Z and the school attendance record. I am

satisfied that the note from the bin must have been written at some point in the week before and that the mother attended the school with the boarding passes on Monday 2nd December. I have heard no evidence as to why the safeguarding referral took 8 days before it was prepared and forwarded to social services. Those sorts of referrals need to be made immediately but I am in no position to say why it took so long.

104. On 12th December 2019, the local authority completed its Child and Family Assessment. Their decision was to take no further action. The contents of that assessment are very similar to the s.47 assessment. The assessment makes no mention of the 10th December referral which does not appear to have been taken into account at all. There are no documents anywhere in the court papers that show that the local authority considered and investigated in any way the referral from the school on 10th November 2019. I have no information as to how this failure occurred
105. Along with her first statement, the mother exhibited the invitation for and series of photographs relating to L's circumcision. The circumcision party took place on 20th October 2019 in this country. The photographs include both M and K heavily made up, in highly decorative gold and white dresses with extravagant tiaras, F in a smart suit and tie, and L in an extravagant white outfit with a cape, a headdress and some form of decorative stick. These were if not the same photographs, part of the series of photographs that were shown to the social worker Y when she visited the family home as part of her investigation. The outfits are not remotely similar to the red dress that K was wearing when hugging P.
106. The parents' accounts about the events of November 2019 have changed over time. The first accounts were given on 5th Nov 2019 during a telephone call with social worker Y. M said that the red dress photo related to a family party and K was with her cousin, and she would not allow K to do anything like that as she is far too young to get married.
107. The second account was given during social worker Y's home visit on the same day, K explained that her aunt took the photo of her hugging her cousin at a family party on the weekend and showed Y videos and photos of the circumcision party. Separately, L also showed the SW a picture of himself at the circumcision party.
108. When she spoke to the parents, SW Y records that "both parents confirmed K's account regarding the family party to celebrate L's circumcision". M said K is much too young to get married and she would never allow this and if K planned to, she would call the police to stop this. F stated that he brought the children to the UK to get a good education and the allegation is completely untrue. I did not accept the father's evidence about his attitude to K's education - it flies in the face of the fact that for the first 18 months she spent in UK, K did not access any formal education.
109. In his first statement dated 1st December 2020, F stated that the images referred to by the local authority were taken at a party in a restaurant in England. This party was a

celebration following L's circumcision where all the family attended. That is a material inconsistency with his later evidence and one which the father did not satisfactorily explain.

110. In her first statement, dated 3rd December 2020, M gives a different explanation. She says she travelled to country A in November 2019 with K because her mother, the maternal grandmother, was unwell. Much later during her oral evidence she clarified that it was actually F's mother, the PGM who was unwell at the time.
111. In her statement M explains that while in country A, K informed her that she was in love with a boy, P and wanted to get married to P, but she said she was far too young and had to complete her education. She spoke to F about it and they were not prepared to allow K to get married given her age. That statement was inconsistent with the mother's account in oral evidence of K and P having developed their relationship when they were in the UK in the months running up to the event with P's family in November 2019.
112. M says the photographs were not a wedding ceremony but were from a family celebration, as P and his family wanted to demonstrate their commitment to K and K stated she wanted to marry P. It is customary for the families to meet in the light of the commitments M wanted to make and they did meet to appease K who was adamant she wanted to get married. M told me that during the gathering K was gifted some gold as a mark of P's commitment to her.
113. In her statement M says it was made very clear that K was far too young to be married, but that if when K reached 18, she still wanted to marry then they could do so. Initially P's family agreed to this, but she says they later changed their mind and indicated they could not wait 4 years for K to reach 18 and that they did not want her to complete her education. M states that P and his family live in country A where it is widely accepted for girls to get married at such a young age. I pause to note that it has been made abundantly clear to me that marriage at K's age is illegal according to the laws of country A.
114. In his second statement dated 17th December 2020, F seeks to make what he describes as an addition to his initial statement about the event in November 2019 as this was mistakenly omitted. He then repeated the same explanation given in the mother's earlier statement about K falling in love with P but being too young to marry before completing her education. He explained that, "A family ceremony was arranged following our discussion which acted as a "promise" celebration, which can be seen from the photographs the Local Authority have produced. I can confirm this was not a wedding ceremony and K and P did not get married." He goes on to say that P's family informed that they would not wait for K to reach 18 and that K would be unable to continue her education. He wrote "continue" her education rather than "complete", which suggests they wanted an immediate marriage. Thus, he says, the parents were not agreeable to the plans and that K, "would not be forced into a marriage at her age and as such this commitment was called off and the relationship ended."

115. In her third statement, dated 3rd March 2020, the mother reiterates much of her earlier statement but adds that, “K did accept P’s commitment to marry her and I agreed to this on the basis that a marriage could only happen when K had turned 18. In our culture it is customary for the families to also meet when their children commit, however this was not a marriage as has been alleged”. She confirms also that K was gifted some gold as a mark of P’s commitment to her
116. In her oral evidence, the M told me that in 2019 the PGM was in bad health and suffering from diabetes and high blood pressure so she stayed in a hospital for a long time and was lucky to recover from all these matters. She denied having told the school and SW Y that the grandmother had passed away.
117. She told me the gathering was because K said she wanted P and P wanted her as well. Then they decided to get the families together and resolve the matter. It was resolved because P’s family could not wait until K was 18 and so they were not prepared for a marriage now. She said the video was P’s family presenting K with jewellery and said it was because, “they wanted K so much they wanted some sort of reassurance”.
118. When asked in oral evidence why she did not tell social worker Y about the commitment for K to marry P, the mother said she did mention about the red dress. When pressed she said, “it didn’t happen, so I didn’t mention it and tell her”. Pressed further she said she couldn’t tell as she didn’t have English. I found her responses to be disingenuous and evasive.
119. In her evidence, M accepted that the male in the photograph is P, who is not K’s cousin. She explained that she had mentioned to the social worker about a different photograph which was on the wall which was of K’s cousin. That was the first time the mother had given this explanation and it had not been put to Y when she gave evidence. I prefer Y’s account of her enquiry about the photograph of K wearing a red dress with a male. I am satisfied that the mother did initially tell the social worker that the male was a cousin. She lied to the social worker in the hope of causing the investigation to come to an end – which it did. Subsequently the parents have given a different explanation about P and so the mother in her evidence was attempting to explain away that inconsistency. In my judgment the mother was lying in order to cover up that inconsistency.
120. As to the Facebook live stream, M explained away K’s dressing up saying, “it is nice to dress up”. She confirmed that the event took place in England. When the date of 31st October was put to her as the date of this gathering, she agreed that it was around that time.
121. She told me that P’s family were in the UK for a few months, by the time of the gathering they had been here for 1-2 months, and they left back for country A after 4-5 months.

