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[2022] EWFC 210 (B)

IN THE FAMILY COURT AT WEST LONDON

West London Family Court
Gloucester House, 4 Dukes Green Avenue
Feltham TW14 0LR

Date: 11 February 2022

Before:
RECORDER NORMAN

Between:
RQ (“the Father”)

Applicant

- and -

EQ (“the Mother”)

Respondent

Ms Rebecca Hodgkin (instructed under the Direct Access Scheme) for the
Applicant

Mr Errol Reid (instructed by BG Lawyers) for the **Respondent**

Hearing dates: 24 – 31 January 2022

JUDGMENT

1. This is a fact finding hearing in the context of the Father's application for a Child Arrangements Order, and the Mother's application for a Non Molestation Order. Within those proceedings both parents have made allegations of domestic abuse including coercive and controlling behaviour against the other, contained in a Scott schedule, and the task of the Court is to determine whether to make findings of fact on these.

The parties

2. The parties are RQ, the Father and applicant for a CAO, and EQ, the Mother and the applicant for a NMO. For ease I will refer to the parties as the Father and the Mother, since both are applicant and respondent in respect of the different applications. The Father was represented by Ms Hodgkin and the Mother by Mr Reid. At the centre of their applications are three of their five children, A (born xxx and now aged seventeen), B (born xxx and now aged fourteen) and C (born xxx and now aged eight).
3. The parents have two older sons, now adults, X and Y. All three sons including 17 year old A gave evidence in this case. X and Y live with the Mother, whom they support, while A lives with the Father, whom he supports. This divide persists away from the home. Given the ages of A and B, these proceedings are really focused on C.

Case management

4. I have read the full bundle of papers contained within two lever arch files. I heard oral evidence from the Father, and from A and from the paternal grandmother. I heard oral evidence from the Mother, and from X and Y.

5. The hearing was conducted as a hybrid hearing. The Father and his witnesses attended virtually, and the Mother and her witnesses in person. The Mother attended with her Independent Domestic Violence Advocate. Prior to any evidence being heard I checked with the parties whether there was any need for special measures such as moving the screen so the Mother was not visible while the Father gave evidence, or the Father turning his camera off while the Mother gave evidence, but no such measures were necessary.
6. Both the Mother and Father applied for permission to rely on further evidence. The Mother sought to include a further paragraph of background material in her statement. The Father sought to rely on some WhatsApp messages said to have been sent by the Mother to the Father while in refuge in Country Z. I agreed to both of these as being materially relevant.
7. I heard submissions from both counsel. Where I have not made reference to a piece of evidence or to a submission this is for reasons of length, not because I have disregarded it. I have borne in mind all of the evidence written, oral and recorded.
8. Counsel for the Mother did advance a submission that domestic abuse is usually done by men, and that there was a cultural element which made it more likely that the Father was the aggressor. I should say at the outset that I reject this submission. What is probable in terms of statistics bears no relevance to what is made out on the evidence. I have restricted myself to consideration of the evidence.

Background facts in outline

9. The parties began a relationship in 1997, when the Mother was sixteen and the Father was twenty four. They are cousins. Both were born in Country Y and then moved to Country Z. The Mother's account was that at the age of fourteen she moved from Country Y to live with her aunt in Country Z (the PGM of the children) who then encouraged the marriage.
10. It is fair to say that the marriage was not a particularly happy one despite the birth of five children. In 2010 they moved from Country Z to the UK, and then in 2012 they were divorced in Country Z although they did not separate. In July 2012 the police were called after an incident outside the

children's school in which the Father was said to have hit the Mother. The Mother subsequently retracted the allegations, but a Children and Family Assessment was completed.

11. After this, the family moved back to Country Z in 2013 and this is where C was born.
12. By 2016 further allegations arose of domestic abuse by the Father against the Mother and children. This came from a disclosure by DR to his school and an anonymous report. Country Z social services became involved and removed the Mother and C to a women's refuge while the other children were accommodated by social services. The Mother made an application for the children to live with her, but in 2017 the family returned to the UK. The Mother returned to Country Z multiple times during 2017, and during one of those visits withdrew that application.
13. The trigger for the moves from the UK back to Country Z, and then from Country Z back to the UK, seems to have been the involvement of the authorities in the family conflict. However, on their return to the UK in 2017, Country Z social services contacted the London Borough to make a referral due to concerns that the family had relocated while the case was still open and without informing Country Z social services, or the women's refuge where the Mother and C had been staying, or the children's school, of their intentions. LB began a s.47 assessment which was closed in summer 2017 on the basis that there was no recent evidence of domestic abuse.
14. Things continued to deteriorate and there were further reported incidents:
 - a. In June 2018 C disclosed to a teacher that the Mother had slapped the Father in the face. Both parents denied this and suggested C had overseen a film the older children were watching.
 - b. In August 2018 the police were called by a neighbour who heard a conflict taking place. Both parents denied that anything had occurred beyond a verbal argument, and both now say that this was untrue and that the other was the aggressor.
 - c. 31 December 2019 the Father called the police to report that Y had stolen his car key and Y's own passport.
 - d. 20 March 2020 the Father called the police to report a parental argument over Y's passport, and to raise concerns over the Mother's

attitude and parenting. A letter was written to the family offering support.

