



Neutral Citation Number: [2023] EWFC 182

Case No: WD20P01489

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/06/2023

Before:

RUTH HENKE KC (SITTING AS A DEPUTY HIGH COURT JUDGE)

Between:

**The mother
- and -
The father**

Applicant

Respondent

Kate Tompkins (instructed by **Osbornes Law LLP**) for the **Applicant**
Georgina Howitt (instructed by **Goodwins Family Law Solicitors**) for the **Respondent**

Hearing dates: 15, 16, 17, 18 November 2022; 5, 6, 9 January 2023

Approved Judgment

.....
RUTH HENKE KC

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Ruth Henke KC:

1. I am concerned with a child who for the purposes of this judgment I shall call D. D was born in February 2019. He is now 4 ½ years old.
2. D's mother is now aged 39 years old. His father is in his forties. He is a property developer. His line of work is relevant because the mother asserts that he has committed criminal acts when conducting his business and in essence alleges that the father operates in a world in which he knows people who physically enforce the payment of debts.
3. The father has parental responsibility for D. As far as this court is aware, D is his only child.
4. D lives with his mother and his half-sister who I shall call M. M is now 8 years old. The mother's Children Act proceedings with M's father concluded with a final Child Arrangement order on 23 March 2017. The financial remedy proceedings were finally concluded on 25 January 2018 and were varied by consent on 12 September 2018. I have heard uncontradicted evidence from the mother that M's father now enjoys a relationship with his daughter and has regular contact.
5. The proceedings before me have their origins in an application made by the mother for an ex parte non-molestation order against the father in April 2019. Since then, as the detailed chronology in the paragraphs below will show, there have been applications by the mother for the court to suspend or vary an order that D should have contact with his father, and an application by his father for an order to enforce that contact order. Standing back and looking at the chronology as a whole, I remind myself that D has not had any contact with his father since 13 February 2021.
6. The proceedings thus far have been protracted. A finding of fact hearing was heard originally in June 2021 by the Circuit Judge. The decision of the Circuit Judge was successfully appealed in May 2022 when the case was remitted for hearing before me. That hearing began in November 2022, but final closing submissions were not received until early February 2023. By reason of heavy professional and court commitments, this judgment is delivered at the first available opportunity thereafter. I deeply regret that delay, which is a product of the extraordinary work pressures that all who work in the family justice system are now experiencing.
7. At the heart of this case are allegations which the mother and the father make against the other. The allegations are serious. They are set out in the Schedules of findings at A1-5 and A6-8 in the main bundle. The specific findings sought on behalf of the mother are set out at A1-5 in the main bundle. They are said to be non-exhaustive examples of the mother's overarching allegation that the father deliberately created an environment designed to control the mother through fear, intimidation, and humiliation if she did not act in accordance with his wishes both during and after their relationship. The father denies the mother's allegations in their entirety and seeks counter-findings. The findings sought on behalf of the father are at A6-8 of the main bundle. In relation to the mother's allegations relating to the assaults on 25 March 2021 and 10 July 2021, he denies any involvement in either and positively asserts that either the mother orchestrated the attacks herself and/or wrongly assigned to the father responsibility for those attacks to prevent him having contact with D. In addition, the

father alleges that the mother manufactured an email dated 8 July 2021 - which she disclosed to the appeal court - to bolster her case against him by providing a motive for the alleged assault on 10 July 2021. The father asserts in his Schedule that the mother has made repeatedly false allegations against him since their separation. He relies on the fact that the police have consistently taken no further action in relation to those allegations. He has never been charged with any offence against the mother. He asserts that the mother had not wanted their relationship to end and that she is acting out as a scorned lover. In evidence, he told me that the allegations against him seem to have grown as time has gone on.

Representation

8. Both parties have been represented before me by Counsel. Ms Tompkins appears on behalf of the mother; Ms Howitt on behalf of the father. I am grateful to them both for their assistance in this difficult case.

