

Neutral Citation Number: [2025] EWFC 3 (B)  
Case No: SE23C50424

**IN THE FAMILY COURT AT SHEFFIELD**

Sheffield Designated Family Court  
48 West Bar,  
SHEFFIELD  
S3 8PH

Date: 9<sup>th</sup> January 2025

**Before :**

**H.H. Judge Marson**

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**Between :**

**SHEFFIELD CITY COUNCIL**

**Applicant**

**- and -**

**(1) THE MOTHER**

**(2) THE FATHER**

**(3) THE CHILD**

**Respondents**

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**Mr S. Pallo** (instructed by Sheffield City Council) for the Applicant  
**Ms J. Cole** (instructed by Howells Solicitors) for the First Respondent Mother  
**Mr A. Taylor** (instructed by Taylor & Emmet Solicitors) for the Second Respondent Father  
**Mr L. Dodgson** (instructed by A&N Care Solicitors) for the Third Respondent Child

Hearing dates: 01.11.2024 and 11, 12, 13, 16, 17 and 18 December 2024  
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**Approved Judgment**

This judgment was handed down remotely at 10am on the 9<sup>th</sup> January 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives

## **IMPORTANT NOTICE**

**This judgment was given in private. The court permits publication of this judgment on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the child and members of their family must be strictly preserved. All persons, including the parents, their legal representatives, legal bloggers and representatives of the media, must ensure that this condition is strictly complied with.**

**Failure to do so may be a contempt of court.**

### **H.H. Judge Marson**

- (1)** The original version of this judgment included the names of the child, parents, other family members and all professionals involved with the family, and specific dates were identified. This published version has been altered to preserve the privacy and anonymity of the family concerned.
  
- (2)** To assist with understanding the anonymization of this judgment, the following key is provided:
  - i. Child 1 [**C1**] is the subject child of these proceedings;
  - ii. MC1 is the mother of C1 and a respondent in the proceedings;
  - iii. FC1 is the father of C1 and a respondent in the proceedings;
  - iv. Child 2 [**C2**] is a non-subject child who has made allegations against FC1;
  - v. MC2 is the mother of C2;
  - vi. AC2 is an aunt of C2;
  - vii. Child X [**CX**] is a paternal half sibling to C1.
  - viii. MCX is the mother of CX.
  - ix. Child Y [**CY**] and Child Z [**CZ**] are maternal half siblings to C1;
  - x. FCZ is the father of CZ;
  - xi. Child 3 [**C3**] is a non-subject child;
  - xii. MC3 is the mother of C3.
  
- (3)** The court is concerned with the welfare of a boy called C1 who is now 12 months old. C1 is the subject of proceedings brought by Sheffield City Council which has been represented at this hearing by Mr Pallo. I may refer to Sheffield City Council hereafter as “the local authority”.

- (4) C1s parents are MC1 and FC1. MC1 has been represented by Ms Cole, and any references in this judgment to ‘the mother’ are references to MC1. FC1 has been represented by Mr Taylor and likewise, references to “the father” refer to FC1.
- (5) C1 is represented by the children’s guardian, Ms Sharon Jones, who in turn has given her instructions to Mr Dodgson.
- (6) The substantive application before the court is brought by the local authority under section 31 of the Children Act 1989. It was issued following C1’s birth partly due to allegations made in March 2023 by the daughter of a friend of the mother’s called C2 who, at that date, was just 10 years old. The allegations C2 made were of sexual abuse perpetrated upon her by FC1 between August 2022 and February 2023. The father denies being the perpetrator of any sexual abuse.
- (7) There are additional findings contained within the schedule of facts pleaded by the local authority which are agreed by the parents. Those facts include the mother being the perpetrator of physical abuse to her eldest son, CY in 2009. In previous proceedings the court found on the 1<sup>st</sup> October 2010 that she was the perpetrator of an inflicted bitemark on CY’s left buttock which caused CY considerable pain. It led to CY being permanently placed in the care of the maternal grandfather. In June 2022, the mother’s second child, a son called CZ was seen with a concerning bruise to his face. The mother accepts she failed to seek appropriate medical advice in respect of this injury. It led to CZ being placed permanently in the care of FCZ in August 2022.
- (8) FC1 accepts he has exhibited behaviour in the past which is likely to be abusive to a child to witness. He accepts he struggles with his anger and punched the TV, and pulled down a wardrobe and a light shade when drunk at the home of his ex-partner, MCX who is also the mother of his daughter, CX. The father was convicted of battery arising out of an assault upon MCX in August 2017, the incident having occurred in July 2017.
- (9) The father also has a conviction for assault occasioning actual bodily harm against another ex-partner, MC3, arising out of an incident on New Year’s Eve 2020 when he accused her of cheating on him. He was sentenced in July 2021 to a sentence of 16 weeks imprisonment suspended for 12 months together with a restraining order.
- (10) It is the allegations of sexual abuse made by C2 against FC1 which remain in dispute and this is a finding of fact hearing to establish whether those allegations are capable of being established by

the local authority on the balance of probabilities. The mother, in her written submissions, does not consider FC1 could have sexually abused C2 and she has an ongoing relationship with him. The father denies them in their entirety. The children's guardian supports the Findings being made by the court as pleaded by the local authority.

### The Law

- (11) In describing the background and in the narrative parts of this judgment, I may address matters upon which the parties do not agree. I may give my findings on any disputed matters as they arise and when doing so, I apply the following principles derived from the judgment of the former President in the case of **Re X (Children)(No. 3) [2015] EWHC 3651 (Fam) Munby P.** which records the relevant principles in relation to fact-finding hearings as drawn from the judgment of **Baker J.** (as he then was) in **A Local Authority v (1) A Mother (2) A Father (3) L & M (Children) [2013] EWHC 1569 (Fam).** They may be summarised as follows:
- (1) The burden of proof lies at all times with the local authority;
  - (2) The standard of proof is the balance of probabilities;
  - (3) Findings of fact in these cases must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation;
  - (4) Evidence cannot be evaluated and assessed in separate compartments. When considering cases of suspected child abuse the court must have regard to the relevance of each piece of evidence to other evidence and exercise an overview of the totality of the evidence in order to come to a conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof;
  - (5) The opinion of experts needs to be considered in the context of all the other evidence;
  - (6) The court must be careful to ensure that each expert keeps within the bounds of their own expertise;
  - (7) 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;
  - (8) it is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything else (see **R v Lucas [1981] QB 720**).

To those eight principles, the former President adds a further three points:

- (9) The legal concept of balance of probabilities must be applied with common sense;
- (10) The court can have regard to inherent probabilities but this does not affect the legal standard of proof;
- (11) The fact that a respondent fails to prove on a balance of probabilities an affirmative case that s/he has chosen to set up by way of defence, does not of itself establish the local authority's case.

*"It is the local authority that seeks a finding that FM's injuries are non-accidental. It is for the local authority to prove its case. It is not for the mother to disprove it. In particular it is not for the mother to disprove it by proving how the injuries were in fact sustained. Neither is it for the court to determine how the injuries were sustained. The court's task is to determine whether the local authority has proved its case on the balance of probability. Where, as here, there is a degree of medical uncertainty and credible evidence of a possible alternative explanation to that contended for by the local authority, the question for the court is not 'has that possible alternative explanation been proved' but rather it should ask itself, 'in the light of that possible alternative explanation can the court be satisfied that the local authority has proved its case on the simple balance of probability'."*

### **Lies and Credibility**

- (12) As the President, McFarlane LJ observed in ***Re H-C (Children)* [2016] EWCA Civ 136** at paragraph 97:

97. *A family court, in common with a criminal court, can rely upon a finding that a witness has lied as evidence in support of a primary positive allegation. The well-known authority is the case of **R v Lucas (R)** [1981] **QB 720** in which the Court of Appeal Criminal Division, after stressing that people sometimes tell lies for reasons other than a belief that the lie is necessary to conceal guilt, held that four conditions must be satisfied before a defendant's lie could be seen as supporting the prosecution case as explained in the judgment of the court given by Lord Lane CJ:*

*"To be capable of amounting to corroboration the lie told out of court must first of all be deliberate. Secondly it must relate to a material issue. Thirdly the motive for the lie must be a realisation of guilt and a fear of the truth. The jury should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. Fourthly the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be corroborated, that is to say by admission or by evidence from an independent witness."*

98. *The decision in R v Lucas has been the subject of a number of further decisions of the Court of Appeal Criminal Division over the years, however the core conditions set out by Lord Lane remain authoritative. The approach in R v Lucas is not confined, as it was on the facts of Lucas itself, to a statement made out of court and can apply to a "lie" made in the course of the court proceedings and the approach is not limited solely to evidence concerning accomplices.*

99. *In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of R v Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the “lie” has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.*
100. *One highly important aspect of the Lucas decision, and indeed the approach to lies generally in the criminal jurisdiction, needs to be borne fully in mind by family judges. It is this: in the criminal jurisdiction the “lie” is never taken, of itself, as direct proof of guilt. As is plain from the passage quoted from Lord Lane’s judgment in Lucas, where the relevant conditions are satisfied the lie is “capable of amounting to a corroboration”. In recent times the point has been most clearly made in the Court of Appeal Criminal Division in the case of **R v Middleton [2001] Crim.L.R. 251**. In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt.*

(13) In ***Lancashire County Council v The Children and Others [2014] EWHC 3 (Fam)*** at paragraph 9 of his judgment and having directed himself on the relevant law, Jackson J (as he then was) said:-

*‘...where repeated accounts are given the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at the time of stress or where the importance of accuracy is not fully appreciated, or there may be inaccuracy or mistake in the record-keeping or recollection of the person hearing and relaying the account. The possible effect of delay and repeated questioning upon memory should also be considered, as should the effect of one person on hearing accounts given by another. As memory fades, a desire to iron out wrinkles may not be unnatural; a process that might inelegantly be described as “story-creep” may occur without any necessary inferences of bad faith.’*

(14) The importance of following these principles was reinforced in the decision made by the Court of Appeal in **Re A, B and C (Children) [2021] EWCA Civ 451** and the judgment of **Macur LJ**. In paragraph 52 the learned judge states:

*“It is quite possible that the tribunal may conclude that, in the particular circumstances of the case, the integrity and substance of the uncorroborated evidence of the child complainant is sufficiently compelling to lead them to determine that the alleged perpetrator’s denials must be a lie. In others the tribunal may reasonably determine that it is incumbent to look for other evidence in support”.*

And at paragraph 54:

*“That a witness’s dishonesty may be irrelevant in determining an issue of fact is commonly acknowledged in judgments, and with respect to the Recorder as we see in her judgment at [40], in formulaic terms...But this formulation leaves open the question: how and when is a witness’s lack of credibility to be factored into the equation of determining an issue of fact? In my view, the answer is provided by the terms of the entire ‘Lucas’ direction as given, when necessary, in criminal trials.*

55. Chapter 16-3, paragraphs 1 and 2 of the December 2020 Crown Court Compendium, provides a useful legal summary:

*1. A defendant’s lie, whether made before the trial or in the course of evidence or both, may be probative of guilt. A lie is only capable of supporting other evidence against D if the jury are sure that (1) it is shown by other evidence in the case, to be a deliberate untruth; i.e. it did not arise from confusion or mistake; (2) it relates to a significant issue, (3) it was not told for a reason advanced by or on behalf of D, or for some other reason arising from the evidence, which does not point to D’s guilt.*

*2. The direction should be tailored to the circumstances of the case, but the jury must be directed that only if they are sure these criteria are satisfied can D’s lie be used as some support for the prosecution case, but that the lie itself cannot prove guilt...”*

**(15)** The application of the above guidance was further clarified by **Peter Jackson LJ** in the case of **Re H (Children: Uncertain Perpetrator: Lies)[2024] EWCA Civ 1261**.