- e. 1 April 2020 the Father called the police to report that the Mother and Y were verbally attacking him. A letter was written to the family offering support.
 - f. In August 2020 Y called the police to report that the Father had attacked him. This triggered the Mother, X, Y, B and C moving out of the family home into emergency accommodation, and triggered a further family assessment. A remained with the Father.
 - g. On 7 September 2020 the Mother contacted C's school to notify them that she had fled domestic violence by the Father and that C would not be returning as it was too close to the former family home.
 - h. On 7 September 2020 A's school contacted the social worker Asia Jama to report that A had appeared at the first aid room with bruised and grazed knuckles, and had said he hit it against a rock running for the bus. The school were concerned that this might be untrue and indicated they would speak to him the next day, which they duly did.
 - i. On 10 September 2020 the Father also contacted the school to allege that there had been domestic abuse by the Mother and that the Mother was mentally unwell. He followed this up the same day by sending documents showing he had parental responsibility. Also on 10 September 2020 the school recorded a report by another parent that the Father had approached her husband on several occasions during the week to ask him to act as a character witness.
15. As a result of the August 2020 incident, a further assessment was completed in September 2020 which resulted in C, B and A being subject to Child Protection plans under the category of emotional abuse while Y was supported by a Child in Need plan. These plans were put in place at the initial Child Protection Conference held on 2 September 2020 when the Chair raised that it was very unclear as to what was occurring in the family home given the volume of allegations and counter allegations being made by each parent against the other, and that it was concerning to see that the children were also now involved in this and taking sides with either parent.

Legal framework

16. The legal principles to be applied in the fact-finding exercise are well established. Baker J as he then was in *Devon County Council v IB and EB* [2014] EWHC 369 (Fam) set these out and although he has said they are only an aide memoire they are:
17. The burden of proving the facts on which it relies is on the party that seeks to prove the allegation. It is not reversible.
18. The standard of proof is the balance of probabilities. A fact is either proved or not proved.
19. As a matter of common sense, the court can take into account inherent improbabilities in deciding whether the standard of proof has been met: *Re B* [2008] UKHL 35.
20. Findings of fact must be based on evidence, not on speculation: see *Re A (A Child)* (Fact-finding hearing: Speculation) [2011] EWCA Civ 12.
21. Proper evidence must be adduced to establish what it seeks to prove using best evidence available where it is challenged.
22. The court must take into account all the evidence, considering each piece of evidence in the context of the other evidence surveying a wide landscape and must avoid compartmentalising: see *Re U, Re B (Serious Injury: Standard of Proof)* [2004] EWCA Civ 567.
23. It is common for witnesses to lie in the course of investigation and hearing. They may do so for a variety of reasons shame, misplaced loyalty, fear and distress being examples. It does not follow that because they have lied about one matter they have lied about everything: *R v Lucas* [1981] QB 720. (see also McFarlane LJ in *Re H-C (children)* [2016] EWCA Civ 136
24. I also remind myself of what was said in *Re A (A Child)* [2020] EWCA Civ 1230: The court must, however, be mindful of the fallibility of memory and the pressures of giving evidence. The relative significance of oral and contemporaneous evidence will vary from case to case.
25. In this case coercive or controlling behaviour is alleged. I remind myself of what was said by Hayden J in *F v M* [2021] EWFC 4 about coercive and controlling behaviour: *In the Family Court, that expression is given no legal definition. In my judgement, it requires none. The term is unambiguous*

and needs no embellishment. Understanding the scope and ambit of the behaviour however, requires a recognition that 'coercion' will usually involve a pattern of acts encompassing, for example, assault, intimidation, humiliation and threats. 'Controlling behaviour' really involves a range of acts designed to render an individual subordinate and to corrode their sense of personal autonomy. Key to both behaviours is an appreciation of a 'pattern' or 'a series of acts', the impact of which must be assessed cumulatively and rarely in isolation.

26. I also bear in mind what was said in *Re H-N*, and in particular that not all directive, assertive, stubborn or selfish behaviour will be abuse, and that few relationships lack instances of bad behaviour on the part of one or both parties at some time.

The allegations

27. The parties have each filed Scott Schedules containing a number of allegations dating back to 2012. Conscious of the Court of Appeal's view in *Re H-N* on the value of Scott Schedules in cases of this nature, I indicated to Counsel that while it would be helpful to hear evidence on each of the allegations, the schedules were not a straitjacket but rather snapshots of a pattern of behaviour. This was not carte blanche for the parties to add in additional, discrete, allegations, and I did not allow evidence on an incident not included in the papers and said to have happened in 2007, nor evidence which branched off into allegations about one another's extended family.
28. The Mother's application for a non-molestation order is dated 15 September 2020 and the Father's C100 application is dated 16 September 2020. Both reference the Child Protection plans in their respective application and blame the other parent, alleging domestic violence, coercive and controlling behaviour and manipulation of the children. The Father added that he did not know where the Mother had taken the children and that he believed she had mental health problems.
29. It is the Mother's case that the Father has been verbally, physically, financially and emotionally abusive to her; that he was controlling in a number of ways; and that he also controlled and beat the children, particularly the older boys.