The Hearing

9. This case was listed before me for 5 days beginning on 14 November 2022. Sadly, the first day of the hearing could not proceed because Counsel for the father was unwell. The mother gave evidence first. During her evidence, the mother made reference for the first time to diaries she had kept which might be relevant to the issues I had to decide. During the course of the November hearing, I thus made directions for their disclosure and arrangements for the mother to re-enter the witness box on Friday 18 November 2022 after that disclosure had been achieved. On Friday 18 November 2022, I was told by Counsel on behalf of the father that she was not in a position to cross-examine the mother upon the recently disclosed diaries. I was faced with and acceded to a joint application for the mother not to resume giving evidence that day. Instead, I gave case management directions to enable the case to proceed as soon as all directions had been complied with. I offered dates before the end of the year to conclude the case but difficulties with the availability of counsel and concerns over whether or not the mother's solicitors would require a further LSPO before they could proceed further caused the case to be listed before me in the new year. The issue of legal funding for the mother was seen as a significant bar to the case proceeding this side of the winter holidays. The court was thus surprised to hear at the resumed hearing in January 2023 that in October 2022 the mother had sold her house. Funding therefore should not have been an issue in November 2022.
10. The resumed hearing before me took place over 3 days, namely 5, 6 and 9 January 2023. The intention was to at least complete the evidence and submissions and the hope was that judgment could be given on 9 January 2023. In the end that proved impossible. The mother became ill when giving evidence and needed to be assessed by the Court's first aider before she could continue. The father's evidence took longer than the time estimates given. In the end, I received written submissions in closing from both parties by 24 January 2023. Both parties wanted and thus had an opportunity to reply to those written submissions on the condition that they were confined to issues of factual or legal inaccuracy. Those written replies were sent to me by 3 February 2023.
11. There has been further delay in this case. That delay is regrettable to say the least. This judgment has not been circulated until 19 June 2023. It has been circulated firstly

to counsel for typographical and grammatical corrections etc. and is formally handed down on the first date convenient to Counsel and their clients - 7 July 2023. This delay is the product of the busy lists and the heavy workloads that all family law professionals are currently experiencing.

The Parties' Position in Closing

12. I have had the benefit of written submissions in closing on behalf of both parties. I have read both their substantive closing submissions and those submitted in reply to the other party with great care.
13. In closing on behalf of the mother, I am asked to find the allegations set out in the Schedule proved in their totality. It is the mother's case that from the outset that the father has sought to control her through threats and intimidation. Following separation, it is said that he has continued to threaten and intimidate her. He is said to have used these proceedings, including this hearing, to coerce and control the mother.
14. The father's case in closing is that the allegations made by the mother are false. In the written documents he provides detailed submissions as to why the court should reject the case against him and find, in essence, that the mother is a woman scorned who is lashing out at him by making false allegations intended to prevent and restrict him from having any contact with their son.

The Law

15. Counsel for both parties provided me with an agreed note of the law for which I am grateful. I have read it with care and supplemented it. When making findings in this judgment, whether in my assessment of the evidence, when narrating the chronology or in my analysis, I have borne in mind the law I have set out in this section.
16. I start with recording that at all times I have remembered that the burden of proof lies on the party that makes an allegation of fact and identifies the findings they invite the court to make.
17. The standard of proof is the balance of probabilities.
18. Findings must be based on evidence, not suspicion or speculation – Munby LJ in Re A (A child) (Fact Finding Hearing: Speculation) [2011] EWCA Civ. 12.
19. The court must take into account all the evidence and consider each piece of evidence in the context of all the other evidence – see Dame Elizabeth Butler-Sloss P, in Re T [2004] EWCA Civ. 558, [2004] 2 FLR 838.
20. Any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and must expressly indicate that they have done so (per Macur LJ in Re M (Children)[2013] EWCA Civ 1147.
21. There is a need for caution when relying on the demeanour of a witness- see Leggatt LJ said in Sri Lanka v The Secretary of State for the Home Department [2018] EWCA Civ 1391 at paragraphs 40-41.