Para 21: *“The court’s view of a witness’s overall credibility and reliability will naturally contribute to its evaluation of whether it can accept their evidence on the critical issues. If it concludes that lies have been told, it will consider what weight, if any, should be given to that aspect of the matter, after due consideration of any explanations have been offered. That is part of the normal process of sifting and weighing the evidence, and explaining the result. The family courts encounter many forms of bad behaviour and they are used to assessing their true significance for the issue in hand. There is no special rule of evidence for lies.”*

Para 22; *“I would therefore make one observation about the description of good practice in Re A, B and C. At [58(iii)] it is said that the court should seek to identify the basis on which it can be determined that the only explanation for the lie(s) is guilt. That draws on the slightly different jury direction in the Crown Court Compendium... which requires that a lie is only capable of supporting other evidence against a defendant if the jury are sure that it was not told for a*

*reason advanced by or on behalf of the defendant, or for some other reason arising from the evidence, which does not point to the defendant's guilt.” Para 22*

Para 23: *“Relying on a literal reading of Re A, B and C, Mr Barnes further argues that the court is required to exclude a lie from consideration altogether in any case where it cannot be satisfied (to whatever standard) that the only explanation for it is to conceal guilt. I do not accept that submission. There will be some cases where the ultimate finding is so critically dependent on the assessment of the particular lie – that the court may out of caution wish to direct itself in accordance with Re A, B and C. .... It will be sufficient for the judge to recall that the true significance of a lie must be carefully assessed, for all the well-known reasons noted by the judge in the present case. A general exclusionary rule, exclusively directed at lies, would be inconsistent with the duty on the court to consider all the evidence. Once it has done that, its conclusion in an individual case may be that the lie was told to conceal guilt, but that is a conclusion, not a test. ... Any other approach would hamper the court in carrying out its important assessment of credibility and its evaluation of particular issues of fact.*

- (16) The dicta of Peter Jackson J (as he then was) in **Re BR (Proof of Facts) [2015] EWFC 41**. In particular paragraphs 4-7:

*The court acts on evidence, not speculation or assumption. It acts on facts, not worries or concerns.*

*Evidence comes in many forms. It can be live, written, direct, hearsay, electronic, photographic, circumstantial, factual, or by way of expert opinion. It can concern major topics and small details, things that are important and things that are trivial.*

*The burden of proving a fact rests on the person who asserts it.*

*The standard of proof is the balance of probabilities: Is it more likely than not that the event occurred? Neither the seriousness of the allegation, nor the seriousness of the consequences, nor the inherent probabilities alters this.*

*Where an allegation is a serious one, there is no requirement that the evidence must be of a special quality. The court will consider grave allegations with proper care, but evidence is evidence and the approach to analysing it remains the same in every case. In my view, statements of principle (some relied on in this case) that suggest that an enhanced level of evidential cogency or clarity is required in order to prove a very serious allegation do not assist and may lead a fact-finder into error. Despite all disclaimers, reference to qualitative concepts such as cogency and clarity may wrongly be taken to imply that some elevated standard of proof is called for.*

*Nor does the seriousness of the consequences of a finding of fact affect the standard to which it must be proved. Whether a man was in a London street at a particular time might be of no great consequence if the issue is whether he was rightly issued with a parking ticket, but it might be of huge consequence if he has been charged with a murder that occurred that day in Paris. The evidential standard to which his presence in the street must be proved is nonetheless the same.*

*The court takes account of any inherent probability or improbability of an event having occurred as part of a natural process of reasoning. But the fact that an event is a very common one does not lower the standard of*

*probability to which it must be proved. Nor does the fact that an event is very uncommon raise the standard of proof that must be satisfied before it can be said to have occurred.*

*Similarly, the frequency or infrequency with which an event generally occurs cannot divert attention from the question of whether it actually occurred ...*

- (17) The court must guard against the danger of reversing the burden of proof. The burden remains at all times upon the local authority to prove the facts alleged to the requisite standard, and it is not for a respondent to disprove facts or present an alternative explanation for events. The risk however of inadvertently reversing the burden of proof by according improper weight to a respondent's inability to provide an explanation for these most serious allegations, which include detail which may seem to have experiential characteristics is particularly acute. **Re M (Fact-finding: Burden of Proof) [2013] 2 FLR 874 at 881:**

*'The burden of proof lies on the local authority to prove the case against the parents. The standard of proof is the balance of probabilities, and that means the same in this kind of case as in every other, a simple balance of probability. Suspicion is not proof, and the burden must always remain on the local authority and should not be reversed...'*

and

*'That, too, was the effect of the judge's view of the case: that absent a parental explanation, there was no satisfactory benign explanation, ergo there must be a malevolent explanation. And it is that leap which troubles me. It does not seem to me that the conclusion necessarily follows unless, wrongly, the burden of proof has been reversed, and the parents were required to satisfy the court that this is not a non-accidental injury.'*

- (18) I have reminded myself of the specific guidance on the law and authoritative guidance pertaining to ABE Interviews given by MacDonal J in the case of **AS v TH (False Allegations of Abuse)[2016] EWHC 532 Fam.** In addition, a second judgment of Mr Justice MacDonal in the case of **Re P (Sexual Abuse – Finding of Fact Hearing) [2019] EWFC 27.** I have carefully considered the valuable points made about children's suggestibility and 'confirmation bias', and the need for professionals to keep an open mind, together with the 12 point memorandum in paragraph 577:

“That said, and considering the authorities set out above, the Report of the Inquiry into child abuse in Cleveland 1987 Cm 412 and Report of the Inquiry into the Removal of Children from Orkney in February 1991 among others and the contents of the current ABE Guidance, I am satisfied that this court can take judicial notice of the following matters:

- i) Children, and especially young children, are suggestible.
- ii) Memory is prone to error and easily influenced by the environment in which recall is invited.
- iii) Memories can be confabulated from imagined experiences, it is possible to induce false memories and children can speak sincerely and emotionally about events that did not in fact occur.
- iv) Allegations made by children may emerge in a piecemeal fashion, with children often not reporting events in a linear history, reporting them in a partial way and revisiting topics.
- v) The wider circumstances of the child’s life may influence, explain or colour what the child is saying.
- vi) Factors affecting when a child says something will include their capacity to understand their world and their role within it, requiring caution when interpreting children’s references to behaviour or parts of the body through the prism of adult learning or reading.
- vii) Accounts given by children are susceptible to influence by leading or otherwise suggestive questions, repetition, pressure, threats, negative stereotyping and encouragement, reward or praise.
- viii) Accounts given by children are susceptible to influence as the result of bias or preconceived ideas on the part of the interlocutor.
- ix) Accounts given by children are susceptible to contamination by the statements of others, which contamination may influence a child’s responses.
- x) Children may embellish or overlay a general theme with apparently convincing detail which can appear highly credible and be very difficult to detect, even for those who are experienced in dealing with children.
- xi) Delay between an event recounted and the allegation made with respect to that event may influence the accuracy of the account given.
- xii) Within this context, the way, and the stage at which a child is asked questions/interviewed will have a profound effect on the accuracy of the child’s testimony

**(19)** I have read and reminded myself of the revised guidance for ABE Interviews published subsequent to the above case and contained in the January 2022 edition.

- (20) These are the factors and legal guidance which I have borne in mind, and when I say I have considered the law it is against this background but also that of the Human Rights Act 1998. This is plainly right because the consequences for this family are serious with the potential to affect the long term care planning for C1.
- (21) I have read the electronic file of evidence provided during the course of this hearing which includes the statements and documents filed by the local authority; the parents; the children's guardian, and information from the South Yorkshire Police (SYP).
- (22) I have watched the ABE interview in which C2 makes her allegations and read the transcript of that interview. I have listened to the audio interview which the father gave to the Police on the 29<sup>th</sup> March 2023 and read the transcript of it. I have received and read the written submissions from each party for which I am grateful.
- (23) The court has heard oral evidence from the following 9 witnesses.
- i. **C2** in person via video link during her school half-term on the 01.11.2024;
  - ii. **MC2** (C2's mother);
  - iii. **AC2**, (C2's aunt);
  - iv. **LS** (a friend of AC2 and relation of MC3);
  - v. **Sarah Onyon** (the allocated social worker);
  - vi. **DC Blake Hull** (former Investigative Officer with SYP, now with the Met. Police);
  - vii. **MC1** (the mother supported by an intermediary);
  - viii. **FC1** (the father);
  - ix. **PGFC1** (the paternal grandfather of C1).
- (24) It should be recorded that even where I do not refer to any particular piece of oral or written evidence during the course of this judgment it has nevertheless been taken into consideration. Whilst many issues were raised during the course of the hearing I have determined only those which, in my opinion, require resolving to determine the disputed issues at this hearing justly.
- (25) It should also be noted that where reported speech is given in italics in this judgment it may be taken directly from the written evidence or from my contemporary notes of the oral evidence, and where it is from the latter it is materially and factually accurate but it is possible that some

quotations may not be verbatim due to the speed at which the note was written during the oral evidence.

- (26) The hearing has been conducted as a hybrid hearing with some witnesses participating remotely via the CVP to accommodate their availability or willingness to attend, and other parties and their witnesses attending court in person. No party has raised any concerns regarding the format of the hearing during the hearing itself.

### **THE BACKGROUND AND ALLEGATIONS**

- (27) The following is set out to understand the context of this judgment and is agreed or unopposed unless stated otherwise.

- (28) It is agreed there have been four separate people who have made complaints of sexual assault against this father:

- i. On the 16.07.17 an ex-partner of FC1, then aged 19 years old, alleged FC1 had digitally penetrated her. The call was made by the complainant's friend. The matter was not taken further by the Police.
- ii. On the 05.02.22 C3 (a child then aged over 13 years and the daughter of MC3) alleged FC1 had sexually assaulted her on 05.02.22 by [details redacted]. She alleged FC1 did similar on the following day, 06.02.22.
- iii. C3 also alleged FC1 had sexually abused her about 2 years previously when she was 12/13 years old. She alleged [details redacted].
- iv. Child 4, a friend of C3's, also alleged FC1 sexually touched her at a sleepover at C3's home on 05.02.22.
- v. C2 makes her allegations of FC1 perpetrating sexual abuse upon her between August 2022 and February 2023 by touching her 'private parts' above and underneath her clothes.

- (29) Apart from the allegations made by C2, none of the allegations made by the other three complainants were pursued by the police, and for evidential reasons the local authority does not seek to include those allegations as part of these proceedings. They are referred to in this judgment because they form part of the father's case in defending himself against the allegations made by C2. He asserts the nature of these allegations were known to C2, her family and in the

local community, and this may be the reason why C2 has adopted them and made false allegations against him.

- (30) Prior to March 2023, MC1 and MC2 were good friends. They trusted each other to care for each other's child. Before CZ was removed from the mother's care in August 2022 and placed in the care of his father, CZ would stay with MC2, and C2 would stay over with MC1. The parents assert they met and began the friendship which led to their relationship via Facebook around January/February 2022. The local authority asserts there is evidence FC1 has, on occasions, suggested it was earlier than this, in 2021. It is agreed, MC2 and C2 met and came into contact with FC1 through MC1, and on occasions they would all socialise together. It is MC2's evidence that prior to the precipitating incident in March 2023, she had no concerns or worries about FC1, or C2 being in contact with FC1.
- (31) The precipitating incident occurred over the evening/early hours of the morning of Friday 24<sup>th</sup>/Saturday 25<sup>th</sup> March 2023. It began when LS became aware of MC1 trying to make contact via Facebook with someone LS knew. Through this platform, LS saw a photograph of FC1 on Facebook with some children in the background of it. As LS is related to MC3, she was already aware of the nature of the previous allegations which had been made against FC1 by C3.
- (32) This photograph and the association of FC1 with MC1 caused LS concern, and it caused her concern for her friend AC2 who she knew was a friend of MC1, and for AC2's children. LS did not know MC2 or C2 other than recognizing them in passing.
- (33) Around 11pm on the evening of Friday 24<sup>th</sup> March 2023, LS made contact with AC2 and told her that: *"FC1 touched my niece, Police and everything were involved". I wouldn't trust him with my kids. I believe he did it, as you don't lie about something like that"*. AC2 informed LS that her niece, C2 visits MC1's home and often stays at her home.
- (34) At the time this conversation was taking place between LS and AC2, AC2 was in a relationship with MC2's brother and she was living with MC2 and C2. The conversation was made via mobile telephone and the phone was on loudspeaker to enable MC2 to hear what was being said. In her written evidence, MC2 states this was the first time she had been made aware of any allegations being made against FC1 of this nature. I accept her evidence on this point because there is no evidence to suggest otherwise.