30. It is the Father's case that the Mother is mentally unwell, manipulative and a liar, and that she has invented the allegations against him as a shield to her own behaviour in abusing, threatening, blackmailing and controlling him.
31. Both parents maintain that the child(ren) who do not support them have been manipulated by the other into this position.
32. In summary, each party complains of coercive and controlling behaviour by the other. Adopting the Court of Appeal's approach: "Any other, more specific, factual allegations should be selected for trial because of their potential probative relevance to the alleged pattern of behaviour, and not otherwise, unless any particular factual allegation is so serious that it justifies determination irrespective of any alleged pattern of coercive and/or controlling behaviour (a likely example being an allegation of rape)." (§59)
33. Credibility is, as both counsel submitted, a key issue in this case. I have therefore spent some time on reviewing the credibility of the parties and their supporting witnesses before going on to consider the allegations individually for discrete determination.

Assessment of the parties and the key witnesses

34. The Father gave evidence over most of a day. He was an articulate and evidently intelligent man who was very much focused on proof and evidence. It was clear from the Father's oral evidence that he loves his children and that he is proud of their achievements, particularly with regard to A's academic success.
35. His behaviour during the other witnesses' evidence reflected a desire to micromanage proceedings. He interrupted twice to try to answer for A while A gave his evidence, and at points nodded approvingly. At the end of A's evidence, the Father gave him a thumbs up sign. The Father continually had to be reminded through the evidence of the Mother and her witnesses not to laugh at them, shake his head or finger at them, or otherwise communicate his displeasure. The day after A's evidence was given, he sought permission to put in an email from his solicitor "to make sure the court knows [A] is right."
36. The Mother asserted that the Father had, throughout the involvement the family has had with social services in Country Z and the UK, directed the

Mother and children as to how to speak to social services and what to say. She identified this as an element of the controlling behaviour he exhibited. She told the court that he had told them that they must persuade the authorities that the evidence was their own, that “you have to make them believe” by not speaking too fast, not appearing scared, using their own words, making good eye contact and following his script. I accept that this is exactly how the Father behaves. He submitted as part of his own evidence a series of WhatsApp exchanges with his daughter B which show this pattern of behaviour. It is disturbing that these messages include directions to her to send a voice message to him saying she wants to return to him, and that it must be “in your voice.” In another exchange he quizzes her about what she has said (presumably to social services) and insists “You have to persuade them.”

37. During his oral evidence I found that he was more focused on discrediting the Mother, X and Y than in advancing his own account. He was hampered to a degree by the style of cross-examination in which it was essentially put to him that everything he said was simply a lie and I take this into consideration, but nevertheless, I found his evidence deflative. For example when he was asked about his allegation that the Mother attacked him while he was driving, he was unable to describe exactly what had happened beyond saying that life was like this and that she would choke or hit him in the car, before diverting the evidence into a description of the Mother's mental health and attributing it variously to childhood trauma and / or a termination of pregnancy. Likewise he repeatedly said that X had a drug and alcohol problem and that DR too has mental health issues.
38. I was troubled by A's evidence. He was clear that he had written his own statement although the lawyer had “edited” it. Both Counsel made rather heavy weather of solicitor involvement in the production of witness statements, both asserting that the importation of legal terminology meant the statements did not originate from the witnesses. I will turn to the statements of X and Y in due course but I am satisfied that A's statement is too similar to that of his father to have been made without a degree of collaboration. He told me that he alone wrote the statement. He was asked why a part of his statement in respect of a 2018 incident reads “my father took me, B, C and A to his sister's house” which is identical to his father's statement, suggesting that he had copied the Father's statement and had failed to completely change it to changes references to “A” to the first

person. He said that this must have been solicitor error. The Father followed this up with an email from DP, then a partner and Head of Family at his solicitors, the relevant part of which reads “I have amended A's statement to deal with the incident in September 2020. Thank you for his other comments. However, this has either already been covered in the evidence or amounts to commentary or opinion on his part rather than facts.”

39. I do not accept that this amounts to an admission on the part of an extremely experienced solicitor that she was responsible for any errors in drafting or for a “cut and paste job” as was suggested. Both the Father's and A's witness statements appear to be based on the Father's chronology and issues which accompanied his initial application of 16 September 2020, prior to the instruction of solicitors. I find that A's statement was done in collaboration or consultation with his father. There is no other explanation for the extent of the similarities. That does not of course mean that it is untrue.
40. A's evidence came across as extremely black-and-white in his approach to the family. He told me that his mother is terrorising the family, that he wants no contact with anybody who has any link to his mother and doesn't want “any chance” of getting close to her. He said she has always been a liar and his statement echoes his father's views that X is under the influence of drugs and Y is mentally unwell. He said X “used to be on our side” which is reflective of that black-and-white thinking. In his view his mother is responsible for all of the problems at home and his father is responsible for none.
41. An example of this is in his evidence about the injury to his hand. He described his embarrassment at being called out of a physics lesson in relation to this and described it as typical of his mother that she should instantly jump to the conclusion that his father had caused the injury, and lays the blame for his embarrassment firmly at her door. However, we know from the emails between the school and social services that it was not his mother who involved them but the school of its own volition. His mother did not find out about it until a month later (when she did, indeed, assume the father was responsible).
42. A's evidence was lurid in some of its detail. He described numerous occasions during 2017 and 2018 when the Mother would physically attack the Father while he was driving, punching, kicking and choking him from her position in the car behind him and then instigating an attack on A by Y