122. M told me she was in country A during May-July 2020, and before then had last been back in 2018 when she went on her own. That evidence contradicted the contents of her statement about K and P having met in country A and K having indicated her wish to marry P at that time.
123. At the outset of his oral evidence, F sought to clarify parts of his statement. When asked about his description that, “a family celebration was arranged as a promise celebration” He claimed that he did not exactly say “promise or engagement”, but that it was “like a promise... like an agreement” between the parents and P’s parents.
124. I struggle to draw the distinction that he was trying to import between a “promise” or “like a promise”. Later in his evidence when describing the understanding between the two families, he used the words promise and agreement without qualification.
125. F denied K was married to P. He told me that it ended because P and his family didn’t want to wait until K was 18 and had finished her education.
126. F told me that afterwards, not only was the chain that P’s family had given K returned, but also the family had returned £200 which had been given to L at the circumcision ceremony. He said that £200 had been returned because they had unpicked what had been agreed about K & P. He explained that was because they were not going to be invited to any more celebrations hosted by P’s family so would not have the opportunity to pay them back. He explained that while P’s family do not “look at them with a bad eye”, if they happen to be at the same event going forward, they would stay apart.
127. I was thoroughly unimpressed by the accounts of both parents. They were both heavily inconsistent, evasive and at times nonsensical. I found I could place little or no reliance on their evidence.

Analysis

128. Regrettably the evidence relating to the gathering involving P was not effectively secured, in particular the livestream video has not been obtained.
129. I must be cautious about the evidence of W. It has been established that he had some theories about the family, about the community he thought they were from and the prospects of K being a potential victim of forced marriage. It is possible that those theories could have coloured his impression of events.
130. However, I was impressed with W, he was a sensitive and considered witness. It is not helpful or appropriate for me to seek to determine whether the family are part of the community that W suspected them to be. They deny that they are. Far more significant is the evidence from W of his understanding that another child in the school had been married underage and removed from the school and that K’s response to this at the time was that

she was excited about the events and did not seem to be concerned about the prospect of child marriage.

131. I found W's description of what he observed on the Facebook live stream compelling. He described a number of words being spoken or written into the comments that are associated with marriage. He is supported in that by the translations of the comment from the short-video clip, "whose daughter-in-law did she become?"
132. The other typed comment, "what a rude thing", or possibly "what a shameful thing" is difficult to assess within such a narrow context. It is consistent with a disapproving observer casting judgment on the event. But I do not know what happened in the video before the comment, it may be someone said or did something else to create that response.
133. The way in which K is singled out in the videos is significant. In this event she is the centre of attention, with several women preparing her appearance.
134. The parents' evidence is telling. They now accept that this event was in some form a promise to marry K. The parents maintain that the promise was conditional on K reaching 18 and completing her education. The emphasis that they put on the importance of K's education was in my judgment spurious. The reality is that the parents have failed to make suitable provision for K's education for extensive periods, 18 months with no schooling when she came to the UK and from the time of this gathering with P's family onwards, K had only a few weeks in school for the following 10 months before she was removed into care. Although I realise that the pandemic affected schools during this period, that did not sufficiently explain K's lengthy periods of absence.
135. I do not know why the arrangement with P was broken off. There are a few possibilities. In her evidence the mother appeared to be very unimpressed with the insubstantial gold chain that was given at the gathering. There were also rumours that P is homosexual which the father confirmed he had heard. The father tried to suggest that he would not have been bothered if K wanted to marry a homosexual if that was her wish, but he gave himself away at the end when he added, "God forbid".
136. I am satisfied that the explanations the parents gave for the relationship ending between K and P was not true. Their evidence was muddled and inconsistent about the promise, about what the agreement was, when the agreement was reached and when it was ended. The presence of not only P but also his family in the UK for the gathering when they live in country A was significant.
137. The event was being livestreamed for an hour and K was the only one dressed in a special outfit and being gifted gold. This suggests that this was far more than a conversation about whether when K was 18, she would be married. I was not persuaded the mother was being honest when she said she did not know it was being livestreamed. The clips of the video show the superimposed video images of people who were watching the livestream

and holding a wine glass. The livestream was a two-way interaction. It would have been unlikely to have mistaken that for a simple video recording.

138. The father claimed that P's family wanted to wait until K was 16 and he claimed he would not allow this because it is illegal. However, it is not illegal in UK to marry at 16 with parents' consent. I note that in country A, the laws on marriage are similar. I found the father's evidence to be unconvincing.
139. When the social worker visited on 5th November, the family were seen to be packing, although K's room had not been packed. The family indicated they were going to country A in the next few days. However, they did not go at that time. On 2nd December 2019 after the note was found in the bin, the mother went into the school and indicated that they would be going to country A due to K's anxiety and panic and she would be staying with her nan. On 10th December 2019, social services attempted to contact the family, but they were out of the country but due to return that week. It appears likely that the mother and the children did not leave for country A until December 2019.
140. The parents' evidence about the illness of the grandparent was inconsistent. The mother indicated to the school initially that it was a maternal grandmother, whereas later the account was paternal grandmother. That may have been a translation error, or even a simple mistake or hearing or understanding. However, there was also inconsistency and a lack of detail about the grandmother's illness. It is accepted that it must have been the paternal grandmother who was being talked about because MGM died many years before. There is a recording that the mother initially said to the school that the grandmother had passed away – something she later suggested was a misunderstanding. F in his evidence added an element that has never previously been indicated to any professional in the case, nor does it feature in any statement of the father's – that the PGM was in a coma. He was vague about the details and was unable to say where the PGM was being treated. No evidence has been produced, whereas medical records could have been obtained to show the PGM's admission to hospital, or even a statement from PGM herself, because I am told she has recovered. I was not persuaded either by the father's account that he did not travel to visit his gravely ill mother because of his work commitments. He told a story of how other people were away and so he was not allowed to take any leave. Again, there is no evidence to support this account, although it could have been obtained from his employers. November is not a typical time for people to take leave and it seems surprising that there was such an amount of leave being taken that the company could not allow for the father to take time to visit his mother before she dies.
141. I was not persuaded that the father's account was true. It appeared to me that the parents' accounts about a grandmother's death or illness were lies or partial lies that they used to justify the removal of K from school in the UK which under closer scrutiny have been shown to be inconsistent.