- (35) After the phone call ended, MC2 went upstairs to speak to C2 and asked her daughter: “*Has FC1 ever touched you?*” and C2 confirmed that he had in a way which constitutes a sexual assault.
- (36) MC2 agrees she was angry and upset by this information and decided she would go and confront FC1 there and then. MC2 and her then partner, SB went round to where FC1 was known to be living with his own parents. By this point in the chronology it was towards midnight of the 24<sup>th</sup> March and getting into the early hours of Saturday morning, 25<sup>th</sup> March 2023.
- (37) MC2 agrees she presented at the home of the paternal grandparents, Mr and Mrs [FC1] Senior as angry and upset and was shouting about FC1 being a paedophile, in evidence, she said she believed the word she actually used to describe him was a ‘*nonce*’.
- (38) MC2 agrees she said to FC1 something along the lines of “*If you haven’t done it to C2, come and confront me*” (her oral evidence) and “*I didn’t think you’d have done it*” (her statement to the Police). In her oral evidence, MC2 explained she said this because she wanted to think he hadn’t done what C2 had told her.
- (39) It is accepted by MC2 that Mr and Mrs [FC1] Senior told her they had called the police and eventually MC2 and her partner went home. MC2 reported what C2 had said about FC1 to the police later on Saturday 25<sup>th</sup> March 2023. The police report records her call being made at 11.30am on that date.
- (40) On Tuesday 28<sup>th</sup> March 2023, DC Helen Barratt and DC Blake Hull visited C2 at home where they spoke to both C2 and MC2. DC Hull took the lead in asking questions and DC Barratt took notes. They spoke to C2 alone and she told them, in summary, that she had been touched by FC1 on her ‘front bits’ with his hand under her clothes. C2 identified an occasion when she was in ‘his girlfriend’s house’ when she had told his girlfriend she was going to lie down for a bit and FC1 followed her upstairs and was watching TV when he touched her; another occasion she identified MC1 being in the room as well; and on one occasion when ‘*[MC1] went to a meeting*’ and “*after the meeting she (MC1) met us at McDonalds*”. C2 informs the Police officers it started from August and when asked how did she know it’s been happening since August, the Officer’s note states “*since she had a boy took off her*”. Which is a reference to CZ being removed from the mother’s care in August 2022. C2 is asked whether she has told anyone about this, and the officer’s note confirms she has told “*My mum*” on “*Friday*”.

- (41) Following this exchange at C2's family home, the Police arranged an Achieving Best Evidence (ABE) interview with C2 later the same day. DS Alex Edwards has provided a witness statement which confirms the South Yorkshire Police are aware it is best practice when interviewing young children to use an intermediary so the child understands the procedure and their best evidence is obtained. Nevertheless, the decision was made to interview C2 without an intermediary present. The reasons for this are stated to be because the wait for an intermediary at the date the decision was made was approximately 3-6 months, and both C2 and MC2 wanted to provide the evidence to enable C2 to move on from the trauma caused by the assault.
- (42) The Police investigation continued until November 2023 when a decision was made, for evidential reasons, not to charge FC1 with any criminal offence and the investigation was closed. At the time of C1's birth this local authority was involved due to the allegations made by C2 and due to its concerns about the mother's previous parenting of her older children.
- (43) For this reason, this application was issued on the 13<sup>th</sup> December 2023, and an interim care order was made without any opposition from the parents on the 15<sup>th</sup> December 2023 with an interim care plan for C1 to be cared for by his maternal aunt and uncle, where he remains.

### **C2'S ALLEGATIONS AND HER 'ABE' INTERVIEW**

- (44) In her ABE interview on the 28<sup>th</sup> March 2023, C2 repeats the allegations she made to DC Hull and DC Barratt earlier the same day. She alleges FC1 has *"touched me down below"* she alleges he has done it *"loads of times"* and it started in August. She identifies the date by reference to *"when [MC1] had her son took off her"*. In the transcript C2 states *"I think that FC1's done it while [MC1] were in another bedroom, in the bathroom as well, when she were in the bath, so when MC1 were in the bath he's done it then"*. Having watched and listened to the video, it is my judgment that C2 does refer to 'MC1 being in the bedroom' but then immediately corrects herself and identifies MC1 being in the bathroom because she has used the wrong word and she is not suggesting MC1 was in the bedroom at the time any alleged abuse takes place.
- (45) C2 states it has also happened when MC1 was in the living room, and on another occasion when MC1 went to a 'meeting'. C2 identifies the day MC1 was at the meeting as being the final occasion it happened. C2 is clear *"MC1 don't know about this, what FC1's done"*. C2 tells the police officers that FC1 *"told me to not tell my mum and dad"* and describes him *"squeezing"* the front bits of her private parts which made her feel angry because she didn't like it. When asked which parts of his

hand could she feel, C2 replies “*His fingers and that bit there*” - pointing to the bottom of the palm of her hand. When asked whether FC1 put anything inside her private parts, C2 states “*No*” and shakes her head.

- (46) FC1 made an application for C2 to be cross-examined in accordance with **Re W (Children)(Abuse: Oral Evidence)[2010] UKSC 12 [2010] 1 FLR 1485**. The application was supported by the other parties and by C2 herself. C2 attended court on the 1<sup>st</sup> November 2024 to give her oral evidence via video link from a different room. She was 11 years old and physically, she appears very similar to how she presents in her ABE interview, still very much a child not an adolescent. The date was chosen to coincide with her school half-term to cause the minimum of disruption to her education. On this occasion an intermediary was present, C2 participated in a familiarization visit the same week but on a different day and also watched her ABE interview. A schedule of questions was agreed by the advocates in advance and approved by the court, it was agreed those questions would be asked of C2 by Mr Taylor.
- (47) Part way through C2’s oral evidence it became apparent she was having difficulty hearing the questions being asked of her due to problems with the court’s technology. It led to C2 giving her oral evidence in the presence of myself, the intermediary, and Mr Taylor sitting in a separate room away from the main court room, advocates and their respective clients, and her evidence being relayed by the CVP video link to them with mixed results. Fortunately, both myself and Mr Taylor were able to hear firsthand what was said by C2 in response to the questions and took notes. The transcript of C2’s oral evidence which appears in the case lines bundle at A125 is a composite transcript compiled from each of these resources.
- (48) In response to being asked the agreed questions, C2 firmly maintained the account she had given in her ABE interview. She remembered MC1 going for a job interview (“the meeting”) and stated that FC1 looked after her on his own when MC1 went for the interview. C2 pointed to the pictorial aid for breakfast time when answering what time of day was it when MC1 went for the interview. C2 stated she was still asleep when MC1 left and denied FC1’s assertion she was dressed and in the bedroom when MC1 left. C2 agreed she might have talked to MC1 on a video call after MC1 left for the interview because they were meant to meet up with her after the interview. C2 recalled meeting the mother at the bus stop but couldn’t recall whether they went on to McDonald’s or not, nor could she recall speaking to her own mother that morning.

- (49) C2 was asked whether she was sure FC1 had touched her down below or whether she was guessing about it. C2 replied, *"I wasn't guessing, he did it"*. She was informed, FC1 said it didn't happen, he didn't touch you down below and was asked, Is he telling the truth about that? C2 replied, *"No, he isn't telling the truth"*. C2 was asked, If FC1 touched you down below, why did you continue to visit MC1's flat? C2 replied, *"because I didn't know he was going to do it over and over again"*.
- (50) Between December 2022 and August 2023, KMH was employed by C2's school as a Safeguarding Officer. At approximately 8.35 hours on Monday 27<sup>th</sup> March 2023, KMH received a telephone call from MC2 in which MC2 told her that C2 had disclosed she had been sexually abused by a family friend and she had reported this to the Police. MC2 was asking for support for C2. KMH's further, unchallenged evidence is that on Thursday 8<sup>th</sup> June 2023, C2 approached her looking upset, C2 *"mentioned she felt sick all the time and when she ate, it hurt her stomach. C2 stated she also shakes sometimes and she doesn't know why. During our conversation I could smell a strong cigarette smoke on C2. She was constantly picking at her finger nails, which were extremely short and looked very sore. C2 did not make eye contact during the conversation"*.
- (51) There is an agreed written statement from NR who was a Teaching Assistant for C2. NR's unchallenged description of C2 is: *"C2 is absolutely adorable. She's kind, honest, and loving, but I wouldn't describe her as outgoing. She's shy at first, but then she does become quite chatty. I was told that she was facing some issues at home, but I wasn't initially given any details because I didn't need to know. When I was told that something had happened, I did notice a change. She'd become quiet. She used to love being at school, but she started to make excuses to go home early. It was usually bellyache, feeling tired, or not feeling very well. I sometimes put her in a separate room with a pillow so she could have a rest"*. MC2 agreed with this description of her daughter. FC1 did not dispute it and when asked in cross examination: You've not known C2 to be a liar? FC1 confirmed: *"No, not really, she's never lied to me"*. The mother also confirmed she had never known C2 to tell lies about the *'big things'*.
- (52) On Monday 12<sup>th</sup> June 2023 C2 approached NR *"saying she felt sad and wanted to speak to me after lunch. I went to speak to her immediately after the lunch break. C2 said she wanted to speak to me about what had happened."* NR suggests someone from the inclusion team speaks to C2 about it instead but C2 prefers to speak to NR. C2 agrees NR could speak to the Safeguarding Liaison Officer, KMH first to find out about what had happened. NR obtains this information and permission to speak to C2 on her own about it from KMH.
- (53) In the conversation which follows between C2 and NR, C2 tells her she is feeling *"sad and sick...sometimes she didn't want to be in school because she wanted to cry"*. NR asks C2 if she wanted to talk

about what happened and C2 said she does. It is agreed C2 told NR the following: *“C2 went on to tell me that while on a sleepover at her mum’s best friend’s house, Mum’s best friend’s boyfriend came in when she was supposed to be asleep and touched her down below. I asked how long he was in her room and C2 said ‘Not long’. I asked what did she do and C2 said she didn’t like it. I asked her if there was anything else, did he want her to touch him, and C2 said no. C2 then told me that she had been to the doctor who was trying to help her with feeling sad and not eating”.... “Following the above conversation with C2 she came to talk to me once or twice a week if she was having a bad day or feeling sad. I do not know the specific dates for these incidences of support and at no time in them did she talk about what she had already told me or make any further disclosures.”*

- (54) I pause to note that what C2 told NR is entirely consistent with what she had said previously. Simple repetition does not of itself create any corroboration for her account but the consistency of it does add credence to its reliability.