also from the back seat to the front. None of the other children report anything of the kind, save for C's disclosure to social services that the Father hit the Mother in the car. It is implausible firstly that such extreme behaviour did not cause a collision, particularly if as A says it happened regularly, and secondly that none of the other children have any recollection of this.

43. I find that A has completely aligned himself with the Father and that he holds the Mother responsible for the whole family breakdown. He is unable to see events through any other lens. This is in part because he is a teenager, and in part because the parents have drawn up battle-lines which admit for no common ground. He should never have been put in this position.
44. The PGM gave evidence which I did not find credible in the least. Her evidence was confined to an incident in which C's leg was burned. She insisted that it was she who had heated the water, not B, and further insisted that the burn was not serious, just "a few drops of water" and that C did not cry. She said that the Father had insisted on taking C to hospital despite her own advice that it was not serious and that the hospital had simply told him it was nothing and sent them away.
45. I reject this entirely. I have seen the photographs of C's knee and it was plainly a very nasty scald. It is inconceivable that a five year old sustaining such an injury would not cry with shock and pain, and similarly implausible that the hospital would not offer treatment.
46. I found that the PGM's evidence was given, perhaps unsurprisingly, solely to absolve her son of any criticism. I did not find it reliable.
47. The Mother gave evidence, like the Father, over the course of a day. In contrast to the Father, she came across as an unsophisticated witness. She met any inconvenient or embarrassing evidence with bare denials. For example, faced with boarding passes and plane tickets bearing her name she refused to accept she had travelled on those dates. I find that this was not true. She did travel very frequently during 2017 and did travel on those dates.
48. When asked if X had *ever* consumed alcohol or drugs she flatly denied it, in contrast to his own evidence that at the age of 18 he had enjoyed house parties and would drink at those. Again, she must have known that X had on occasions had a drink, and her evidence on this point was just not true.

49. I also found some of her evidence, like A's, to be exaggeratedly lurid. She suggested that the Father's family had a history of committing so-called honour killings against women who transgressed norms and that there were links to organised crime. The Father had made similar comments in respect of her own family. There is no evidence at all that either of their families are engaged in such activity, although the children have evidently been told of this by both parents.
50. These two aspects of her evidence do undermine it to some degree. Having said that, I recognise that it is not uncommon for witnesses to tell lies in some parts of their evidence and yet be truthful in others. The parts of her evidence which were not kneejerk denials I found to be detailed and largely consistent. She accepted that her own choices had not been perfect and that she should have separated from the Father sooner. She told me that she was not proud of having stayed and she wished she had been stronger. I felt that she was sincere in this evidence.
51. In particular I accept that her trips to Country Z in 2017 were at the Father's instigation and to complete requests he had made of her, including to withdraw allegations made in that jurisdiction, and that her denials of domestic abuse to social services both in the UK and in Country Z were also at his instigation. As indicated above, her account of his preparation of the family for speaking to the authorities is supported by the Father's own evidence of his messages to B. I accept that the Mother made the choice to remain in the relationship believing that this would protect the children. She was plainly distressed when she spoke about later finding out that the Father had beaten X on discovering that he had been smoking, and I find that her distress was genuine.
52. In respect of X's and Y's evidence, it was put to both of them that their witness statements had been drafted for them by the Mother. It was certainly extremely unhelpful of the solicitors to have turned their statements into "legalese," replacing father and mother with Applicant and Respondent and using legal terminology that these young men evidently would not have used themselves. Neither are lawyers and English, while they speak it fluently, is their third language.
53. However, I am satisfied that their statements are materially their own words. The statements are taken from the statements given to the police on a former occasion, which would have been done without the Mother present. X said

that the solicitors had not changed the content, just the language. He volunteered as an example the explanation that he had not used the term “non molestation order” but had written that he did want the Father to come near them, forever, and had written that his dad shouldn't contact them as he is dangerous and manipulative. I am satisfied that X understood what was meant by the term and that it was a correct representation of what he had written.