22. When considering the facts in this case, I have in mind what Newton J stated in A County Council v L and others [2021] EWHC 48 Fam:
23. *With every day that passes the memory becomes fainter and the imagination more active. The human capacity for honestly believing something which bears no relation to what actually happened is unlimited. Therefore contemporaneous documents are always of the utmost importance.*
24. I must be mindful of the fallibility of memory and the pressures of giving evidence – King LJ - Re A (A Child) [2020] EWCA Civ 1230.
25. It is not uncommon for witnesses to tell lies. The court must be careful to bear in mind that a witness may lie for various reasons, such as shame, misplaced loyalty, panic, fear, distress, confusion and emotional pressure. Sometimes people lie to bolster up a just case or out of shame or out of a wish to conceal disgraceful behaviour. The fact that a witness may have lied does not necessarily mean they are guilty of the matter alleged against them and the fact that the witness has lied about some matters does not mean that he or she has lied about everything: see R v Lucas [1981] QB 720. Sometimes there may be a core of truth although the witness may have lied about peripheral matters – see for instance the judgments of Munby LJ in Re A (A Child) (No 2) [2011] EWCA Civ 12 and Ryder LJ in Re M (Children) [2013] EWCA Civ 388. It is important to note that, in line with the principles outlined in R v Lucas (above), it is essential that the court weighs any lies told by a person against any evidence that points away from them having been responsible for the act alleged- H v City and County of Swansea and others [2011] EWCA Civ 195. I also remind myself that the family court should take care to ensure that it does not rely upon the conclusion that an individual has lied on a material issue as direct proof of guilt but rather should adopt the approach of the criminal court, namely that a lie is capable of amounting to corroboration if it is (a) deliberate, (b) relates to a material issue and (c) is motivated by a realisation of guilt and fear of the truth- H-C (Children)[2016] EWCA Civ 136. I have borne in mind the wise words of Macur LJ in In Re (1) A (2) B (3) C (Children) [2021] EWCA Civ 451 at paragraphs 57-58.
26. I have had the benefit of hearing expert evidence. Thus, I remind myself that the functions of the expert and the court are distinct. It is for the court to make the factual decisions based on all the available evidential material in the case, not just the scientific or medical evidence; and all the evidence must be considered in the wider social and emotional context- A County Council v X and others [2005] 2 FLR 129.
27. Intimate images of the mother were disclosed into these proceedings by the father, he says, inadvertently. I have accordingly considered the judgment of Knowles J in Re M (A Child: Private Law Proceedings: Case Management: Intimate Images) [2022] EWHC 986 (Fam) which considers the case management of such images and their use in private law proceedings.
28. This case concerns allegations of domestic abuse, including coercive and controlling behaviour. As such I remind myself that I must follow the principles and guidance at PD 12J of the Family Procedure Rules 2010, and the guidance given recently by the Court of Appeal in Re H-N and Others (children) (domestic abuse: finding of fact hearings) [2021] EWCA 448 (Civ). In that case at [25] to [27] the Court of Appeal noted that PD 12J remains "fit for the purpose for which it was designed" enabling the

courts to recognise domestic abuse and thereafter how to approach such allegations in private law proceedings. In relation to the recognition of domestic abuse in the form of coercive and/or controlling behaviour the Court of Appeal said:

"[25] ... *there are many cases in which the allegations are not of violence, but of a pattern of behaviour which it is now understood is abusive. This has led to an increasing recognition of the need in many cases for the court to focus on a pattern of behaviour and this is reflected by (PD12J).*

[26] *PD12J paragraph 3 includes the following definitions each of which it should be noted, refer to a pattern of acts or incidents:*

"domestic abuse' includes any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse. Domestic abuse also includes culturally specific forms of abuse including, but not limited to, forced marriage, honour-based violence, dowry- related abuse and transnational marriage abandonment;

'Coercive behaviour' means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

'Controlling behaviour' means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour."