#### **MC2’s Evidence**

- (55) MC2 initially attended court in person and confirmed the general accuracy of the statement she gave to the police on the 20<sup>th</sup> June 2023 but also expressed her view some parts were recorded inaccurately by the Police, such as where it referred to her calling FC1 a paedophile as her recollection is that she used the word ‘*nonce*’, not paedophile. In my judgment, that difference is immaterial in this case. During a break in her evidence MC2 became upset and left court and refused to return to complete her evidence. Despite attempts by the court via the local authority to encourage her to return voluntarily she could not be persuaded, and it led to the court issuing a witness summons before MC2 returned and completed her evidence with the use of special measures, specifically via a CVP video link.
- (56) The agreed parts of MC2’s evidence are how she became aware of previous allegations of sexual abuse having been made against FC1. There has been no dispute the information originated from LS, was communicated by her to AC2, and ultimately shared with MC2. It was clear from MC2’s evidence that she believes her daughter when C2 told her ‘FC1 had touched her down below’ and given that firmly held belief she is understandably very upset and angry about it which came across in her evidence. I have weighed this in the balance when considering her evidence as a whole and considered whether this would cause her to lie or exaggerate about any of the facts in this case.

- (57) MC2's agreed evidence is that the last time C2 stayed over with MC1 and FC1 was in February 2023. Therefore, any allegation of sexual abuse described by C2 has to have occurred in or before February 2023. MC2 recalls phoning C2 during the morning of the last time she stayed over and *"I asked her where auntie MC1 was, and she said that she'd gone to an interview at a warehouse. She said that FC1 was looking after her"*. This occasion is significant because it is one of occasions which C2 later identifies as being left alone with FC1 when he sexually abused her and, if accurate, would provide FC1 with the opportunity to assault C2.
- (58) It is agreed MC2 cared for CZ and C2 together and MC1 reciprocated the arrangement. It is agreed they both had a very limited support network. MC2's evidence is that MC1 was the *"only friend I had and she knew that"*. C2 stayed over at MC1's *"quite a lot, quite regularly, each week I would have CZ"*. She knew FC1 through his relationship with MC1 and, prior to the events of the 24<sup>th</sup> /25<sup>th</sup> March 2023 she held no concerns or worries about him. MC2 told the court that FC1 stayed over a lot at MC1's home, she said, *"Yes, he stayed at MC1's a lot apart from being with his daughter on a Friday"*, and it is agreed neither FC1 or MC1 told her about any allegations of sexual abuse having been made previously against FC1 or that the time he spent with his daughter, CX was supervised at social care's request. Nor was MC2 told by them about the reason why CZ was removed from the care of MC1.
- (59) There is a contradiction in MC2's police statement about the index incident date where she refers to it being the evening of the 25<sup>th</sup> March and not the evening of the 24<sup>th</sup> March but I attach no weight to such minor discrepancies. The events of the night in question when C2 made her allegations against FC1 started shortly before midnight on Friday 24<sup>th</sup> March and concluded in the early hours of Saturday 25<sup>th</sup> March. Where incidents cross over into two dates it is easy to understand how witnesses may be mistaken in their recollection about the precise date. It is a mistake which is repeated by the paternal grandfather, PGFC1 in his witness statement and by FC1 in his police interview when he refers to 'Saturday night' but it is common ground all of the witnesses were recalling the same night and incident.
- (60) In her oral evidence MC2 stated there were approximately 9 or 10 people at the family event at her house that night and after hearing the contents of the telephone call from LS she made them all aware about what had been said about FC1, but to her knowledge she was the only person who spoke to C2 about it and knows of no other person speaking to C2 about the allegations after she left the house, although other members of the household did take care of C2 whilst MC2 was out.

- (61) MC2 agreed she took C2 into the bathroom ‘*straight away*’ and spoke to her on her own, and states that although she had enjoyed a drink at the family gathering she was not drunk and was in control of herself. It is agreed MC2 asked C2 a direct question: “*Has FC1 ever touched you?*” and in her written evidence she states that C2 burst into tears and said: “*Yeab, Mummy. She placed a hand over her face and cried. I’ve never heard her cry like that before. I asked her, ‘Where’s he touched you?’. She moved her hand over her vagina and said ‘down there’. I asked, ‘Has he done it with your trousers on or without? She said both. I asked her, ‘Where was MC1?’. She said, ‘In the kitchen, I was trying to go to sleep.’*”
- (62) In her oral evidence MC2 readily agreed that after speaking with C2 she went to the home of the paternal grandparents where she knew the father was living to confront him about what C2 had told her. She thought she left home to go there ‘*around 20 minutes after*’ she had spoken to C2 and she went with her then partner, SB. MC2 agreed they were both shouting including shouting words like ‘*nonce*’, she agreed she shouted, “*If you haven’t done it to C2, come and confront me*”. MC2 confirmed she said something along the lines of “*I didn’t think you would have done it*” because she wanted to think FC1 hadn’t done it. She agreed she had been drinking alcohol and “*was tipsy but I weren’t drunk*”. This is consistent with what C2 said about her mother having consumed alcohol but not being drunk. There is a possible inconsistency between MC2 and C2 regarding whether C2 knew her mother had left the house to go to FC1’s home. MC2 stated C2 knew because “*She seen me go, she was awake at the time*” whereas when C2 was asked the question: “*You spoke to your mum in the bathroom about FC1 touching you. After that, did your mum go out of the house?*” and C2’s reply in her oral evidence is: “*I’m not too sure, cos I went to bed*”.
- (63) MC2 agreed she contacted the Police and the telephone called is logged at 11.30am on Saturday 25<sup>th</sup> March 2023. The information recorded by the South Yorkshire Police on that date is set out below in paragraph (75).
- (64) In response to this report, it is agreed DC Blake Hull and his colleague DC Helen Barratt attended MC2’s home on Tuesday 28<sup>th</sup> March 2023. The Police officers spoke to MC2 and to C2 separately.
- (65) The pocket notebook entry made by DC Hull records MC2 to have said she noticed C2 had been quiet and biting her nails and she had asked what was wrong and C2 then told her ‘FC1 had touched her’. When questioned about this in cross examination, MC2 denied saying this in those terms. She explained, “*When I found out about FC1 touching her, I convinced myself this is why she is biting her nails. This was after I found out about her. I told the Police after it had happened she was biting her nails and*

*sleeping all the time, that's not right for an 11 year old child". MC2 agreed C2 had been biting her nails before 'FC1 was on the scene' but "not as bad as it is now, she's coming home from school and going straight to bed, that's not right for an 11 year old child, she should go out and play with her friends." "It got worse, she was biting her nails before but it got worse and she doesn't have any nails at all now, she is anxious and has bitten them all off, she doesn't want to go to school in the morning and I have to push her to go to school". MC2 attributed this to the fact C2 needs to travel past FC1's house to reach her school.*

- (66) MC2 confirmed there had been an occasion when C2 was staying over at MC1's home and C2 called her whilst MC1 was at a job interview. MC2 said: *"Yes, it was at a warehouse and FC1 was left with my daughter in MC1's house. We were not aware at that point, not aware until LS told AC2... if I am right the phonecall was in the morning...she told me that MC1's gone for an interview and she were alone with FC1"*.
- (67) It does not appear in either of MC2's statements that FC1 had smacked or slapped her across the bottom on an earlier occasion prior to the night C2 made her allegations but she volunteered this information in response to being asked: "Did anyone in the house disbelieve what was being said about FC1? And she responded *"No, not when he slapped my arse in front of MC1 in my own house" ... "He said to my mum, he should be with me and he should be C2's dad and slapped my bum in front of his girlfriend who is sat there now"*. Thereby confirming it had happened which, unknown to her, is consistent with the account C2 gave in her oral evidence. Both parents agree FC1 slapped or smacked MC2 across her bottom but they assert FC1 did this as a joke and there had been no conflict about it between the three adults, only 'banter'.
- (68) MC2 confirmed, in the intervening period since March 2023, C2 has never resiled from her account or suggested to her that what she told her about FC1 is untrue.

### **AC2 and LS's Evidence**

- (69) AC2 confirmed her written statements and gave evidence consistent with them. AC2 confirmed she previously had a close friendship with MC1 but had never met FC1.
- (70) AC2 recalls receiving a text out of the blue from LS during a family gathering at the home of MC2. MC2 confirmed the date and time of this family gathering was the evening of Friday 24<sup>th</sup> March 2023 to celebrate her mother's birthday. I accept this date to be correct, the totality of the evidence from all sources including FC1 and his father, PGFC1 would support this time and date.

- (71) The text AC2 received asked her whether she knew MC1. AC2 confirmed MC1 was a friend of her's which elicited the reply from LS: “[AC2], I will tell you her partner is a peadophile, don't tell me know niece stays at her house (sic)?” AC2 states she felt sick and went ‘to grab MC2’ telling her “I need to speak to you its urgent”. By this point LS had phoned AC2 so she put her phone on loudspeaker to enable MC2 to hear what was being said. AC2's recollection is that this took place in the living room of MC2's house with the door shut. She thought C2 was in the kitchen at the time. Her evidence on this issue is: “I can't recall her being there, I think her mum spoke to her after I put the phone down on LS”. If C2 had been in the kitchen, AC2 did not consider any person would have heard what was being said in the living room because the door was shut. In contrast, in her oral evidence, C2 states “I was stood there and it was on loudspeaker and I could bear it. I was stood next to them”. AC2 could recall MC2 speaking to C2 in the bathroom after the phone call but she didn't know what was said between them because she wasn't present. This is consistent with the evidence of C2 and MC2.
- (72) AC2 agreed she was unaware of any sexual abuse allegations being made against FC1 by anyone until she received this text from LS. Mr Taylor did not challenge this on behalf of his client. This is consistent with the evidence of MC2, and it persuades me that any opportunity for C2's family to discuss these allegations in the presence of C2 is limited to after receipt of the text message and phone call late in the evening of the 24<sup>th</sup> March 2023.
- (73) LS confirmed the veracity of her written statements save and except her recollection is that it was a friend called ‘S’ not ‘K’ who the mother sent a friend request to on Facebook which led to LS's involvement and concerned attention. LS confirmed, the reason she sent the text to AC2 was because “I saw AC2 was a mutual friend of FC1's new partner and I was asking her how well she knew this girl and whether her children went round. I didn't imagine any other children were involved. I had no idea C2 was going round to MC1's house, none at all”.
- (74) LS confirmed she made the telephone call to AC2 but was not aware MC2 could hear the call and she didn't speak to or text MC2 directly that evening. LS confirmed there were other things she knew about FC1 which she did not communicate to AC2 that night. LS agreed she had texted MC2 via AC2's phone a couple of days later and had seen MC2 and C2 in passing at a social club but had “not really spoken to MC2 since then, not in detail and had not spoken at all about the other things” she knew or could say because it was personal relating to her own child.