54. X was a pleasant and engaging young man whose evidence I felt was given from the heart. It was submitted that both X and Y were overly reliant on their witness statements. I did not find much force in that submission; they were each asked to refer to their witness statements. When asked to speak from recollection instead they were both able to do so. I accept X's account that when his father discovered that he had been smoking, he was beaten for it, in a manner that exceeds reasonable chastisement. He was evidently sad when he described his father calling him a “fat piece of shit” as a child or belittling him for his stammer, and realising as he got older that his weight and stammer were beyond his control. X candidly admitted that in his late teens he “liked to party” but denied that he had a drug or alcohol problem. I accept his evidence on this point and find that he did drink alcohol at house parties but that was well within the parameters of what is considered normal for a young man in his late teens. There was no evidence of any drug or alcohol use when he gave evidence and he holds down a full time job.
55. I found X's description of the Father's evidence-gathering chilling. He said that when they were in Country Z the Father had taken X into his confidence, which chimes with A's account that X “used to be on [their] side.” He explained that the Father had used the children's phones, including X's, to send messages to his own phone purporting to criticise the Mother's parenting and make allegations of abuse by the Mother, which were then shown to social services.
56. He gave a detailed description of how the Father had taught him to manipulate WhatsApp messages, using a separate phone to send messages from a number saved as the target's name, then a few days later altering the date and time settings on the phone. It would then be possible to scroll back so that the false message sent a few days previously from a second phone appeared to have been sent months or even years ago by the target, and a screenshot could then be taken. Far from being contrived or exaggerated, X

gave this evidence nonchalantly, and in a way that in my judgement carried a grudging admiration of the Father. I accept that the Father did show X how to manipulate messages in this way. It is in keeping with the Father's efforts to direct and control what is seen by the authorities in Country Z and in the UK.

57. Y came across as much more reserved than his brothers. It took him a little while to find his statement and he needed longer to process questions than they did. This is consistent with the records from his school that he took longer to read than others and that he was afforded a 25% increase in examination times as an adjustment. Possibly connected to this was his poor recall of dates and he had to refer back to his statement for these. I did not find that this affected his credibility: giving evidence should not be a memory test. In my view Y is a deep thinker rather than a quick thinker. However, once he was comfortable in the court setting, I felt his evidence was careful and in some ways the most nuanced of the three brothers, although he supports his mother in these proceedings. He was meticulous in his evidence, at points stopping himself to correct himself on relatively trivial points.

58. It was submitted that the amount of detail given by Y in his oral evidence, which was not in his witness statement, rendered the evidence he gave incredible. I respectfully disagree. He expanded significantly in terms of the amount of detail but the episode he was describing appeared in its bare bones in the statement and was fleshed out in oral evidence in a way that I find is consistent with a witness doing his best to give a full account to the court.

59. I also bear in mind that it was Y who made the disclosure to the school in Country Z, indicating an early recognition that the family dynamics were not what they should be.

Allegations

Father's allegation 1 – that Mother hit the Father in the face outside the children's school in July 2012 – not proved

60. The Mother denies this. She says that the Father was the aggressor and came towards her saying “Where were you, whore” before slapping her in the face and hitting her.
61. The police records show that a third party bystander called the police, after which the Mother made the allegations that the Father hit her. The Father's account is that the Mother retracted her statement “on the basis that she lied in her statement” but this is plainly not the case from the police records [B233], which show that she did so because “She has just found out that she is pregnant by her husband and does not want to make her life with him any more difficult. She believes that a conviction at court for her husband will have an adverse effect on her life.”
62. That conflicts with the letter from Father's solicitor confirming that the CPS had offered no evidence at court, which says that she withdrew on the basis that it was untrue. The source of the withdrawal is the contemporaneous evidence to the police and I accept that the account to the police was the accurate one.
63. She also told social services that there had been no violence. Both parties accept that the conflicts between them were downplayed to social services. In the accounts from social services they record that she sought to explain away her allegations against the father as due to her pregnancy hormones. I am satisfied that this is untrue. It was not the Mother's hormones which called the police. A bystander was sufficiently concerned to make an emergency call and when the police attended, the Father made off into the school. The police record that one of the children commented that he saw the Father hit the Mother. The Mother had bruising to the chest which was photographed by police. I am satisfied that the Father hit the Mother on this occasion.
64. I have considered whether in view of the age of this allegation it is relevant to contact. I am satisfied that it has probative relevance to the pattern of behaviour complained of by the Mother, in particular that the Father was violent towards her and that he controlled the narrative which was then given to social services.

Father's allegation 2 – that Mother hit C in 2015 when she was 2 years old – not proved

65. The Mother denies this. The Father did not see it, but says that he returned home one day to find the Mother outside, and that X told him that he had forced her outside because she hit C. X himself does not support this account. A gave evidence that the Father had “kicked [the Mother] out the house” as a result, which conflicts with the assertion in his statement that it was X who forced the Mother out of the house.
66. The only people who can corroborate or refute this allegation are X and A. A's evidence is inconsistent and X has no recollection of it. I find that on the balance of probabilities it did not happen.