142. The timing of the mother telling the school about plans to the travel to country A and the plan for K to remain in country A, supported by boarding passes was more to do with the engagement to P rather than anything to do with a sick grandparent in country A.
143. When I factor in all the evidence I have read and heard, I am satisfied on the balance of probabilities that in November 2019, K, then aged 13 participated in a ceremony that was some form of engagement or betrothal. I have considered whether it was actually a marriage, as the teacher W believed he had witnessed on the livestream. However, that video was not retained. Those parts of it that were kept did not demonstrate a marriage took place. The evidence of what was said at the time, in particular the earliest indication from K's friend to the school according to the notes was that it was an engagement. In addition, K described it as an engagement, when she made her allegations in 2020.
144. I find that this engagement took place in the UK. The location in the video was confirmed to be the parents' home here.
145. I find that the parents were aware of the purpose of the gathering with K's family in November 2019. It was a betrothal between K and P. This was secured with the gifting of gold by P's family. The meaning of this betrothal was a strong one, which caused P to describe himself on Facebook as married. The mother's lie to the school that K would not be returning was because it was intended that K's life would be changed by the betrothal that had been entered into. Travelling to country A was delayed because of social services involvement. However, when the note was found in the bin the plans were resumed and the mother took K and L to country A where P lives. I am not sure why the relationship between K and P ended, but I am satisfied that it did. As a result, K returned to the UK. Also, the family returned not only the gold chain, but also the £200 gift that had been given for L's circumcision. It appears likely to be that this was returned as a form of smoothing over or compensating for breaking off the relationship between K and P.
146. **Allegation 2** is that when K was spoken to by the social worker about her engagement to P, she denied that any ceremony had taken place because she was fearful of her mother's reaction. This is based on what K said about the engagement when she made her allegations in 2020.
147. The mother denies that K was fearful of her.

Analysis

148. I accept that when she spoke to the social worker, K denied that there was any ceremony. I heard from both parents that was so and that they also had not told the social worker about the ceremony that had occurred involving P.

149. The local authority bases this allegation on the account given by K during the joint interview on 10th November 2020. I detail later in this judgment my detailed analysis of the interviewing process and the way in which this information was obtained and recorded. As a result of that analysis, I can place little or no weight on the information that was obtained only during that joint interview.
150. In her closing submissions, Ms McMeechan sought to extrapolate from K asking for police and social services to indicate that the 2020 allegations were found online rather than came from K that it showed that K was frightened of M. While that may be one explanation, there are a number of other potential explanations for why K may have lied.
151. There is W's evidence about K's excitement about the underage marriage of another child from her community. In the images I have seen, K appears to be smiling and relaxed. There is no evidence to show that the engagement had been against her will. There are a number of other possible factors that may have led to K covering up the engagement. The whole family knew that child marriage is illegal in this country and in country A, so they may have wanted to avoid getting into trouble with the authorities. There is evidence that within K's community in the school, this was also known to be something that could get K's parents into trouble.
152. I find that K denied to the social worker that any ceremony taken place with P. However, when I consider the circumstances, I am not satisfied that the local authority has proven to the necessary standard that K lied because she was frightened of her mother.
153. **Allegation 3** is that in June 2020, K travelled to country A with her mother and L and while there on or around her 14th birthday (21st June 2020) K participated in a customary marriage ceremony in which she was forced to marry a family relative, who for the purposes of this judgment I will identify only as "Q", an adult male in his twenties.
154. The mother accepts travelling with the children to country A but denies participating any marriage ceremony. The father's case is that he was not present in country A at the time but is not aware of any marriage having taken place.
155. The evidence in relation to this allegation came first from another student. On 7th September 2020, shortly after the start of the new school year, a student S spoke to teacher W. According to his safeguarding log S said that K would not be returning to school as her mother would not allow it because K had got married again over the summer. S also claimed that K's father had slapped her – no finding is sought in relation to that allegation.
156. K had not been in school since 20th March 2020 although that period was heavily affected by Covid-19. Although she was not in school on 7th September 2020, teacher W's log records that K had been seen around the school that morning by other students. K did

attend school for the morning of 8th September. On 9th September 2020 she was present all day.

157. On 9th September 2020, according to teacher W's note, M was requesting help to get K transferred to another school. W records that K has told him that she does not want to move schools. The recording also states that "Mum is also unhappy about the issues of marriage and physical abuse being discussed with her daughter."

158. On 10th November, K approached V the safeguarding officer. The note of their discussion reads:

"K came to see me today and said that in June she was taken to country A by her parents and forced to marry a 27 year old male. K showed me pictures that have been uploaded on to TikTok of the ceremony. K was very upset and stated that she does not want to go home as the man she was forced to marry is now in the UK and family have said that K will be taken out of school and sent to live with the male as his wife. K also said that the male does know where she lives and is worried that he will come to the home address. K stated that the male has previously physically assaulted her as she refused to engage in sexual activity with him."