### The Police and DC Blake Hull's Evidence

- (75) It is agreed MC2 made a telephone call to the South Yorkshire Police which was logged at 11.30am on Saturday 25<sup>th</sup> March 2023. In it, the report states, *“Caller reporting that her daughter has been sexually assaulted by a family friend, the name that she has given is FC1”*. The call handler records, *“Her daughter C2 has told her that when staying at the above location FC1 has touched her over her clothing and under her underwear. Her mum has noticed that she has been quiet and biting her nails so asked her what was wrong and that is when she disclosed that FC1 has touched her. She hasn’t been able to get a definite date just that it happened when she has been stopping with her mum’s friend MC1 who is currently with FC1”*.
- (76) This complaint led to DC Hull and DC Barratt attending the home of MC2 on Tuesday 28<sup>th</sup> March 2023. The officers spoke to MC2 and C2 separately and in different rooms, neither knew what the other said to the Police. When DC Hull spoke to C2 he confirms he asked her questions regarding the basics of the allegations – what happened, where it happened and how it happened. DC Barrett contemporaneously recorded the conversation and her typed notes of it are in the court bundle.
- (77) In her initial complaint to the Police, the following is included in the information recorded by DC Barratt about what C2 told them, *“He touched me on my front bits...it’s been since August, since she had a boy took off her, she was wearing clothes, it was under her clothes, MC1 didn’t know about it, MC1 was in the living room and she was in the bedroom, FC1 had told her not to tell her mum and dad when it first started.”* When asked if she had told anyone about this, C2 confirms she told *“my mum, on Friday.”* When asked why she told her mum, C2 is reported to have said, *“My auntie down club, her daughter was touched by him, my mum took me upstairs and asked me if he touched me and I said yes”*. C2 is reportedly asked, Did you know he had touched other girls? And her reply is recorded as: *“No. my mum says he’s done it to quite a few girls”*.
- (78) The information gathered by DC Hull and DC Barratt is sufficient to persuade them an ABE interview of C2 is justified and the same is organized for later that day.
- (79) I pause to note at this point, there is a discrepancy between what the Police have recorded as being the catalyst for the complaint and the contents of MC2’s section 9 Criminal Justice Act statement dated 20 June 2023. In the Crown Report print out it is recorded that: *“the initial complaint suggests the disclosure was completely out of the blue and prompted by her daughter looking anxious, biting her nails, but her statement clarifies she (C2) was specifically asked about FC1. MC2 has stated her mind was a mess at the time of making the report to the Police, and she was under the influence of alcohol when the child*

*made the disclosures. She has confirmed her statement is true; she asked the specific question, and also asked something along the lines of, 'Is that why you've been quiet and biting your nails?'"*

### **MC1's CASE AND EVIDENCE**

- (80) MC1 has her own vulnerabilities which required an assessment of her cognitive functioning. In January 2024, the psychologist, Dr Martha Laxton-Kane assessed the mother and provided a report which concluded the mother's psychological assessment and score, "*is at the top end of the extremely low range of intelligence and indicates that MC1 has some areas of learning difficulty and a significant cognitive impairment. MC1 will experience difficulties with processing, understanding and retaining more complex information, especially when information is presented verbally and at fast speed*". Dr Laxton-Kane identified the mother to have an uneven cognitive profile; her processing speed was an area of relative strength but an area of relative weakness is her verbal comprehension and working memory scores. When asked if she thought she had any learning difficulties, MC1 told Dr Laxton -Kane "*yes because I forget things, I forget when my next court date is, I struggle to read and write as well*". When asked about her concentration and attention span, the mother said, "*half and half, better if mind focussed, like a job interview will concentrate on that*". She said her memory was not good, forget things." I have borne this assessment and its conclusions in mind when evaluating the mother's evidence. The mother has litigation capacity and required, and received, the support of an intermediary when giving her oral evidence to the court.
- (81) MC1 confirmed the veracity of her written evidence. The mother does not think it is possible for FC1 to have sexually abused C2 because her evidence is that there was not an opportunity for him to have done so. When asked why she thought C2 may be lying about that, her evidence is: "*because they were never left alone apart from that one time (when she went for a job interview) and because family members have put it in her head*". When C2 telling lies was explored further, MC1 agreed she hadn't known C2 to lie about "*really big things and MC2 has never said that C2 tells lies*".
- (82) MC1 agreed C2 stayed over at her home at weekends and "*a couple of nights on a school night I took C2 to school*". The mother stated; when C2 stayed over she would sleep in the same bed as MC1. FC1 would be at his parents' home because he was spending time with CX.
- (83) MC1 stated she moved from a two bedroom flat to a one bedroom flat in early 2023, subsequently changing her evidence to say she couldn't remember in which month she had moved. The reason for the move was because the two bedroom flat was too big for her after CZ was removed from

her care. MC1 agreed C2 stayed over when she was living in the two bed flat but denied C2 had visited or stayed over in the one bedroom flat.

- (84) MC1 agreed she is socially isolated and apart from any support provided by FC1 and his parents, the only other support she now has is from her own father who cares for her son, CY. She agreed that at the relevant time this court is dealing with in March 2023, MC2 was her only other friend and it was a good friendship. They have now ‘fallen out’ due to these allegations being made.
- (85) MC1 agreed, prior to the allegations being made, there had been an incident at MC2’s home when FC1 had slapped or smacked MC2 on the bottom in her presence. MC1 asserted this was because they were all *“having a laugh...banter and all that”* and denied MC2 had been upset by it. This contrasts with MC2’s oral evidence who was clearly not at all happy about it having occurred, and C2’s oral evidence where she states her *“mum chased him down the road and she slapped him across the face because she doesn’t want him slapping her bum when he’s got a girlfriend”*.
- (86) MC1 agreed she had not mentioned anything to MC2 about why CZ was no longer in her care, and also agreed she had been in town with FC1 the night CZ’s father, FCZ removed him from her care.
- (87) MC1 was asked about her relationship with FC1 and the progression of it. She agreed they had reconnected through Facebook but couldn’t be any more specific about the date than the beginning of 2022. She stated they didn’t meet up straightaway and suggested they met face to face after a month or two. When reminded FC1 had told the social worker they met up after a period of about two weeks, MC1 agreed with that timeframe.
- (88) MC1 denied being in a relationship with FC1 when CZ was removed by FCZ. MC1 asserted *“No, we were not seeing each other, we were just talking”*, and denied FC1 had stayed over at her flat or she had stayed over at his home at that point in the chronology. When asked how many times she had met up with FC1 face to face before CZ was removed, the mother’s evidence is: *“Not a lot because we were working loads and I had my kid and I didn’t want another person around my kid”*. She asserted the 4<sup>th</sup> August 2022 was the first occasion FC1 met CZ face to face and persisted in her denial FC1 had ever stayed at her flat at the weekends or prior to CZ’s removal.
- (89) MC1’s oral evidence is that after CZ was removed, FC1 stayed over one or two nights a week, on different nights each week and not every week but most weeks.

- (90) In respect of FC1’s supervised contact with CX, MC1 stated FC1 told her about the need for supervision of it after CZ was removed. The reason he gave her for the need for supervision was about the “*sexual touching and feeling other young girls up*”. MC1 confirmed FC1 had told her about his criminal conviction for assaulting MC3, and that there had been violence in his relationship with CX’s mother. FC1 had not told MC1 about social care conducting a risk assessment of him in June 2022 in relation to his contact with CX. MC1 confirmed she had not been worried about any of the allegations the young girls had made about FC1 even though she had thought long and hard about them and knew they were being investigated by the Police. When asked how she now felt about FC1 being around children, MC1 told the court, “*Alright to be honest*”.
- (91) MC1 confirmed the evidence of MC2 to be correct and she had not mentioned any of the above matters of concern about FC1 to her. MC1 agreed, as C2 was coming to her flat it was important for MC2 to know of the sexual abuse allegations but when asked why she didn’t tell her, MC1’s evidence is: “*I didn’t think it was my place to say, to tell other people*”. MC1 agreed, if the roles had been reversed and CZ’s father had been in a relationship with a person against whom such allegations had been made, she would want to know about them to safeguard CZ but could not explain why she failed to bring them to the attention of her only friend, MC2. Similarly, MC1 failed to tell MC2 about FC1’s convictions for violence despite agreeing she would have wanted to know about them herself if the roles had been reversed. MC1 agreed she had not told AC2 about them either.
- (92) In contrast to the above oral evidence which she gave the court, MC1 was asked about information she had provided to social care on other occasions and specifically during a Parenting Assessment conducted by a previous social worker, Kirsty Barker, the sessions for which were held between 22<sup>nd</sup> October 2022 – February 2023. In it, MC1 initially denied ever being in a relationship with FC1 and referred to him as ‘a friend’. Later, she told Ms Barker that FC1 would stay at her flat at the weekend when CZ went to his father’s for contact. The mother denies saying this to Ms Barker.
- (93) In respect of FC1’s involvement with C2, MC1’s evidence to the court is that FC1 first met C2 after CZ had been removed from her care but she couldn’t be any more precise about the date. She said FC1 met C2 at her flat and said this was about “*every 3 weeks*”. When C2 and FC1 were there together they “*had a laugh, she would be on her phone or be hyper, chase me or play hide and seek*”. C2 stayed over during the week once but FC1 was not there on that occasion. MC1 recalls it because

she borrowed £20 from FC1 to return C2 to school the next morning. C2 would stay over with her more during the school holidays.

- (94) MC1 was clear that FC1 only stayed over at her house on one occasion when C2 also stayed over and that was the night before MC1 went for a job interview. MC1 denied C2 was ever left alone with FC1 and asserted that on all the occasions C2 stayed with her, C2 would follow her into the bathroom whenever she went to the toilet, and if MC1 was in the bath, C2 would follow her into the bathroom and sit on the toilet seat playing on her phone.
- (95) On the day of the interview, MC1 told the court she telephoned MC2 to ask if C2 was “*alright to stay with FC1 and MC2 said yes. I phoned MC2 to ask her permission and then I set off*”. The interview was about 11.30am and she left her flat about 11.15am as it was only a short walk away. MC1 recalled speaking to C2 via facetime after she left the flat. When asked by Mr Taylor what were you doing when the call started, MC1 stated she was sitting on a chair at the warehouse. I infer from this reply, this was around 10-15 minutes later allowing for the time taken by MC1 to walk to the warehouse.
- (96) The job interview was cancelled at short notice as the interviewer failed to turn up, and MC1 asserted she then went to McDonalds where she met up with C2 and FC1.
- (97) MC1’ evidence then changed and she said she ‘Facetimed’ C2 whilst she was walking down to the job interview in contradiction to her first account that she had been sitting on a chair at the warehouse when the call started. When asked whether she had been on the telephone call to C2 the whole time, MC1 said “*Yes, unless she put the phone down and was on the phone to her mum*” which I found to be a vague not affirmative reply.
- (98) MC1 agreed she had been spoken to by a Police Officer about C2’s allegations and declined to provide a statement to them. She agreed she had signed DC Hull’s pocket notebook on the 5<sup>th</sup> April 2023 shortly after C2’s ABE interview. In it, she confirms she has provided a verbal account to PC Hull (as he then was) which states: “*There has only ever been one occasion where FC1 stayed over at the same time as C2. This was some time in winter. She and C2 slept in the only bed in the house, whereas FC1 slept on the settee. The last time C2 stayed over was two months ago. FC1 spent the night at a friend’s and returned at 0730 hours, at which time he paid for a taxi to take C2 to school....She has never left FC1 and C2 alone*”.
- (99) MC1 denied ever taking C2 to FC1’s house on any occasion in contrast to what C2 told the court.

- (100) The Police evidence is that on the 5<sup>th</sup> April 2023 MC1 was approached by the police with a view to obtaining a witness statement. The mother declined to provide a witness statement because she did not wish to go to court and told the police this was because she had a lot going on with her children. The contemporaneous, documented entry in the Police notebook on the 5 April 2023 includes the following: *“She has never left FC1 and C2 alone. She did have a job interview last month, which was at Hollywood Bowl. However, C2 was not at her house at this time and so she never asked MC2 if C2 could stay with FC1”*.

### **FC1’S CASE and EVIDENCE**

- (101) FC1 has always denied being the perpetrator of any sexual abuse. He is entitled to rely upon those denials unless the local authority can prove otherwise.
- (102) I have reminded myself there is no burden placed upon FC1 to provide any explanation at all for why C2 may have fabricated these allegations against him, and it is for the local authority to prove its case. Notwithstanding that important legal principle, the father has provided the following explanations when invited to do so:-
- (103) FC1 was interviewed by the police on Wednesday 29<sup>th</sup> March 2023 and stated he knew nothing about C2’s allegations until ‘Saturday night’. In his police interview he suggests the reason the allegations have been made by C2 is because: *“one of her family members knows from my last period of when I got accused of it – it was MC3...I knew they’d been talking about me already, so it’s like they were trying to get into the kids heads ‘Has he touched you?’ I don’t know”*. FC1 suggests MC2 and her brother’s partner (AC2) have been *“talking to MC3’s aunty because I’ve already been accused of it already. Well, I’ve already been done before for touching a child. Well no, I’ve got accused and they’re trying to say that I’m not allowed my kid and stuff like that”*.
- (104) When asked about any time he had spent with C2 he told the police he was hardly ever there when C2 visited MC1 because he would be at home spending time with his own daughter between Friday – Sunday. He stated C2 only stayed over at MC1’s at the weekend or if she was off school, which is consistent with MC2’s account. He said, the closest he has been to C2 was *“a couple of times when MC1 was there, she was colouring my tattoos in”*. C2 told the court about colouring in FC1’s tattoos and agreed she had done this with some scented colouring pens and said it happened *“about two times”*.