Father's allegation 3 – that the Mother threatened to kill the Father and the children – not proved

67. This rests on a recorded conversation, translated from the original. The parties are agreed that they are the speakers, and that X is the child who says “Please don't destroy everything, stop stop stop” at the end of the brief excerpt.
68. The Father says that this is evidence of the Mother using dangerous connections from her side of the family in Country Y as a threat to control the Father by making threats that these family members will kill him and the children. The Mother says that it is a brief excerpt 'cherry picked' out of context from a longer conversation, and that the translation is in parts inaccurate, having been certified by a friend of the Father. She says that there was no reference to her mother in the conversation, but only to an unspecified “they,” and that her agreeing with the Father that “they” could kill the family referred to an organised criminal group with which the Father proposed to involve X in locating a runaway girl for an angry father.
69. None of this makes sense, on either party's case. Without a much greater degree of context it is impossible to know what is being discussed and why. The Mother's account is lurid but so is that of the Father. The translation is not certified as a true translation by the person who translated it, but by a separate person who certifies the qualification of the person who translated it. It refers not to the Mother threatening to kill anyone but to her agreeing that “they” might do so. It is unclear when this conversation is meant to have taken place. I do not find that it is capable of sustaining a finding that the Mother threatened to kill the family. It is of note that when the Father was

asked by police in 2020 whether the Mother had ever threatened to kill him or his family he denied it. All that I can sensibly find from this ten-line excerpt of what is plainly a much longer conversation is that it was distressing to X, who is heard at the end pleading with his parents to stop.

Father's allegation 4 – that in July 2017 the Mother and X physically attacked the Father in the presence of the younger children and that C sustained an injury – not proved

70. The Father's account is that on 26 July 2017 X called late at night, drunk, asking for a lift home. The next day the Father spoke to the Mother about X's drug and alcohol use, causing the Mother and X to lash out at him, attempt to push him out of the family home, and causing damage to his mobile phone and a smashed window. It is said that the police were called but there is no police record. A says he recalls hiding under a blanket with B and C but neither of the younger girls raises this in the extensive social services records. In view of A's unyielding alignment with his father and the collaborative effort on the statements I do not accept that A's recollection, however sincere, is accurate.
71. The Mother and X both deny that this happened. They say that it is a retelling of an event in August 2020 in which the Father was the aggressor. I treat this as a separate allegation which I will deal with below.
72. X said that there were numerous heated arguments while he was staying with the family in July 2017 but said categorically that this event did not happen, and that when these heated arguments took place the Father far from being the subject of aggression would shout and hit out.
73. In July 2017 the family had just engaged with social services over a period of several months. I do not find it plausible that such a serious attack on the Father could have taken place without him then going on to report to the police or social services, particularly if the window had been smashed. The Father's explanation that he does not know the laws of this country and so did not escalate any complaint rings hollow in view of the evidence he had collated for social services in Country Z and the fact that there had just been a lengthy period of engagement with social services in the UK. On balance I am not satisfied that this happened.

Father's allegation 5 – that the Mother blackmailed him in September 2017 causing him mental distress – not proved

74. This turns on a series of messages sent between the Mother and the Father. I approach these with some caution given X's explanation of the Father's ability to manipulate messages and given that the Mother says she has no recollection of the messages and believes they are contrived. However, on balance I find that these messages were sent between the Mother and Father. The messages show that the Father sent a message saying he needed the passports and this was urgent. The Mother responded to remind him that during the first two weeks he would transfer £1,000 to her. He replied to say he did not say he would give it to her.
75. I do not find that an allegation of blackmail is made out on the strength of a text message from the Mother to the effect that the Father had promised to make a transfer to her. There is no indication in that text message that she had the passports. Indeed she was abroad at the time. I do not find the necessary connection between the passports and the transfer is made out. At most the Mother is being unhelpful, but these messages do not support a finding of blackmail on the Mother's part.
76. The second message relied on is in a mixture of the languages of Country Y and Country Z. It appears as a photograph of a fairly old Samsung mobile telephone upon which the message is displayed. The photograph of the telephone has then been sent by WhatsApp. The photograph of the telephone indicates that the message was sent from an unsaved number, which is blurry but may end 2252.
77. The message has been translated and contains the words "I will kill you with my own hands." The Mother agrees that the translation is accurate but denies that she sent this. She says that she has never used this number. I have no information as to where this photograph came from, when it was taken, why it was taken, whether it was in response to any other message, or what number the Mother was using at the time. It is not signed with a name. It is not addressed to anyone by name. I am not able to find to the relevant standard that it was the Mother who sent it.

Father's allegation 6 – that over the course of 2017 – 2018 the Mother attacked the Father in the car and choked him while he was driving – not proved

78. I have dealt with this in some detail above. To reiterate, I do not accept that this is credible. The only other mention of hitting in the car is from C, who disclosed to children's services that the Father hit the Mother in the car. Both X and Y were plainly puzzled when this was put to them. They do recall difficult car journeys but their recollection is that the Father would drive them around complaining about the Mother.

Father's allegation 7 – that the Mother hit the Father in the presence of C in June 2018 – proved

79. In June 2018 C reported to her school that the Mother had slapped the Father's face. I do not accept that this was said because the Father had pressured her into doing so. I find that the Mother did on occasion on her own admission confront the Father, and I find that on this occasion she lashed out at him.