159. There are five photographs that K showed when she made the allegations. They are as follows:

- a. A photograph of K in a pink and blue dress, heavily made up with her hair styled and wearing a tiara. She is holding a cake with two candles on it. Q dressed in white shirt and dark trousers is wearing a very large gold chain and blowing out two candles which appear to be of the numbers 2 and 0. There are balloons in the background.
- b. M is heavily made up, wearing a full-length purple dress and a large gold chain is standing in the centre of the photograph. K is on her right dressed as described but this time wearing a very large gold chain with a substantial gold medallion. Q is on M's left. M and Q have their arms behind one another. It is not possible because of the camera angle to see whether K and M have their arms around each other. Balloons are in the background.
- c. K, dressed as before but without the gold chain, is standing in the centre of several lit candles which are set out around in her a heart shape. Q is down on one knee and K has her hand out as he is about to put a ring on her finger. In the background there are large balloons of the numbers 2 and 0 as well as a cuddly toy.
- d. This is a screen shot of a video as the play icon is in the centre of the shot. The photo has the TikTok logo and name at the top (although all the photos appear to be from that app). Q and K are sat together in a car. K is still in her dress and tiara but without the gold chains.

- e. This is a similar photo to b, but this time both K and Q are simultaneously kissing M on opposite sides of her cheeks. M is smiling broadly and her and Q's arms are wrapped behind each other.

160. There were two telephone calls between V and a social worker, T at 12.45pm and at 1.08pm. T records that:

"K reported that she got married on 21st of June to the male.

K reported that she went to her mother and father's home after the ceremony, she asked the male if she could go back to her parents and she said this was fine.

The next morning, she left home, commuted for 2 hours to her maternal aunt's house, they called dad from the UK and he travelled to [country A] to bring her back to the UK.

Mother arranged the marriage, her father knew nothing about it.

Only her mother and her maternal uncle and her mother's aunts. As well her paternal grandmother.

K stated that the man who she was arranged to marry is now in the UK, he has been in the country for 3 months. He is currently living outside of [a city in the UK] and works there too.

K stated that her parents have said last night that she needs to go and live with her husband. Her father wanted her opinion on this and her mother said, 'we are the parents we should not be asking her opinion'.

K said that she does not want to live with this man and she does not want to be married. K said that the images are on social media so the SW can say that 'the images have been seen online'.

K said that her parents will hit her and force her to live with this man, which she does not want.

K said that the man she has been forced to be married to is Q."

161. The police CRIS report identifies an entry at 4.31pm which described as "Referral received from the school" which is similar to V's safeguarding log but added an additional detail, "K also expressed that she is worried that if her parents find out about the disclosure then she will be sent to country A"

162. K remained at school with V at the end of the school day. The CRIS report records an entry dated 11/11/2020 17:00, described as a joint visit conducted at K's school. Present for that visit were the police officer, a detective constable who I shall refer to as R, the social worker N and the safeguarding officer V. There was some delay in this entry being completed because the visit took place the previous day. I have seen no contemporaneous notes prepared by the police officer or the social worker. According to the CRIS report K was taken into police protection at 6pm, although the evidence I heard was that the joint interview only started at 8pm. The CRIS report, which appears to be the only recording of that interview states:

“K stated that in May 2020 she left to go to country A with her mother and her younger brother. She believed that this was going to be for a holiday.

She stated that she was then introduced to Q.

[redacted] at a circumcision party on 5/6/2020. It was then that she was told by her mother that she would be married to him. She was told he has a nice home and car and gold.

Previously she had known of this male as he is a cousin of hers, but she had never met him before that day.

On the 20/6/20 or 21/6/20 they had another party and at this one she was ‘married’ to Q. She stated that it happened very quickly. He proposed to her and she said yes, and then they were married at that point. They then had a party with about 100 people there. The party was in a house and then spilled out onto the street.

There was nothing official about the ceremony, religious leader there, and no paperwork was completed.

That night K stated that Q raped her, she screamed and scratched him to get him off her. There was lots of blood on the sheets when she woke up in the morning.

She told her mother about this and her mother said that she had told Q that he needed to be physical with her to make her a good wife.

During the next few weeks K came up with reasons why she didn’t want to have sex with Q and on occasions he hit her causing a black eye and blood in her mother. Q also hit her with a belt.

She tried to run away and went to where her mother and her aunt but they both sent her back to Q.

Her mother then informed her father (who was still in the UK) that K had been married, K was not there when she told him but her mother told her that she had told him later.

On the 17/7/20 or 18/7/20 K’s father flew to country A with a view of taking her back home. She then returned to the UK with her father on 30/7/20. K then blocked Q on all social media and phone calls.

When talking about her future her Dad has previously said to ask K what she wants only for her mother to say, ‘They are her parents and it is for them to decide’

On 9/11/20 K has been out with her friends and when she came home she got into an argument with her mother. At this point her mother has told her that Q is now living in the UK and that she will be sent to live with him and be his wife. K stated she believed Q had moved to the UK about 3 months ago.

K was very scared about going him, she didn’t want to be taken out of school and sent to live with Q. She was scared about what would happen if her mother was told that she made the disclosures herself and that she wanted police/social services to say that they saw the pictures of her on TikTok and got involved in that way. She stated that if she had to go through with another forced relationship that she would run away or kill herself.

K also stated that the incident from 2019 was an engagement party to another male (that she broke up with) and that she lied when she denied it previously as she was frightened of her mother and what she would do.”

163. The notes of V’s initial discussion with K are very brief. There was no real attempt to capture K’s exact words, nor the questions that she was asked. The discussion took place

in the language of country B. V acknowledged there were differences in dialect between them but was clear she had checked carefully with K to ensure she had understood her.