- (105) FC1 told the police he has only stayed overnight at MC1's when C2 has been there on one occasion. When asked when this was, he initially states: *"I don't know what date, I can't remember, I think it was a couple of weeks ago. It wasn't recent because I haven't seen C2 for a bit"*. Later in his interview he changed his account and asserts *"I haven't stayed at MC1's for about a month...something like a month and a half."*
- (106) When asked by the Police if he has ever been left alone with C2, the father's reply is *"Probably only when MC1's gone to the toilet or something like that. Like I say I don't always stay there long. Like I say, C2 only comes on a weekend and I have to stop at my mum's because I have my daughter. It's like only the odd time when I see C2. So it might be only when MC1's gone to the toilet. MC1's never been in the bath on her own while C2's been there"*. I pause to note that the mother denied C2 was ever left alone with FC1 even whilst she used the toilet, and in his oral evidence the father echoed the mother's evidence and told the court: *"No she (C2) always went to the toilet with MC1"* and denied any recollection of what he had told the Police: *"No, I can't remember that, she would follow MC1 all the time"* and he couldn't explain why he gave the Police a different version.
- (107) FC1 denied ever being left alone with C2 on any occasion at all. His firm response to the Police when specifically asked about caring for C2 whilst MC1 went for a job interview is: *"No, no. She's never, ever been left alone with me. Never."*
- (108) In his statement filed at court dated 30<sup>th</sup> October 2024, FC1 gives a different explanation to the one he gave to the Police and to the allocated social worker, Ms Sarah Onyon about being left alone with C2. He concedes he was left alone with C2 on the occasion MC1 went for a job interview. His explanation for his changing account is: *"Upon further considering my police interview at H369- H389 I have noticed an error in one of my replies. At H388 I was asked by the Police whether I had ever been left alone with C2 whilst MC1 went to a job interview....it was only after I was going through the transcript of the interview a week later did MC1 notice the error and remind me that she went for a job interview in approximately February 2023 and that there was a short moment when me and C2 were at home"*.
- (109) In his oral evidence, FC1 initially stated in cross examination he hadn't seen C2 very often, only *'a couple of times'*. It was pointed out to him that in his Police interview he had told them he saw C2 *'once every two weeks'* which would suggest a higher frequency than *'a couple of times'*. FC1 explained he gave this answer because he hadn't seen C2 in person but used to see her in the background when he *'facetimed MC1 and stuff'* and was including these occasions. He was then reminded he told the Police he had seen C2 *"about 10 times"* and his oral evidence changed to:

“*Yes, sommat like that, roughly*”. Which is a significant increase to that which he was initially prepared to admit.

- (110) FC1 was asked how many times he had stayed over at MC1’s home when C2 was there and he insisted it was only once, the night preceding the mother’s job interview which was also the occasion when C2 coloured in the tattoos on his arm. FC1 was asked about the different answer he gave the Police when he described staying over on a Saturday night and then getting up on the Sunday morning and taking C2 to a park with MC1 with no mention of the job interview. His evidence then changed and he said “*Yes, I got mixed up with that one*” and he denied staying overnight on that occasion and stated he couldn’t recall telling the Police that version even though it is contained in the audio and transcript of his interview. FC1 denied trying to minimize the number of occasions he had spent with C2 or the number of opportunities he had to spend time with her on his own.
- (111) FC1 was asked about the information he gave to Sarah Onyon; The unchallenged evidence of Ms Onyon is that FC1 provided her with identical information to that which he gave the Police when she was conducting her parenting assessment of FC1 in 2023. There were four assessment sessions held with FC1 in November 2023 and during one of these occasions the information he provided was: “*Regarding the most recent allegations in 2023 involving a 10 year old girl, FC1 stated he had socialised on a few occasions with the child’s mother, her partner and MC1. He and MC1 took the girl as well as his daughter out for a meal once without the child’s mother (MC2). He originally stated that he had only met the child ‘on a couple of occasions at the weekend’ (when he was not seeing his own daughter) at MC1’s home and denied he had ever been left alone with her. He then stated the girl would often ask when ‘FC1 was coming over’ and once she sat next to him and coloured in his arm tattoo with her colouring pens. It was proposed to FC1 that given these comments it would suggest she had spent more time with him than a couple of occasions to feel comfortable around him or ask after him, FC1 then said he would go round during the week to MC1’s home*”. When asked why he gave Ms Onyon this information if it was not true, and why not inform Ms Onyon he had seen C2 at least 10 times? His answer was “*I don’t know why*”.

## ANALYSIS

### ASSESSMENT OF THE CREDIBILITY AND RELIABILITY OF THE PARENTS AND OTHER WITNESSES

- (112) I consider an appropriate place to start is with an evaluation of the reliability of the parents' evidence.

#### MC1's Credibility and Reliability

- (113) The local authority concedes the mother's recollection of times and dates and her ability to orientate herself in time is extremely limited, and I also factor into my conclusions the opinion of Dr Laxton-Kane about the mother's cognitive deficits and vulnerabilities. There are, however, features of this case where I am persuaded the mother has not been truthful or given a consistent account which go beyond that which may be expected to arise from her cognitive abilities. These include, but are not limited to, the nature and progression of her relationship with FC1.
- (114) On the 15<sup>th</sup> August 2022 the mother was interviewed by the Police in respect of the troubling bruise to CZ's face. She told the Police she had known FC1 for six to seven months but they were not dating, he does not stay at her house and they are just friends. She tells the Police the day in question (4<sup>th</sup> August 2022) is the first occasion CZ had met FC1. The mother repeated this account in her oral evidence to the court during this hearing. This is in contrast to the oral evidence of FC1, and the written statement of CZ's father, dated 12 September 2022 when he told the Police what FC1 said to him on the 4<sup>th</sup> August: "*MC1 seemed to be ok with me taking him, she didn't really seem bothered by this, but FC1 got aggressive with me, he came up to me while I was holding CZ and told me I had no right in taking him and then he said he stays at MC1's when CZ is there.*" There has been no reason advanced by MC1 for why FCZ would say that unless it was the truth.
- (115) MC1 also told the social worker, Kirsty Barker during her parenting assessment in 2022 that FC1 would stay at her flat at the weekend when CZ went to his father's for contact. This has to have pre-dated the 4<sup>th</sup> August 2022 as CZ has lived with his father since that date. Even though the mother denies saying this Ms Barker I find that she did and prefer the contemporaneous recording of it. I can identify no reason for why Ms Barker would invent it and none has been suggested. I have taken into account the mother may struggle with identifying specific dates but I find she is being dishonest when she asserts FC1 did not stay at her flat when CZ was there regardless of

the date, that he did not stay overnight when CZ was at his father's house, and that FC1 never stayed with her at the weekends. I find that he did.

- (116) I have considered the relevance of this lie when evaluating the mother's evidence regarding her assertion FC1 has never been left alone with C2. I am persuaded the most likely explanation for it is the one advanced by the local authority, that MC1 was trying to minimize her own involvement with FC1 in 2022 and his involvement with CZ out of her wish to have CZ returned to her care. I consider it likely she has adopted a similar approach to minimize his involvement with C2 in order to have C1 returned to her care. I am reinforced in reaching this conclusion for the following reasons.
- (117) Firstly, despite accepting she knew about FC1's convictions for violence and the allegations against him of sexual abuse made by other girls, she did not believe them at the time she was told about them in 2022 and she does not hold any concerns about them now. I cannot identify any reason why she would not permit C2 to be alone with FC1 when she does not consider he poses any risk to a child.
- (118) Secondly, MC1 accepted in her oral evidence she spoke to MC2 prior to attending her job interview in February 2023 to seek her permission to leave C2 alone in the care of FC1. I cannot identify any reason why she would have done this unless that is exactly what she intended to do and did do. I prefer and I am persuaded by MC2's evidence that C2 was left alone with FC1 when she states: *"The last time C2 stayed over at MC1's was in February 2023. I remember I phoned C2 in the morning. I asked her where auntie MC1 was, and she said that she'd gone to an interview at a warehouse. She said that FC1 was looking after her"*. In her oral evidence MC2 recalled this conversation and said *"I think it was a telephone call (not a video call), if I'm right it were in the morning, she told me that MC1 had gone for an interview and she were alone with FC1"*. MC2 was quite right, it did take place in the morning and I cannot fault her recollection.
- (119) On the 4<sup>th</sup> September 2024, the mother filed her response to the amended final threshold. In it she addresses the issue of whether FC1 had been left alone with C2. She states; *"The mother cannot remember any occasion when C2 was alone with FC1. When the mother had a bath the night before the interview C2 was in the bathroom the whole time with her. C2 had a bath straight after the mother. The mother can remember on the day she went to her interview she was on Facetime to C2 on her entire journey walking to the interview and whilst she was waiting for the interview. No one turned up for the interview and facetime continued*

*between C2 and the mother until C2 and FC1 arrived at McDonalds as they had walked to meet her and they had food together”.*

- (120) I do not accept this account because there were holes and inconsistencies in MC1’s oral evidence when she was questioned about it. She sought to suggest C2 hadn’t really been left on her own with FC1 on the morning of the interview because she had been on a Facetime call to C2 throughout. I am persuaded this was not the case and MC1 was unreliable about where she was when the call started and whether C2 called her own mother in the middle of it. MC1’s account is also inconsistent with FC1’s written statement where he asserts “*MC1 left the flat in a rush to go to the job interview and C2 phoned her mother, MC2...after calling her mother, C2 video called MC1*” FC1 also asserts the Facetime call ended whilst he and C2 were in the park and he describes another gap in time of 5 – 10 minutes when MC1 is not in contact with C2. The two versions are inconsistent and this causes me to doubt the veracity of both parents’ versions.
- (121) DC Hull spoke to the mother on the 5<sup>th</sup> April 2023 which was the week after C2 made her allegations and not long after MC1 had attended for the aborted interview at the warehouse. She told DC Hull that C2 had never been left alone with FC1 at a time when the events were much more recent for her to recollect than they are now or even in October 2024. I infer she did not tell DC Hull any of the above information about being in constant contact with C2 via the Facetime call because there is no record of it in DC Hull’s pocket notebook. I am persuaded MC1 was not open and honest with DC Hull when she said C2 had never been left alone with FC1 whether this was because she was on the toilet, having a bath, in the living room or at an interview, and this was an attempt by her to place distance between FC1 and C2.
- (122) I have considered whether MC1’s dishonesty with DC Hull was a consequence of anything said or done to her by FC1 in the period between giving his Police interview and her speaking to DC Hull and declining to give a Criminal Justice Act statement. I have determined, on reflection, the evidence heard by the court at this hearing does not currently permit such a finding as it was not sought by the local authority nor was it fully explored in the oral evidence. When asked, the mother denied being told what to say by FC1.
- (123) Thirdly, the mother’s version is also in direct contrast to C2’s evidence, which I prefer for reasons I will come to in due course.
- (124) In summary, I do not find the mother to be a credible witness. I am persuaded that she has been dishonest about the occasions and opportunities FC1 has spent with C2 on her own in the same

way she has demonstrated her dishonesty about the occasions and opportunities he spent with CZ. The mother does not suggest her decision to say these things is attributable to FC1 and I conclude on the evidence available to the court at this hearing it was a matter of her own personal choice to mislead the court.