Father's allegation 8 – physical assault by the Mother on the Father in August 2018

80. The Father alleges that the Mother physically attacked him and threw objects, allowed X to verbally abuse him and that she broke the Father's phone, laptop, and a glass. On his account the Mother and X both attacked him in front of all of the children, breaking his phone and laptop, hitting him and throwing objects at him, and smashing a glass.

81. The Mother denies this. She says that they had been up late and she had been preparing a snack, because in their culture people sometimes eat something late, not a big meal but just a snack. She said she had spoken to her own mother on Vibr and the phone was on the microwave. The Father entered and saw the MGM's picture on the screen, and asked "why is this whore calling you" before slapping her face.

82. Neighbours heard an argument and called the police who attended and spoke to the parties separately. All of them denied that there had been a physical

altercation. There is no record by the police of smashed property or broken glass.

83. I prefer the Mother's account. I find that if events had taken place as the Father describes, there would have been visible smashed glass and / or signs that objects had been thrown. I do not believe the Father's account that he was afraid to tell the police what had happened. He is a person who likes to keep records for future evidence. I accept that the Mother's contact with her own family was a source of conflict.

Mother's allegation 1 – that the Father harmed A's left hand in October 2020 – not proved

84. This involves the bruising and grazing to A's hand seen by the school and reported to social services. The Mother asserts that the Father must have caused it. I accept A's account of how this was caused. I do however think it was understandable in view of the family's heightened conflicts at the time that the school escalated this to social services, although I have sympathy for A's embarrassment at being pulled out of a physics lesson to discuss it.

Mother's allegation 2 – that the Father attacked Y on 12 August 2020 – proved

85. This concerns Y's account that the Father discovered that he had been making recordings of the Father, and that the Father shoved Y backwards before forcing him to delete the recordings.

86. I believe Y's account of this. Both he and the Mother told me that Y had begun making recordings without the Mother's knowledge. The Mother said that when Y had raised complaints about the Father, she would confront the Father, who would simply say that the “this boy is not right, he has issues, it never happened.” Frustrated at being dismissed in this way, Y began to make surreptitious recordings of the Father's behaviour.

87. The Mother acknowledges that when Y told her of the recordings, she told him to send them to her Dropbox account. She should not have done so. However, I accept that she did not initially know about the recordings and that this was Y's solution to being disbelieved.

88. Both parties agree that the Father came to know of the recordings. Y says that the Father demanded the phone, pushed him, and told Y to delete all of the recordings or he would break every bone in his body. Y did so, but the Father carried on shouting why are you betraying me. The Father took the phone and began checking it for other recordings. Y says he grabbed the phone back, ran outside in his boxers, and stopped a passer by for help. He went down an alleyway and called the police.
89. The Father says that Y confessed that the Mother had been making him take the recordings and that he deleted them of his own accord, after a “quiet” conversation which the other children did not hear. Y slipped away from the home later and the Father called the police, only to be surprised when he himself was arrested.
90. I accept that Y began to make the recordings because he was frustrated at being disbelieved. The Father at around this time was also reporting to police that he himself had recordings. This was a household in which tensions were high and evidence-gathering was weaponised. I am satisfied that the Father was angry when he discovered that he himself had been recorded and that he pushed Y and made him delete the recordings. I am satisfied too that the Mother had hoped to use Y's recordings to support her own case. None of this is a healthy dynamic in which to raise children.

Mother's allegation 3 – that the Father grabbed Y by the throat and twisted his hand during an altercation between the parents – proved

91. The Mother alleges that she was working long hours and sometimes late shifts, and that despite pinning her schedule up in the kitchen the Father would go to the gym late, leaving the older children to take care of the younger ones. Both parties agree that the Mother confronted the Father about this, that there was a physical altercation between the parents and that Y and A intervened.
92. I find that the Father did grab Y during this altercation, but that the Mother's decision to confront the Father was a poor choice. It might not be every parent's ideal to leave younger children in the care of older ones, but by this stage Y and A were certainly old enough to know what to do in the event of an emergency.

Mother's allegation 4 – that the Father slapped the Mother in 2018 – proved

93. This is dealt with above as the Father's allegation 8.

Mother's allegation 5 – that the Father did not take C to hospital in March 2017 when she was burned and shouted at B – proved

94. I have dealt with much of this allegation above when considering credibility of the witnesses. The Mother was not present and heard about it second hand. I saw the photographs of the scald to C and I have seen the emails confirming that there was no record of her at the hospital. I do not believe the Father when he says that he took C to hospital only for a Sister to come out and tell him that it was “nothing” and they should just go home. If C had been taken to hospital she would at least have been booked in on the system and if no treatment had been offered that too would have been recorded.

95. I find that the Father has been untruthful in his version of events and that his mother the PGM has also been untruthful in supporting it. Having heard the evidence of Y and A I find that on his return to the home he was angry with B for letting the accident happen and threatened to punish her. He may have gone out to the pharmacy but I do not accept that he took C to hospital. I reject unhesitatingly the PGM's account that C told him it was nothing and did not cry.