164. K had spent a long time with V that day. The initial discussion took place, which led to the initial referral which was prepared immediately after they talked. Afterwards, K kept on returning to V at different times during the day, worrying about what would happen. There are no notes for any of those interactions. At the end of the school day, K remained in the company of V while they waited for the police and social worker to arrive. V gave K some schoolwork to do and identified that K struggled with very simple maths and shapes. She told me that during that time she also continued to talk with K and more information came out. There is no note of any of those discussions.
165. There is an absence of clarity as to what was simply stated by K and what was in response to questions. There is no note of any questions that were asked of K. The gathering of evidence after the initial discussion and referral was in a piecemeal manner. There is a potential that unwittingly V may have influenced K's account when she loosely continued to discuss the allegations throughout the day.
166. The recordings are all summaries. They are also translations, because the actual discussions were in the language of country B. The summaries given by V were very much in V's words. The initial safeguarding note is dominated by police-style terminology rather than carrying the child's account. For example, V later explained that the use of the word "male" was hers and when she wrote, "Had been raped", those words were never used by K but that V had extrapolated that from K's account that she had tried to fight him off but had not been able to.
167. I must recognise that the approach taken was about as removed from best practice as can be imagined and therefore impact on the weight that I can give to the accounts.
168. The potential influence of V on K's account was reinforced by the way the joint interview with social worker N and DC R was conducted. I was told by N that during the interview, V set out what she had been told by K over the course of the day. She did that in English to the other professionals and in the language of country B to K, who was then asked to agree. In effect it was V's summary of K's accounts to her, rather than K's words that was given as the initial account during the joint interview.
169. I have already set out at length the judgment of MacDonald J about early accounts from children. It is essential that professionals involved in safeguarding children who are alleging abuse know exactly how they need to conduct that work. A clear note of what was said must be made at the earliest opportunity. It needs to be as full and accurate as it can be. It is important that wherever possible, the child's words are set out rather than a summary.

170. I am concerned also that there was a degree of revisiting K's account during the day, particularly while waiting for the police and social worker to arrive. While I would never expect a teacher or safeguarding officer to stop or silence a child from telling them something they wanted to say, once there has been sufficient clarification that the allegation is serious enough to involve social services and/or the police, it is best to leave any further questioning for them to conduct, preferably through an ABE interview.
171. Although I am critical of the way information was gathered by V, I should say that I found her to be an honest witness. She did not in any way seek to obscure any of the points that I am critical of. She was up front about what she had done and the discussions she had with K.
172. I did not hear from DC R, but I did hear from the social worker N who was in the joint interview. Her evidence about the interview was striking. She told me that it was mainly the staff member V who was talking and K was mainly crying. K did not say very much and explained the way the interview was conducted. She accepted there was no exploration with K as to whether she understands the difference between truth and lies. She told me she did prepare for the interview, but there was no note of her preparation.
173. Social worker N told me of the way that K presented during the interview. She said that for most of the interview it was V speaking and K was nodding and very very scared. N told me that after she had heard the account from V, she then asked her questions which V translated, and K answered. She told me from what she remembers K's responses were pretty detailed; she had been initially anxious and not saying much but after a while she became more open. After she had finished, the police officer had one or two more questions for K.
174. The interview plainly was very poorly conducted. It is difficult to imagine a less ABE-compliant process. It did not follow any form of question and answer process. It is not a matter of assessing leading questions. The entire account was led by V. The merging of roles between V being the first professional to whom an account was given with the role of her acting as interpreter during K's joint interview was entirely inappropriate because it provided the obvious risk of V influencing K's account. As it happened, what transpired went far beyond that. An independent interpreter should have been used.
175. After the interview, N told K she was going to a foster carer. K did not react well, she was very anxious, scared and crying. Then said that the allegations were not true and did not happen. N described that during the subsequent car journey, K was, "begging and crying that she didn't want to go, saying it wasn't true". It was confirmed that K retracted her allegations at a point when there had been no opportunity for the parents to influence her about it. N's opinion was that K's demeanour when she retracted was of a child who was, "Scared of her parents, scared about the repercussions. She appeared quite subtle, with a mixture of emotions, quite heightened, a mixture of emotions in one."

176. That first foster placement broke down rapidly. N told me on a later car journey, to a different foster placement with K, K told her that the allegations were true and clarified that she had told K that M had said the photos with Q were from the circumcision, and K had replied, “no no she’s lying”. That discussion had happened without an interpreter by N felt K’s English was good. N said that there had been 4 or 5 placements during that week and during those journeys K would change her story a lot as to whether it was true or not. N said she would have made notes, but none have been provided to the court.
177. The police and social services visited the family home on 10th November 2020. The mother was spoken to. According to the CRIS report, she denied any marriage happened and said it was the same thing as last year with K. When shown the pictures, she said they were taken at a birthday party for Q and were not a marriage. She said that Q kneeling was nothing to do with proposal or wedding but was just a tradition they have in their culture. She said people did ask her about getting K married but she rejected these advances. She said Q is still in country A and she had not had any contact with him for about 2 months. She stated that Q did come to visit a couple of times when they were in country A but never stayed overnight.
178. L was spoken to. He said that the photographs were of “his brother’s birthday party in country A”. He said he gets on well with Q and elected spontaneously to say that Q had not hit him. He also said spontaneously that F has not hit him.
179. On 11th November, K absconded from the first foster placement and went to the parents’ home. She was spoken to by the police alone and retracted her allegations, saying she had completely lied about them, did not want to leave and did not want to return to foster care. She said she lied because she did not want to go to school as she was being bullied and she thought this might get her out of school.
180. K moved to a second foster placement on 11th November but absconded the next day. The SW spoke to F by telephone on 12th November 2020, he denied the allegations of marriage and said the other family members had gone to country A for a circumcision party K continued to abscond and on 15th November she moved to a third foster placement.
181. On 27th November 2020, the foster carers gave notice to terminate the placement and she moved again on 2nd December 2020.
182. Since the joint interview at the school, K has not had an ABE interview. She also refused to undergo a child protection medical. She has maintained throughout these proceedings that the allegations are not true and stressed her wish to return home. Her denials have been shared with many professionals. She told her solicitor and her guardian on 11th December 2020 that she lied about a marriage because she did not want to go to school. She was described as relaxed and smiling during that conversation. She told the foster carer on 1st January 2021 that she lied because she wanted to be in a different school. On 13th February 2020, she told Dr James that, “...it was all a big mistake, and she wishes

she could go back to 2020 and recant what she said as it was not true.” She told Dr James that she thought if she said she was married she would not have to go to school and could do schooling from home.