### **FC1's Credibility and Reliability**

- (125) In his oral evidence there were many examples where FC1 gave inconsistent explanations and accounts to the one he has given previously. In firm but fair cross examination by Mr Pallo, FC1 had little option but to concede he has given conflicting accounts to the Police and Social Care on many important issues. I am persuaded FC1 has told so many lies he struggles to remember which versions he has told to who. It meant each time he was asked a question his answer changed as he struggled to find explanations to fit the evidence. I formed the view that the longer I listened to his evidence, the less credible it became. It persuaded me his denial of C2's allegations could not be relied upon. In addition to those issues set out above regarding C2, other issues he has previously been dishonest about included but were not limited to the following.
- (126) In his oral evidence he initially stated he reconnected with MC1 via Facebook at the start of 2022 and first met CZ on the 4<sup>th</sup> August 2022, the day CZ was removed from the mother's care which was also the version the mother advanced in her own evidence. He stated he had met MC1 face to face before that date when CZ was staying with his father, FCZ but he couldn't recall where or when.
- (127) In the pre-birth Parenting Assessment of FC1 in respect of C1 dated 6<sup>th</sup> December 2023, FC1 gave a different account. His assessment sessions were held on the 7<sup>th</sup>, 15<sup>th</sup> and 20<sup>th</sup> November 2023 in addition to some sessions held in July and August. In them, he told Ms Onyon he reconnected with MC1 via Facebook in 2021 and they met face to face about 2 weeks later, he said MC1 brought CZ with her. When this was put to him, FC1's evidence changed to "*I can't remember*" but he continued to deny he had met MC1 or CZ in 2021.
- (128) When FC1 was interviewed by the Police in respect of C2's allegations on the 29<sup>th</sup> March 2023, he told the Police officers "*I've been with MC1 for a year and a half, I can't say really*" which would be consistent with Ms Onyon's recording of their relationship starting in 2021, and for this reason I prefer Ms Onyon's more accurate and contemporaneous recording. I conclude FC1 is being dishonest with the court when he advanced a different date in his oral evidence.

- (129) FC1 told the court he *“started staying overnight at MC1’s flat when CZ got took off her, that night, that was the first time I stayed over. No I didn’t stay over at any weekends at all because I had my daughter at weekends”*.
- (130) FC1 was then reminded about the information MC1 had given to Kirsty Barker in her parenting assessment in June 2023 namely, that FC1 would stay over at her flat when CZ was with FCZ for the weekend. FC1’s evidence then changed and he agreed he had started staying over at MC1’s flat before CZ was removed but continued to deny staying there whilst CZ was present and he said *“most of the time I stopped there during the week”* as opposed to his earlier assertion of having never stayed at the weekends at all (my emphasis added). He asserted the only time he had seen CZ prior to the 4<sup>th</sup> August 2022 had been in the background of a video call with MC1 and he had never met him face to face before that date.
- (131) In FC1’s police interview on the 28<sup>th</sup> March 2023, he told the Police he and MC1 would take CZ and C2 to play outside on the grass together when the sun was out. This had to have pre-dated 4<sup>th</sup> August 2022 as MC1 has only had supervised contact with CZ since that date. It evidences another lie told by FC1 to the Police in his August 2022 interview.
- (132) When questioned in cross examination about the events of the 4<sup>th</sup> August 2022, FC1 agreed he and MC1 had agreed to meet up ‘in town’ and they were going out for a meal together. He agreed he was interviewed by the Police on the 15<sup>th</sup> August 2022 about the bruise to CZ’s face, and the court has a copy of the transcript of this interview.
- (133) In that interview with the Police, FC1 denied ever having stayed at MC1’s flat, he asserted they were ‘just friends’, and he told them that this occasion (4<sup>th</sup> August 2022) was the first time they had met up: *“That were first time, since I, since I’ve known her really, basically”*. When asked by Mr Pallo why he lied to the Police about these things in his interview, his reply was, *“It wasn’t a lie, I thought we were talking about CZ and stuff. I should have said I have stopped (at the flat)”*. He accepted he hadn’t told the truth about it being the first time he had met up with MC1 and stated: *“I weren’t lying really, I should have said I’ve seen her more than once or more than twice”*.
- (134) In the same interview, FC1 told the Police he and MC1 were *‘just good friends’*, and he just *‘bumped into her in town’*. FC1 had to concede this was also a lie because he had pre-planned to meet up with MC1 and CZ to have a meal but stated: *“No I wasn’t trying to downplay anything. I was trying to be honest and to tell the truth. There’s nothing that I need to lie about”*.

- (135) In August 2022 FC1 is asked by the Police whether he knew MC1's address. He denies he does and says: *"I've never been to her house she's never been to my house.....No. I don't even know her address, I know she lives somewhere down [redacted], that's all I know, but near [redacted] near [redacted]. I don't know the actual where it is from there."* this is another lie because he did know where it was and he had stayed over at MC1's flat on more than one occasion at that point in the chronology.
- (136) I do not accept FC1's repeated assertion he did not lie to the Police in August 2022, I am persuaded he told a great many lies to the Police in that interview at a time when he knew them to be lies. FC1 has been interviewed by the Police and convicted of criminal offences on more than one occasion, he is well aware of the importance of giving a truthful and accurate account to them. I am persuaded the most likely explanation for telling those lies deliberately was to minimize his connection to both MC1 and to CZ, and to obstruct or distract the Police investigation away from himself at a time when he knew social care's risk assessment for the time he spends with his daughter, CX recommended only supervised contact with a child. During that risk assessment, dated June 2022, FC1 had denied being in a relationship with anyone. By the end of his oral evidence I was persuaded FC1 is an accomplished liar and has no difficulty at all with giving the Police, social care and this court his version of the truth that he wants others to hear.
- (137) I take this into account when evaluating what FC1 told the Police in his interview in March 2023 in respect of the number of occasions he had met C2, initially suggesting it was only couple of times before increasing this to ten, and seeking to mislead them by asserting he had 'never ever' been alone with her when I consider he knew that he had. I do not accept the account put forward by FC1 that it was a genuine mistake to have suggested otherwise to the Police because he had forgotten about being left alone with C2 on the morning of MC1's job interview and wasn't reminded of this by MC1 until much later in 2024. I do not accept this because FC1 is a person who systematically lies to the Police and to people in authority and only admits to the truth when he has little option but to do so. I prefer the evidence of MC2 and C2 on these issues.
- (138) I have taken into consideration the fact the parents have lied about FC1 spending time alone with C2 does not mean they have lied about everything else and it does not of itself equate to proof of guilt where C2's allegations are concerned. I am persuaded however, that this lie was told deliberately by both parents; it is relevant to the material issue of whether FC1 had the opportunity to assault C2 sexually; the motive for telling it was the realization of that fact; and it is demonstrated to be lie by MC2's and C2's evidence and by the parents' belated admission C2 was left alone with FC1 on the morning of MC1's job interview. C2 could not possibly have

known in March 2023 that on one of the occasions she said she was sexually assaulted by FC1 would subsequently turn out to be the sole occasion FC1 admits to being alone with her over 18 months later in October 2024.

- (139) I am persuaded the parents' lies are fundamentally capable of corroborating C2's own personal account and are supportive of FC1 having behaved as C2 has described.

### **C2's Credibility and Reliability**

- (140) I have carefully evaluated C2's ABE Interview, which in turn involves scrutiny of the events which led up to its creation, and consideration of whether the conduct of professionals and/or family members involved at that time fell so far below the standard expected by the relevant guidance that the reliability of the interview and C2's evidence is impaired.
- (141) In his written submissions, Mr Taylor makes a number of criticisms of the events which preceded C2 giving her ABE interview. It is correct there is no contemporaneous record of what was said by C2 in the bathroom on the evening of the 24<sup>th</sup> March 2023. It is agreed MC2 initiated this conversation with a direct question following on from what she had conveyed to her by LS via AC2. It is correct there is no account of how long this conversation took or what may have been said to C2 before the Police arrived on the 28<sup>th</sup> March 2023 to make the first 'independent' recording of C2's allegations. I have also weighed in the balance the inconsistencies in MC2's account about C2 biting her nails. I do not consider it is necessary to address each point raised in detail save to conclude I am persuaded the process is not fatally flawed and the evidence of C2 and MC2 is reliable for the following reasons.
- (142) Firstly, I have considered what opportunity existed for C2 to have been suggestible and influenced into adopting false allegations against FC1 as her own personal experience. I have concluded there was little to none and certainly none that was taken. It is agreed that prior to the evening of Friday 24<sup>th</sup> March 2023, there is no evidence MC2 knew of any previous sexual abuse allegations against FC1 and there was no evidence AC2 did either. The only person who knew of them was LS and there is no evidence she shared this information prior to that night. Therefore, there was no opportunity to discuss the previous sexual abuse allegations made by other girls with C2 prior to this night.
- (143) AC2 thought C2 was not in the same room when LS gave MC2 and AC2 the information via her phone via the loudspeaker but C2 confirms hearing it on a loudspeaker and I prefer C2's evidence

on this issue to be more reliable. There is no reason why she should invent it and I proceed on the basis C2 did overhear firsthand some of what LS said but I do not consider this taints C2's evidence in anyway.

- (144) The evidence is that thereafter, there was barely any time at all before MC2 spoke to C2 in the bathroom and directly asks C2 whether 'FC1 has touched her'. MC2 received an immediate affirmative response from C2. I accept this response would have been devastating for MC2 to receive and not what she wanted to hear. It is likely she would have had difficulty digesting and accepting this answer whether she had consumed alcohol or not. I have been persuaded there was little to no opportunity between receiving the information via LS and C2 giving her affirmative reply for anyone to encourage, suggest, fabricate, indoctrinate or to otherwise persuade C2 to make a false allegation against FC1. I accept it was the answer C2 gave her mother because I cannot identify any reason for why MC2 would have invented such an unwelcome and distressing reply unless it is what C2 told her.
- (145) I have considered carefully that C2's initial complaint to her mother is in response to a direct question and was not volunteered by C2 but there is no evidence it was asked with any preconceived ideas, pressure, threats or encouragement for C2 to respond in any particular way by MC2.
- (146) Secondly, I am further persuaded to reach this conclusion by the following facts.
- (147) MC2 was a good and loyal friend to MC1 who, at that time, was her only friend. MC2 had no reason to doubt, question or worry about FC1 or MC1 prior to this event and there is no evidence she had any hidden agenda to invent such allegations against FC1 or to inculcate such an idea into C2's head. Whilst there is an incident where FC1 slapped or smacked MC2 across the bottom which was not welcomed by her, it has not been suggested by the parents this was a reason for MC2 to encourage C2 to make false allegations. The parents' version of this incident is that it was a 'joke' and 'banter'. I do not accept it may be so easily dismissed in that way and is more likely to be another example of inappropriate sexual boundaries being crossed by FC1. I prefer the evidence of C2 and MC2 on this issue.
- (148) I formed the impression that MC2 is a devoted and loving mother to C2 who even on the night in question asked FC1 to tell her the allegation wasn't true. MC2 was desperate for reassurance to believe it had not happened and this persuades me it is highly unlikely she would have sought to harm her daughter by reinforcing or suggesting false memories, even unwittingly.

