

**In the Single Family Court on 22 May 2020**

**PR19C00551**

**[2020] EWFC 114**

**Lancashire County Council**

**Applicants**

**And**

**E & F**

**First Respondent**

**And**

**Mother**

**Second Respondent**

**And**

**Father**

**Third Respondent**

**Mr Buchan Counsel for the Applicants**

**Mr Durham Hall Counsel for the First Respondent**

**Miss Hobson Counsel for the Second Respondent**

**Mr Martin Counsel for the Third Respondent**

**Ms Joao-Manuel Counsel for A & B, the Intervenors**

**APPROVED JUDGMENT**

**Copies of this version as handed down may be treated as authentic.**

**HH Judge Duggan on 22 May 2020**

1. I have conducted a limited fact-finding hearing within care proceedings. There are two children, a girl now aged twelve and a boy now aged nine. Their parents originated in South East Asia before coming to the UK in the mid-2000's. They are committed members of the Jehovah's Witness faith. In December 2016 the mother reported to the Elders that her daughter had

complained to her of sexual abuse by the father. She took no other steps to report the father who remained in the family home. She now accepts that she was seriously at fault. The live issue before the court is whether the mother is right when she claims that the Elders led her to understand or believe that it would not be appropriate to report the father's behaviour to the police.

2. The Elders have accepted the invitation of the court to intervene and they have been represented by counsel. They were not cooperative at the outset and it took witness summonses and a contested hearing before Mrs Justice Lieven before statements and documentation were forthcoming. Criticism is to be found in her judgment at [2020] EWHC 182 (Fam). This has been a fully attended hearing by request, even during the current crisis. I have heard oral evidence from the two elders, the mother and the father. The relevant material has been assembled in an electronic bundle with which I am very familiar.
3. The findings sought by the local authority appear in an amended schedule dated 24 March 2020. The local authority bear the burden of proving these allegations on the balance of probabilities. The parents need prove nothing. Findings must be based on evidence, including inferences that can properly be drawn from evidence but not on suspicion or speculation. I must take into account all the evidence and consider each piece in the context of all the other evidence. The evidence of the parents is of the utmost importance and the court must assess their credibility and reliability. The court must give careful consideration to the significance of reported discrepancies between accounts repeated over time. Faulty recollection or confusion are possible, especially as here when the parents were not using their first language. Records can be inaccurate. With fading memory accounts may be adjusted without bad faith. Lying is also a possible explanation. The courts have learned that lying is not uncommon in these cases but witnesses may lie for many reasons. A lie about one matter does not mean that the witness has lied about everything.
4. The local authority Schedule contains matters not contested by the parents. The primary allegation that the father repeatedly inflicted sexual abuse upon his daughter is one. The father confessed to the Elders and on my

finding, to the mother. In police interviews he gave no comment and his statements in these proceedings followed this course. In case management it was explained that this was not an acceptable course. The father through his counsel acknowledged that the court would have no alternative but to make the findings sought so that primary issue was left. The allegation is based upon an ABE interview which I have studied. It is clear that the repeated serious abuse from the Schedule is established.

5. The Schedule alleges that the mother failed to protect the children and summarises the evidence. It is to the mother's credit and promising for the future that she acknowledges her serious failings. During her own evidence detail emerged of the seriously inadequate protection she provided and the harm involved. She involved the child in her decision-making not to approach the police, ask the father to leave or instigate divorce. Abuse occurred while she was at work but she failed to implement her promise to change her work or use childcare to make this impossible. Instead she had a bizarre plan to install cameras which she never completed. When the police eventually called in July 2019 the mother was at work and the children were alone with their father. The girl had imposed upon her an unprovocative dress code in the home, a home intimate examination and advice to push her father away physically if necessary. The child's further complaint in March 2018 of repeated abuse produced no change. This summary will be added to that appearing in the Schedule to guide those working with the mother.
6. The mother does acknowledge the seriousness of her failing, crediting a social worker with giving her new insight. However, she continues to assert that she was discouraged by the Elders. In cross examination at times this seemed to be her inference rather than direct words spoken but she did claim she was told to "think of the consequences" and even that "they might come back to slap her in the face." She was not told that she must not or should not report but she was not told that she should report. Only eventually was she told that she had the right to go to the police.
7. I am unable to accept the mother's account in a number of areas. In oral evidence she insisted that her daughter's initial complaint was confined to a single incident which she said occurred two years earlier. However, the