183. K has written to the court in the language of country B although it is undated saying:

“Please give me to my family. I beg you. I promise that I will not lie again like this. I did it because of school. It will not happen again, I promise. I lied big time, I am sorry. If you don’t give me [back to my family] I will kill myself. I am very serious. I am counting down the days – I have 7 days left. Don’t you have children? You are a father, too. I look forward to receiving good news from you. I promise: When I have become a doctor, you will be the first person I will take care of.”

184. I have also received via the Children’s Guardian in December 2020 a letter from K with a drawing of a Judge, in which she wrote in English:

“I want to go home please give me Justice please I want to my family please give me back I want to spent the new year me family please be pity to me don’t you have children you will spend the New year with your children what about me?”

185. The message ends with sketch of a crying face. I also received a note from L at the same date, pleading for K to be returned.

186. In her evidence, the mother told me that K and Q had met at a birthday party. She denied saying anything to K about marrying Q or about him having a nice home, car and gold. She denied F’s the contents of F’s first statement that K had met Q 3 or 4 times previously to this trip.

187. M accepted that she told the police that the photographs were of a child’s 2nd birthday party that they were all guests at. She accepted that F had said that Q was 20-21 years old. She sought to explain away the presence of balloons spelling out the numbers 20 and candles on the cake also spelling out 20 as a coincidence and insisted that the party was a child’s birthday and she suggested that the people who put the zero on the cake were not very intelligent. I was entirely unimpressed with this evidence. There was no sign of a child in any of the photos. M’s explanation that Q, an adult man was blowing out the candles of a 2-year old’s cake just for fun was unpersuasive.

188. M claimed that the kneeling photo was a joke proposal and it was done to be funny and catch attention. I did not accept this evidence. It is hard to imagine how a child becoming engaged is a joke, or how a responsible parent would simply allow that to happen, even as a joke.

189. M told me that the family had been gifted gold at this gathering. She told me it was just a chain.

190. M's explanation for the photographs of Q and K with their arms around and kissing M were just family posing for photographs. I do not accept that. On the mother's account although they were relatives, they were comparative strangers and K had never met Q before. It stretches credibility that they would on the first day of meeting start posing in the ways they did simply because they are related.
191. M told the court that she had asked for details of how to contact Q, but no one knows anything. However, she went on to explain that she had not asked her sisters in country A, later clarifying that she has one sister and one brother. The only enquiry she had made was to ask the paternal grandmother, despite Q being a cousin on her side of the family. I was not satisfied that the mother had made any real or proper attempt to locate Q or his contact details. In my judgment it was eminently feasible that she must have mutual acquaintances with Q who would have known his contact details – either through their mutual relations or through the family of the 2-year-old whose birthday they all attended. I draw an adverse inference from the mother's failure to comply with my earlier directions about this. I am satisfied that the mother has not provided information about how to contact Q because she does not want him to be contacted and that this information is either already in her knowledge or she is readily capable of obtaining it. I draw the inference that she has done so because she wants to keep Q away from these proceedings.
192. M told me that she had travelled to country A with the tiaras, jewellery and the dresses seen in the photographs because she did not know they would be safe at home in the UK. She told me that later she exchanged the gold for cash to renovate her house in country A. She denied that obtaining gold had been a motivation behind getting K married or engaged.
193. M was unable to explain the logic behind K's explanation that she lied about forced marriage to be able to change schools, in circumstances where the parents were amenable to helping her change schools anyway.
194. I found the mother's explanations deeply unsatisfactory. She was heavily inconsistent.
195. In the father's evidence he gave a similar account to the mother. He denied anything inappropriate had happened in country A. He did not see anything of concern with any of the photographs. He said he did not question the photos of K and Q kissing his wife. He accepted that the kneeling photograph looked like a proposal but questioned where the ring was. He said K standing in the middle of candles in a heart shape was just something normal and described it as "just children's thinking". He said was just funny and, in their region, and culture they do that. He accepted that the clothes K was wearing were the sort of clothes they would dress in for "parties, circumcision parties or weddings".
196. When it was suggested that K had told the truth about what happened in country A and that F had travelled out to bring her back to the UK, F became particularly evasive, replying, "how, what means the truth".

197. I was unimpressed with the father's evidence. It was heavily inconsistent and at times evasive. He appeared to be particularly uncomfortable when maintaining denials.

198. In his statement that addresses the issue of contacting Q, the father states that he does not have contact with the mother's relatives or anyone in country A who may know Q. In his oral evidence, when asked what enquiries he had made he told me bluntly, "What is there for me to enquire about. I didn't do nothing." I draw an adverse inference in relation to the father who has made no attempt to locate Q. I draw the inference that he also did not want Q to be involved in these proceedings.

Analysis

199. The account given by K about the events of June 2020 is heavily undermined by the manifest weaknesses in which the accounts were taken and recorded. However, I do not entirely reject that evidence because I am satisfied that I can place reliance on aspects of it, in particular the initial account which appears to have been primarily a voluntary account that K specifically went to tell V about and which V relatively soon after put to paper, albeit in V's words rather than K's.

200. The account of K appears to have been added to throughout the day, but the potential for it to have been influenced or misremembered by V increased when she gave her own summaries later, initially to the social worker during the phone calls and later to at the joint interview.

201. I can and do attach very significant weight to the photographs that K showed to V.

202. The photograph of the cake was in my judgment Q's birthday cake. The father says Q is 20 or 21 years old and the cake has 20 on it, as well as that number being in the background. Q is blowing it out because it is for him. The outfits are all the same and they support the account given by K that this happened on the same day as Q's birthday. The role of K in being the person holding Q's cake is in my judgment indicative of the importance of her role within the day's proceedings.

203. In my judgment the photograph, with K heavily dressed up surrounded with candles in a heart shape is not just a light-hearted joke. I find that photograph shows the proposal that K described happening on the same day as Q's birthday party. This evidence to support strongly the account that K was reported to have told V.

204. The photographs of Q and K either side of M are in my judgment in the style of classic wedding photographs with the bride and groom flanking the mother of the bride. In that context, both simultaneously planting a kiss on either side of the mother's face makes sense.

I do not accept that would have been likely to have happened if it was simply that they were all relatives who had met that day. It is also significant in my judgment that in these two photographs, K has added to her outfit a very substantial and ostentatious gold chain and medallion which I am satisfied is likely to have been an element that was added to her outfit as part of the marriage ceremony.