Mother's allegation 6 – that Y reported abuse to the school in Country Z – proved

96. This relates to the Country Z social services evidence subsequent to the disclosure by Y of abuse within the family. I accept that he did so. I find on the evidence that the Country Z authorities took the allegations very seriously, removing the Mother and C to a women's refuge and the children to a children's home. The Mother described Country Z social services being “really upset with me” when she admitted to them that she had not told them the extent of it and I find that this has the ring of truth.

97. The Father relied on the WhatsApp messages he says were sent by the Mother to him and which he raised at the eleventh hour by way of his C2

application. He says that if there had been abuse within the home, the Mother would not have sent him these loving messages in which she takes responsibility for causing the difficulties while supposedly in refuge. The Mother categorically denies sending the messages. She points out that they are in English and that she would not message the Father in English.

98. The Father adds that some of the messages are voice recordings. I indicated that I was not prepared to rule on whose voice was on the recordings as that would be a matter for expert evidence. I did however say that counsel could listen to them as to whether they were a male or female voice and take a view on whether I should listen to them. I rose for them to do so. On resuming the hearing counsel indicated to me that there were no words in the recordings and that they were noises of an intimate nature, and they would quite properly not be seeking a ruling as to whether it was the Mother whose voice was in them.
99. I have found the question of whether the Mother sent these messages to be taxing, in light of X's evidence about the Father's ability to manipulate WhatsApp messages. There is no satisfactory explanation as to why, if these messages were indeed sent in February 2017, the Father did not seek to rely on them earlier. There must be some significant doubt as to whether the Mother did indeed send them or whether the Father has manipulated them in the way X described.
100. However, I do not consider that I need to make a finding as to whether she sent them. There is no dispute that after that period in refuge the parties reconciled. If I found that she did send them it would add nothing given that I have found that some of her evidence was untrue. It would simply be another of the kneejerk denials which I have already found undermined her evidence to a degree. If I found that she did not send them, similarly it would add nothing given that I have found that the Father does seek to manipulate evidence.
101. The crucial part of this allegation is whether Y was being truthful in his report to Country Z social services and I find that he was, taking all of the evidence in the round.

Mother's allegation 7 – that the Father hit her in July 2012 – proved

102. This is dealt with above as Father's allegation 1.

Mother's allegation 8 – that the Father controlled her signatures on documents

103. The Mother asserts that the Father compelled her to sign a paper requesting a divorce, a further one releasing the children into his custody and another to release the flat in Country Z to his sole name. I have some documents from the Country Z authorities but I do not consider that I have sufficient evidence before me to sustain a finding in respect of this. In any event, these allegations date back ten years, and they are of very limited if any relevance to the question of contact now.

Conclusions

104. I have considered the evidence relevant to each specific incident contained within the Scott Schedules, but I have not treated these as free standing events. Rather, I treat them as part of a wider pattern of alleged abuse or controlling and coercive behaviour. It has not been possible to deal with every detail of the case but I find that there is sufficient evidence upon which to make the following findings:

- a. The Father displays a pattern of behaviour of coercion and control. In particular
 - a.i. he has sought at every turn of proceedings to control what evidence is before the authorities and what the Mother and children say to social workers and others in authority;
 - a.ii. he knows how to manipulate evidence and has in the past enrolled X to assist him in doing so;
 - a.iii. the Mother's repeated returns to Country Z in 2017 were at his request and to deal with administrative matters including withdrawing her allegations to social services;
 - a.iv. the Father attempts to pathologise those who disagree with him.
- b. The Father has during altercations hit the Mother;
- c. The Father has during altercations hit the older children;

- d. The Mother has during altercations hit the Father;
 - e. Both of the parents have allowed the children to become inappropriately highly involved in proceedings and have actively encouraged alignment with their own positions.
105. The Father's behaviour in pathologising the Mother, X and DR is concerning. He stated in his initial application that he had tried to “rehabilitate” the Mother by taking her to mental health clinics. He has asserted that X has a drug and alcohol problem and that DR too has mental health problems. The effect here is not just of gaslighting these members of the family into believing that they are the problem, but also the chilling effect on A, B and C, who will consciously or otherwise have received the message that they too will be accused of such behaviours if they depart from the Father's narrative.
106. I do not find that the Mother engaged in coercive or controlling behaviour of the Father. However, she has allowed the children to become overly involved in proceedings, for example in encouraging Y to send his recordings to her Dropbox. She has not always had a passive role in altercations and has on at least one occasion hit the Father.
107. Given my findings of domestic abuse, it will be necessary for me to consider the impact which that abuse has had on the children.
108. In this regard the findings above will need to be considered, bearing in mind that: "Domestic abuse is harmful to children, and/or puts children at risk of harm, whether they are subjected to domestic abuse, or witness one of their parents being violent or abusive to the other parent, or live in a home in which domestic abuse is perpetrated (even if the child is too young to be conscious of the behaviour). Children may suffer direct physical, psychological and/or emotional harm from living with domestic abuse, and may also suffer harm indirectly where the domestic abuse impairs the parenting capacity of either or both parents." §4 of *PD12J*.
109. This is an issue on which further evidence and submissions will be required.

11 February 2022