29. The Court of Appeal in Re H - N endorsed the judgment of Hayden J in F v M [2021] EWFC 4 in which he referred to paragraph 60 the statutory guidance published by the Home Office pursuant to Section 77 (1) of the Serious Crime Act 2015 which identified paradigm behaviours of controlling and coercive behaviour, and said:

"coercion' will usually involve a pattern of acts encompassing, for example, assault, intimidation, humiliation and threats. 'Controlling behaviour' really involves a range of acts designed to render an individual subordinate and to corrode their sense of personal autonomy. Key to both behaviours is an appreciation of a 'pattern' or 'a series of acts', the impact of which must be assessed cumulatively and rarely in isolation." [4].

30. However, the Court of Appeal emphasised at [32] that:

"It is equally important to be clear that not all directive, assertive, stubborn or selfish behaviour, will be 'abuse' in the context of proceedings concerning the welfare of a child; much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour. We would endorse the approach taken by Peter Jackson LJ in Re L (Relocation: Second Appeal) [2017] EWCA Civ 2121 (paragraph 61):

"Few relationships lack instances of bad behaviour on the part of one or both parties at some time and it is a rare family case that does not contain complaints by one party against the other, and often complaints are made by both. Yet not all such behaviour will amount to 'domestic abuse', where 'coercive behaviour' is defined as behaviour that is 'used to harm, punish, or frighten the victim...' and 'controlling behaviour' as behaviour 'designed to make a person subordinate...' In cases where the alleged behaviour does not have this character it is likely to be unnecessary and disproportionate for detailed findings of fact to be made about the complaints; indeed, in such cases it will not be in the interests of the child or of justice for the court to allow itself to become another battleground for adult conflict."

31. If I make any findings of fact, I am required to identify those findings that I have found proved. Any proven allegations will become the established facts in the proceedings. Those that are not proved cannot and should not be relied upon when considering any subsequent welfare analysis – Re A (Supervised Contact Order: Assessment of Impact of Domestic Violence) [2016] 1 FLR 689 CA.
32. Given the nature or the allegations in this case and the court's overriding objective to deal with the case justly, I have reminded myself throughout this hearing of FPR Part 3A, PD3AA and the court's duty to consider participation directions.

The Evidence and My Findings

33. In order to determine the allegations in this case I have been provided with a fact finding bundle of 1629 pages which I have referred to in this judgment as the main bundle, a supplementary bundle for the November 2022 hearing of 58 pages, a supplemental bundle of 229 pages for the January 2023 hearing together with a separate pdf of the exhibits to the father's last statement . The exhibits to his statement alone run to 587 pages. His exhibit bundle is referred to as supplementary bundle 3 in Ms Howitt's closing submissions on behalf of the father. I also had the benefit of two PNG files capturing text messages relating to texts sent in April 2019, a pdf of Amex statements, further zip file including documents the father had relied upon in the proceedings, the original diaries to which the mother referred in her evidence (one pink A5 ring bound notebook, one white background black spot motif A5 ring bound notebook) and a hard drive containing audio visual documents. The hard drive contained a covert audio recording of 18 January 2019 alleged by the mother to capture the father threatening her and a bodycam recording which captured the sounds on the evening before, during and after the attack on 10 July 2021. Both parties have implicitly and rightly accepted the admissibility of these pieces of evidence; they are both relevant and necessary to the facts that I am asked to determine. It is however necessary for me to remind myself that such recordings are hearsay evidence. I have also when considering them asked myself whether these are genuine moments captured inadvertently or whether they are staged by the mother to wrongly further her case against the father.
34. I confirm I have read and re-read all the evidence placed before me and watched and listened to the audio-visual evidence more than once.
35. I heard evidence from the single joint expert witness, D Martin Woodgate of Emmerson Associates. Emmerson Associates are experts in Digital Forensics and

Incident Responses. He had initially provided a report to the court in September 2022 which he expanded upon in addenda and in answers to specific questions. He gave evidence to the court in relation to an email to the father's solicitors from the mother into which it was said the father had been bcc'd on 8 July 2021. Although his evidence was hotly disputed and subject to rigorous written and oral questioning, in the end his settled position can be simply stated. The mother had altered the version of the email of 8 July 2021 she had forwarded to the court in May 2022 in that she had added in a blind copy line showing it had been sent to the father. The email she had altered, however, in amended form replicated an actual email that the mother did send on 8 July 2021 and into which she had in fact blind copied the father. The expert's investigations caused him to conclude that the father had received the email of 8 July 2021 into which he had been blind copied. According to the expert, an examination of the father's inbox demonstrated emails received before and after the email in question. There was no evidence that the email of 8 July had bounced back. From his investigations, there was no reason why the father should not have received it. According to the expert, the only reason the email of 8 July 2021 did not show in the father's inbox was that it had been deleted. The expert could not say who had deleted it.