205. The photograph of Q and K in the car in my judgment is also a familiar sort of photograph associated with a wedding – of the couple about to depart together at the end of the celebration.

206. In addition to these, I factor in my finding in relation to the broken engagement to P in 2019. I reject the parent's assertions that they would never want their daughter to be married before she was 18 and had completed her education. In my judgment, the fact that they were prepared to have K engaged when she was only 13 demonstrates that they were keen on the prospect of her being married irrespective of her age and education.

207. I also factor in the acceptance of gold. This was a feature of the engagement to P, but later returned when that was broken off. It was also accepted by the mother that they had been given gold at the party with Q. I am satisfied that this was an important element of the marriage or engagement process on both occasions.

208. In relation to my findings that the parents did not want Q to be involved in these proceedings, I give consideration as to why they did not want that. I recognise that they may wish for their business in these courts to remain private, or that they may feel embarrassed or ashamed about being in this predicament. There may be cultural aspects at play that I am not aware of. However, balanced against that is the issue that there are allegations which they deny that their daughter was married to and abused by Q. When I factor all of these in the context of the evidence in the case, I do draw a further adverse inference that the parents' primary motivation for not making any genuine attempt to provide or obtain Q's contact details and for lying in their statements about their attempts is because they sought to obscure the process of getting to the truth about what happened to K with Q.

209. I reject the explanations given about bullying and K's unhappiness at school being a reason for her to make up false allegations of forced marriage. The evidence from the school is that broadly this was not a serious issue. There had been a couple of relatively minor issues that they were aware of. I accept W's evidence that K was happy at school and did not want to leave.

210. The account of bullying and unhappiness is difficult to accept in circumstances when K had barely been in school for almost year. The mother was unable to say when the bullying had occurred.

211. In addition, the reason given by K when she retracted her allegations simply does not make sense. Alleging your parents forced you to be married is not an obvious step to obtaining a change of school. It makes even less sense given the mother a few days earlier had attended the school seeking to arrange a transfer. It is telling that when she did so, she cited her own unhappiness about issues of marriage and physical abuse being discussed with her daughter.
212. While I recognise the vehemence of K's feelings and her repeated retractions, I am satisfied that this is primarily motivated by K's desperate wish to return home. The reality of being removed was too much for K and she has done everything she could to avoid that, including denying her initial accounts.
213. When I factor in all the evidence, I find that on or around 20th or 21st June 2020 while in country A with her mother and brother, K participated in a customary marriage ceremony in which she was forced to marry Q, a man in his twenties who was a family relative.

Allegation 4 – *On the evening of their marriage ceremony, Q forced K to have sexual intercourse with him without her consent as a consequence of which K suffered significant emotional, sexual and physical harm*

214. This is an allegation of sexual abuse, specifically rape. There is no medical evidence or any corroborative evidence in support of the allegation. The psychiatric evidence of Dr James identifies that K does not show any symptoms of trauma.
215. The allegation is founded on the reported account of K as given to V. I have already identified the substantial difficulties with those discussions and recordings.
216. The safeguarding log prepared at 9.51am on 10th November 2020 simply states, "the male has previously physically assaulted her as she refused to engage in sexual activity with him." It does not contain any mention of sexual assault or rape. The telephone calls between V and the social worker around lunch time did not mention sexual assault or rape.
217. It is only in the deeply flawed joint interview that the allegation is first recorded: "That night K stated that Q raped her, she screamed and scratched him to get him off her. There was lots of blood on the sheets when she woke up in the morning"
218. I factor into my consideration that there was a form of marriage between K and Q, and that arising from that consummation of the marriage may be a consequence that is reasonably likely to follow.
219. When considering the deep flaws in the way the evidence was obtained, the lack of any corroborative evidence, the fact that this allegation only came out at the end of day when the account was entirely led and appears to contradict the initial account which was simply

that K refused to engage in sexual activity with Q. I am not satisfied that this allegation is made out to the necessary standard.

Allegation 5 – *When K told her mother that Q had forced her to have sexual intercourse with him without her consent, the mother told K that she had instructed Q to be physical with her to make her a good wife*

220. This allegation relies also on the account given during the joint interview. For the same reasons I am not satisfied that it is made out to the necessary standard.

Allegation 6 – *Whilst in country A in the summer of 2020, on occasions that cannot be particularised Q physically assaulted K when she refused to have sexual intercourse with him and this included: (a) hitting K in the face causing her to have a black eye and blood in her mouth; (b) hitting K with a belt.*

221. For the same reasons as I have already outlined, I am unable to make this finding in the terms set out to the necessary standard.

222. However, in relation to the first account that K gave to V, as recorded on the safeguarding log, other considerations apply. This stated that “K stated that the male has previously physically assaulted her as she refused to engage in sexual activity with him”.

223. This earlier account is less unreliable than the account in the joint interview. The potential for the influence of V was reduced and the note taking was far more contemporaneous. I accept however that the recording has been filtered by V, who summarised in her own words rather than made a recording of the words V used.

224. There is no corroborative evidence of any assault. There is no medical evidence although the obtaining of that has been stymied by K’s refusal to undergo a medical examination. Potentially photographs could have been taken of any injuries K suffered, but there are none.

225. I also factor in that when K went to see V, she was I accept very scared and frightened and she was in a similar state throughout the day and during the joint interview that evening. She identified Q’s presence in the UK as the cause of her fear. The account that she asked V about the possibility of having CCTV used to monitor her home address in case Q attends or she is forced to leave has the ring of truth about it. In my judgment there was likely to have been something that caused K to be so afraid. I am not satisfied it was an act put on simply to be able to change schools.

226. When I factor in that evidence, I am satisfied on the balance of probabilities and I find that K was physically assaulted by Q because she refused to engage in sexual activity with him.

Allegation 7 – *Whilst in country A in the summer of 2020, when K tried to return to the place where her mother and aunt were staying, the mother sent her back to stay with Q*

227. This is an allegation that arose during the joint interview. For the reasons I have already identified, I am not satisfied that it is established to the necessary standard.