- (149) It is likely the atmosphere in MC2's family home changed after C2 made her allegations from the happy family gathering which had prevailed earlier that evening. But there is no evidence to suggest this contributed to any imagined experience by C2 or that C2 was influenced by that environment. The change in environment was a response to C2's allegations not the precursor of them.
- (150) There is no evidence that between the 24/25 March 2023 and C2 being spoken to by the Police that MC2 repeatedly questioned C2 in detail about her allegations and nor did C2's father, FC2 do so. On behalf of FC1, Mr Taylor invites the court to speculate there probably were such conversations but I do not accept that invitation. This court acts on the evidence not on speculation or suspicion.
- (151) Finally, I take into account the evidence in this case about the changes in C2's presentation which have been noticeable to MC2, AC2, KMH, and NR. The changes are not sufficiently specific to enable me to conclude they are directly attributable to C2 being sexually abused by FC1 because she would bite her nails prior to MC1 meeting FC1, but they are supportive of, and consistent with, C2's account about what has happened and lend credence to it for this reason.
- (152) I have considered the evidence gathered by DC Hull and DC Barratt on the 28<sup>th</sup> March both at MC2's home and by conducting the ABE interview itself. In cross examination of DC Hull, Mr Taylor criticized him for asking too many questions of C2 at MC2's home and not asking enough questions to explore C2's responses in her ABE interview. I consider there is a balance to be struck when questioning a child and the need for the child to be given "*the maximum possible 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 they are asked.*"<sup>11</sup> I am satisfied DC Barratt did comply with this and recorded the questions DC Hull asked C2 at her family home together with her replies. The contemporaneous written note indicates an exchange which, when read aloud, takes less than three minutes to repeat. I reject any suggestion it was too long or inappropriately conducted by the nature of the questions asked.
- (153) Similarly, there are always more questions a child could be asked in interview and a decision has to be made about when to stop. I have also taken into account an intermediary was not used by the Police which may have clarified and/or amplified further some of the responses C2 gave, nor

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<sup>11</sup> Re B [2006] 2 FLR 1071

are there any notes of the pre-interview planning process. But I have been persuaded there is insufficient evidence to conclude the Police Officers have deviated from the guidelines to such an extent that it impairs the reliability of C2's ABE interview taken as a whole. There is no evidence upon which the court could conclude DC Hull, or DC Helen Barratt who has provided her written evidence, are anything other than honest and credible witnesses who were doing their best to assist the court and the criminal investigation.

- (154) I am persuaded the guidance referred to by MacDonald J in **AS v TH** and **Re P** above has been adequately followed, and whilst it may not have been perfection because there is not a contemporaneous note of every conversation available for the court to evaluate, and the ABE interview may have been improved had the Police used an intermediary in accordance with the guidelines, one has to have a sense of realism and accept when a child is speaking in a free flow narrative it is simply not always possible to achieve perfection.
- (155) Having considered the totality of the evidence I have been persuaded the events and process which led up to the creation of the ABE Interview and the conduct of the interview itself do not cause it to be fatally flawed and the contents of C2's ABE interview and her oral evidence are reliable.
- (156) In considering the evidence the court has from C2 I have reminded myself that whilst C2 has given oral evidence herself and had her account subjected to cross-examination, the court weighs and considers her evidence in the same way as any other witness, there is no extra weight or special treatment of it simply because she is a child.
- (157) There has been no dispute, if the court accepts C2's allegations in her oral evidence and her ABE interview to be the truth, that the facts pleaded by the local authority are established and the threshold for intervention is crossed. This constitutes both actual significant sexual and emotional harm being caused to a child by FC1, and gives rise to a likelihood of future sexual harm which is attributable to the care provided by him.
- (158) I am persuaded C2 is not a suggestible child but an intelligent one, and there is a paucity of evidence to persuade me anyone has suggested to C2 she was sexually assaulted by FC1 which she has then adopted or embellished as a personal experience. C2's account is detailed and has remained consistent on the occasions she has been asked about it or chosen to repeat it. There is no evidence she has ever resiled or deviated from it and she does not exaggerate it to suggest

penetration has taken place when asked about this. When asked what she meant by “*loads of times*” in cross examination, she explained it meant four times which is plausible and consistent with FC1 accepting he had seen C2 on about ‘ten occasions’ which gave him the opportunity to assault her on four occasions. C2 is able to link the commencement of FC1’s sexual abuse to the time when CZ was removed from MC1, and when DC Hull in the ABE interview makes a mistake about the date it started, C2 corrects him so that her account remains consistent, she does not adopt what he suggests:

Q: Ok, did any part go inside your private parts that time?

A: C2 shakes her head.

Q: No, Ok. You said earlier, he’s done it loads of times since February

A: Not February, August.

- (159)** When describing where she was laid on the bed and where FC1 was lying, C2 is able to demonstrate where each of them were and which way they were facing. When describing which part of FC1’s hand could she feel, C2 is spontaneously able to point to the palm part of her hand where contact was made as well as with his fingers. All of these details add authenticity to C2’s account.
- (160)** C2 has described the occasions when she was left alone with FC1, either by FC1 following her into the bedroom and MC1 being in the living room, being alone with him whilst MC1 was in the bath, or when MC1 left them alone together when she went to her job interview. On each occasion FC1 saw and used it as an opportunity to assault C2 sexually. I am persuaded MC1 well knew of these opportunities even though she did not know what FC1 was doing and she has chosen to lie and conceal them. In doing so, it persuades me she chose to prioritise her relationship with FC1.
- (161)** C2 has described FC1 instructing her not to tell her own parents about his sexual abuse of her and, until asked a direct question by MC2, she complied with his instructions. This is plausible and it is well known this is how abusers operate in an environment of silence.
- (162)** FC1 told the Police about his heightened sense of vigilance and caution which he felt compelled to exercise in his behaviour when he was around CX. He told them he no longer changed her nappy and did not allow her to ‘twirl’ near him in case it was misconstrued. He told the police about how the allegations made by C3 had affected him and his interaction with CX. He said people were saying to him he should permit CX to dance with him, yet his fear of another false

allegation being made against him prevented him from doing so. In contrast, with C2, a child who he initially asserted he had met on only two occasions, he engaged with playfighting, hugging, and allowed her to be in sufficient physical proximity to colour in his tattoos. He agreed to care for her on his own whilst MC1 went for a job interview. This inconsistency of attitude and approach between C2 and CX is consistent with FC1 normalising C2 into accepting physical contact and in due course, sexual touching. I do not accept FC1 has only met C2 twice or even 'about 10 times' as he asserts. C2 is described as a quiet, shy child until she gets to know a person well, and the familiarity of her behaviour with FC1 which MC1 and FC1 describe is consistent with a degree of far greater contact than they are prepared to admit to.

- (163) When C2 was subjected to questioning in court, she continued to maintain her account and rejected any suggestion she was guessing or that FC1's denials were truthful. Her response when asked why she continued to visit MC1's flat if FC1 was 'touching her down below' is: "*because I didn't know he was going to do it over and over again*" and is, in my judgment, one of the most spontaneous, compelling, and truthful replies in this entire case.

### **MC2's Credibility and Reliability**

- (164) I am persuaded MC2 is a credible and reliable witness. When giving evidence she was honest and forthright despite being understandably distressed by the subject matter. Initially, she did not wish to complete her evidence and had to be persuaded to do so by the use of a witness summons. There is no evidence to suggest she is a person who wished to participate in these proceedings as part of any personal vendetta against FC1 or MC1. In evaluating her evidence as a whole I do not consider any discrepancy between the initial police recording made at 11.30am on the 25<sup>th</sup> March 2023 and her statement made to the Police in June 2023 undermines her evidence.
- (165) The written statement before the court submitted by DC Barratt dated 7<sup>th</sup> October 2024 sets out the information given by MC2 to her and DC Hull on the 28<sup>th</sup> March 2023. In that conversation, DC Barratt confirms MC2 told them she had received a text from her sister in law (AC2) which prewarned her about FC1, and that she took C2 upstairs and questioned her which caused C2 to burst out crying and confirm she had been touched 'down there' indicating her vagina, and that he had gone down her trousers 'skin to skin'. This account is consistent with MC2's oral evidence and with C2's, and with AC2's. I find it an accurate and truthful account which is entirely consistent with C2's evidence even though MC2 could not have known what C2 told the Police

on the same date. I am persuaded that if any inconsistency in MC2's initial reporting exists, it is more likely to be attributable to her 'mind being a mess' as she said in her evidence as she struggled with the shock of processing the information C2 gave her.

### **Conclusion**

- (166) In conclusion, I have been persuaded C2 is, on the balance of probabilities, a person who is telling the truth and the local authority is entitled to the Findings it seeks. I make each of those findings which are on the threshold schedule as pleaded, later amended to reflect the evidence in this case and set out below, and that schedule is approved in satisfaction of the section 31 statutory criteria.
- (167) In accordance with FPR Part 12 Chapter 7 and Practice Direction 12G, the local authority shall provide a copy of this judgment to the South Yorkshire Police for the purpose of any criminal investigation and/or the Crown Prosecution Service to enable it to discharge its functions under any enactment, whether by pursuing criminal charges or any sexual harm prevention order.
- (168) I remind the parties this is a final determination of these facts which are sought as part of the threshold criteria in this case and, for that reason, any application for leave to appeal must be made within 21 days following the handing down of this judgment. In accordance with the judgment of McFarlane LJ, and now President, in **Re H (Children) [2015] EWCA Civ 583** the order of the court made on the 9<sup>th</sup> January 2025 will have this reminder recorded on the face of it.

**H.H. JUDGE MARSON**

**9<sup>th</sup> January 2025**

### **THE SCHEDULE OF FACTS APPROVED BY THE COURT TO SATISFY THE SECTION 31 STATUTORY CRITERIA**

The Court finds the threshold criteria contained in section 31 of the Children Act 1989 to be satisfied, and at the time the local authority intervened to protect C1 there is a likelihood he will suffer significant harm and the likelihood of harm is attributable to the care likely to be given to him by his parents, not being care that is reasonable to expect a parent to give.

The significant harm likely to be suffered by C1 is physical, sexual, and emotional harm to his welfare arising from the following facts:

### **Physical and Emotional Harm by the Mother**

1. The mother, MC1 is a perpetrator of physical abuse. Her older two children are not in her care, CY was removed in 2009 and CZ in August 2022.
  - a. The court found on the 1<sup>st</sup> October 2010 that the mother was the most likely perpetrator of an inflicted bite mark on CY's left buttock. This would have caused CY significant pain.
  - b. CZ was seen with a concerning bruise to his face in June 2022. MC1 failed to seek appropriate medical advice in respect of this injury.

### **Sexual and Emotional Harm by the Father**

2. The father, FC1 is a perpetrator of sexual abuse to a child under the age of 13 years. This gives rise to a likelihood of sexual harm to C1 and of C1 witnessing such behaviour which is likely to cause him emotional harm. The acts of sexual abuse perpetrated by FC1 occurred in the home where FC1 was living and on some occasions MC1 was present in the home but not in the same room. The presence of MC1 in the home was not sufficient to deter FC1 from committing sexual assaults upon a child.

### **C2**

- a. In August 2022, following CZ being removed from the care of MC1, FC1 touched C2, a child then aged 9 years, on her 'private parts' (vagina) above and beneath her underwear. This occurred in MC1's home whilst MC1 was elsewhere in the home. FC1 told the child not to tell her mum or dad about it, and told her that MC1 did not know about it;
- b. On two further occasions which occurred in February 2023; one when MC1 was in the bath, and one when MC1 was out of the home attending an interview, FC1 got under the bed covers with C2 while he was wearing just shorts and put his hands on her private parts (vagina) underneath her pants having unzipped the 'onesie' she was wearing.

### **Physical and Emotional Harm by the Father**

3. FC1 displays behaviour which would compromise his ability to offer safe and consistent care to C1. This means C1 is likely to suffer physical and/or emotional harm as a result of his father's behaviour;
  - a. FC1 struggles with his anger; he has punched the TV at MCX's home, and pulled down a wardrobe and lightshade at MC3's home when drunk.
  - b. On New Year's Eve 2020/21 FC1 accused MC3 of cheating on him and assaulted her. This led to his criminal conviction for assault occasioning actual bodily harm. FC1 demonstrates abusive behaviour against women with whom he is in an intimate relationship.

**ENDS**