reports of the mother's account are clear that she described a complaint of two incidents and this is reflected in the mother's own statement. In the witness box she was adamant and I conclude that with the passage of time she is minimising her failure to act protectively. On a similar point she claims to have been unaware of the father's confession. I am inclined to accept that the Elders are mistaken when they say that the father confessed in front of her. However, I accept that the father subsequently confessed to her. It is inconceivable that she was unaware of his confession which was a relevant part of the Disfellowship decision.

8. I am asked to accept one section of the ABE interview in which it is said that abuse occurred from the age of three or four and was reported to the mother at the age of five or six. I am unable to prefer this section to others in which the girl said that she reported to the mother at ten. The report to the Elders occurred when she was nine and she described abuse when she was seven. The police interview occurred when she was nearly 12 and it is unrealistic to expect complete accuracy as to ages. The references to moving house do not assist. Clearly the mother did not seek the advice of the Elders any earlier and she denies any earlier complaint. With the psychologist she described an incident of rough and tumble in 2015 which led her to advise father and daughter that she was getting too old for this. I am not persuaded on the balance of probabilities that the mother had reason to be aware of sexual abuse before she was told in December 2016.
9. The mother insists that her instinct was to report the abuse to the police and that this was her approach to the Elders. I reject this as wishful thinking. To me and to the Elders she gave a detailed account of reasons not to report. She feared the removal of the children. She needed the father's financial and practical support in the home. She feared the impact on the children and the shame to be brought to the family, congregation and God's name. Significantly she never did report the father to the police, even when her inadequate precautions proved to have failed. Equally significant, when the father had been removed by the police she advocated for his return. I prefer the Elders' account of a mother who did not want to report the father.
10. The Elders apparently accept my comment that they were hopelessly out of their depth. They were senior members of the congregation of which the

parents were members. Over a ten year period they had become friends. They were equipped to provide scriptural guidance and friendship but they had never come across anything like this before. One communicated dismissive thoughts to the police which he must have influenced his approach. They were right to consult the Branch and I am not in a position to analyse the advice they were given. Policy documents would urge that the mother be advised that she had the right to report to the police. If a child remained at risk the Elders should contact the police. This they eventually did in July 2019 but the inadequacy of protective measures and the clear continuing risk were apparent in March 2018. It became clear that the protection of the children was not at the forefront of their minds as this was the responsibility of the mother. They saw their role as helping her. In the witness box they came to regret their inaction.

11. I am considering their influence over the mother. I sympathise with their difficulty recalling their phrases from December 2016. Inevitably inconsistencies abound. They told me that they did not tell the mother that she should report or that she should not report. They did not tell the mother that if she did not report, they would. She was told to consider reporting, or seriously to consider reporting. She should think (carefully) about reporting, balancing the factors. She was strongly advised or strongly encouraged. They rejected the mother's phrase about "thinking of consequences which might come back to slap her in the face". Repeatedly the Elders fell back on the phrase seen in the policy, namely that the mother had the right to report the father to the police. It is impossible to determine the precise words used. The stress seems to have been on the mother's entitlement to report and on the need to balance competing factors. The mother left them in no doubt that she knew the disadvantages of reporting. They did not see it as their role to challenge the mother. I find that she was seeking advice from the Elders but their words and inaction failed to encourage her to report the father and legitimised her preference not to report him.

12. My findings therefore reject the mother's assertion that she wanted to report the father but was led to understand or believe that it would not be appropriate to do so. At the same time she did not receive the positive advice which she needed and was not encouraged to report. Those working with the mother must assess the new insight which the mother claims to

have achieved. My finding against her is limited to one area. She is not entitled to blame the Elders for her failure to protect the children. It was noteworthy in evidence that she said that she did not blame them and accepted that her failure to protect the children was her responsibility.

13. Directions have been agreed to take the case forward. A draft order is under preparation. It should include the full Schedule of Findings as circulated to reflect this judgment