Allegation 8 – *On 9th November 2020 the mother told K that Q was in the UK and that arrangements would be made for her to go and live with him and be his wife*

228. This allegation is contained within the initial safeguarding log prepared by V on 10th November 2020. I am satisfied that it is more reliable than the later recordings from that day. It is also corroborated by the level of fear that K showed to professionals on that day. I am satisfied that it was her fear of Q that caused K to speak to V and allege what she did. For these reasons, I find this allegation proved to the necessary standard.

Allegation 9 – *The mother has failed to protect K from suffering significant emotional, physical and sexual harm and in making arrangements for K to live with Q the mother placed K at risk of further such harm.*

229. Based on the findings I have made in relation to allegations 3, 6, and 8, I am satisfied that K has suffered significant emotional and physical harm. Because of my finding that she was physically assaulted by Q because she refused to have sexual intercourse with him, I also find that she has been likely to suffer significant sexual harm. I find that the mother has failed to protect K from this significant harm and that through her indication to K that arrangements would be made for K to live with Q as his wife, she placed K at risk of suffering future significant harm.

Allegation 10 – *At the relevant date the father was aware that K had been forced to undergo a customary marriage to Q and he was also aware that arrangements would be made for K to live with Q. He has failed to act protectively to prevent K from being exposed to further emotional, physical and sexual harm.*

230. I am mindful that notwithstanding my criticisms of how it was obtained, K's account was that her father was not aware at the time it occurred of her marriage to Q and only found out subsequently. I am also mindful that K identifies her father as the person who came to country A and brought her back to the UK after the marriage and her being assaulted.

231. However, by the relevant date and ever since, in his dealings with professionals the father has been entirely supportive of his wife within these proceedings. They have been united in their denials.

232. I am satisfied that by the relevant date the father was fully aware of what had taken place in country A. In my judgment, that is why he travelled to that country and brought her back. Subsequently his collusion with the mother has in my judgment meant that he has failed to act protectively and as a result K was exposed to the likelihood of further emotional, physical and sexual harm.

Allegation 11 – *As a consequence of the parents’ actions it has been necessary to separate K from her family to ensure her safety and welfare and as a result of this both K and L have suffered emotional harm.*

233. I am not satisfied that this is a finding that goes to the threshold criteria. It is a fact that K has been separated from her family under an interim care order because her safety demanded her immediate separation. In the light of the evidence before me, I am satisfied that being separated from her family has been emotionally harmful for K. I am also satisfied that it has been emotionally harmful for L to have his sister removed from the family home and placed in foster care.

Allegation 12 – *There is a real possibility that without the making of protective orders L will also be forced to marry against his wishes and, as such, at the relevant time he was at risk of suffering emotional harm.*

234. I have made significant findings about the engagement and the marriage of K. I recognise that L is a boy and different motivations may apply as a result, however, I cannot speculate about those and given the parents’ ongoing denials there is no evidence to suggest that L would be treated differently to his sister. I recognise that there is no direct evidence that has arisen from any source to suggest any previous or current intention for L to be married. However, in the light of the parents’ actions in relation to K being forced to marry as a child, I am satisfied that there is a risk that cannot be ignored that L may also be forced to marry against his wishes. I find that as a result, at the relevant date L was at risk of suffering emotional harm.

235. On the basis of the findings I have made, I am satisfied that the threshold criteria pursuant to s.31 of the Children Act 1989 has been established.

Professional failures

236. I have during this judgment identified several significant failures in the safeguarding processes in relation to K. It is not my function and I do not seek to ascribe blame as to who is responsible for those failures or whether they are individual errors, systemic failures

or failures of training. It is my intention to release this judgment in its anonymised form to K's school and the police, and to identify to those organisations their staff members, so that they can consider their processes and what lessons can be learnt. I also expect the local authority to look most carefully at its actions and inactions in this case and what it can do to avoid any similar repetition in the future. I am especially concerned because if there had been effective intervention after K's engagement to P in 2019, K could and should have been protected from the marriage and abuse she later suffered with Q.

237. I list now the failings of the safeguarding processes and investigation that I have identified.

238. In relation to the 2019 engagement with P:

- (i) There was a failure to secure the entire Facebook livestream video in relation the ceremony with P.
- (ii) There was a failure to have the video clips and photographs (and the full video) interpreted so that the social workers appreciated their full contents.
- (iii) There was a failure to retain K's note from the bin so that its contents could be clarified
- (iv) There was a failure to ensure that Y either had or had considered those materials
- (v) There was a delay in the school preparing the referral that arose on 2.12.19 or 3.12.19 but was not sent until 10.12.19
- (vi) There was no discussion between Y and W, which would have made clear to the social worker what W had observed on the videos
- (vii) The CAF assessment of 12.12.19 did not take any account of the referral dated 10.12.19
- (viii) The referral dated 10.12.19 appears to have never been investigated

239. In relation to the 2020 marriage with Q:

- (i) V's interactions with K were inadequately recorded and not in accordance with best practice.
- (ii) The joint interview conducted by the police officer and the social worker was not even close to being appropriately conducted in accordance with best practice. There was no proper opportunity for K to give her account in her own words.
- (iii) It was not appropriate for V who had already heard K's early accounts to then act as the interpreter during the interview. A professional interpreter should have been used.
- (iv) The notes or recordings of the joint interview were inadequate and not contemporaneous.
- (v) All conversations in which K said anything about the allegations either in support or retractions, needed to be carefully noted. Those notes needed to be preserved, so that even if the social worker left the employment of the local authority they can still be accessed.

240. I am not looking to pillory the professionals involved. However, in this case multiple problems have arisen which have impacted on K who has not been kept safe. I have already set out some of the now long line of cases since the Cleveland Report in which the courts have complained about child protection professionals who have failed to heed the lessons learned. This case should be added to that list. It is concerning that the professionals who were involved in this case did not appreciate and in one case had not even heard of the Cleveland Report.

Concluding comment

241. I would like to express my thanks to the interpreters for their hard work throughout the case and to the advocates who have all conducted their cases with a high level of skill and sensitivity.