36. I made participation directions to facilitate the mother's evidence. The mother gave evidence before me from behind a screen. However, whether seated in court or when giving evidence, I could see her. I observed that she was obviously distressed on occasions and on one occasion the hearing had to be paused for her to receive medical attention. I ensured that she had a member of her legal team next to her to assist her with the bundles.
37. My overriding impression of the mother not just from her oral evidence but from the written evidence as a whole and the audio/visual evidence was that she is a woman of low self-esteem. I accept her evidence that at the time she felt lucky to be in a relationship with the father. She self-reported, contrary to self-interest, that she was needy and sensitive. Having heard her give oral evidence, watched video footage (capturing her at the relevant time) and considered all the evidence as a whole, I find that that is an accurate self-assessment. She is in my assessment emotionally labile. I find that she is likely to be someone who is ruled by her emotions. At times in her evidence, I find that she was driven by her heightened emotion and her suspicion and her fear of the father.
38. Within the court papers and in her oral evidence, the mother alleged that the father was a criminal. In essence the allegations were: (i) of corruption to gain notice of development plots and preferential planning permissions; and (ii) using a "fixer" to sort people out who owed him money. Having listened to the evidence on this point, I concluded that the mother was in evidence doing no more than voicing suspicion which had been raised by throw away comments that the father had made during the relationship in an ill-judged attempt to impress her. As she told me, he had told her all sorts of stories. The mother produced no evidence which supported her allegations and looking at the evidence as a whole, I conclude that those allegations are not made out. However, what in my judgment the allegations do illustrate is the level of distrust and suspicion the mother has in relation to the father and his conduct.
39. When the mother was asked questions about the March 2018 assault, she accepted that she did not think the father was behind it at the time but by reason of all that has

happened since, she now thinks that he was. It is her case that during the relationship she was gaslit, manipulated and controlled and did not necessarily see things as they really were but that now, with hindsight, she sees things differently.

40. Given the preceding paragraphs of this judgment, when I have looked at the evidence as a whole, I have considered it necessary to remind myself that reflection born of suspicion and fear may be inaccurate; people in such circumstances see things and imply motives which may in reality not be there. Conversely, I observe and take into account that sometimes someone's suspicion is proven. When looking at the evidence in this case, I have also had to consider whether there is a pattern here which when viewed as a whole is probative of some or all of the allegations the mother makes, and which demands that historical events are now looked at in a new light. It is because of that need that I have in this judgment set out a substantial narrative chronology which (i) places the allegations in their contemporaneous context and (ii) allows me to stand back and view the history as a whole, including any patterns within it.
41. The mother was cross-examined about why she had not reported the abuse she now alleges occurred in the relationship before March 2019. In evidence the mother told me that she struggled to articulate what had happened. She told me that she was not now exaggerating but *the more I thought about it, the more I recall*.
42. Having listened to her intently and read all the evidence placed before the court by both the mother and father, I find that she has lied to the court when she told me that she had not written the letter I refer to below and which is in the main bundle at C556-58. The contents clearly flow from her and are consistent with her self-professed neediness. She told me in evidence that she had prepared the album which was forwarded under cover of that letter but denied she had done so for Valentine's Day as stated in the letter, telling me she would not have done so because D was ill at that time. I, however, remind myself that the letter which refers to the album's preparation for Valentine's Day was written at a time of high emotion and when I find the mother was seeking reconciliation. Anchoring the album to Valentine's Day in that context would have been more likely to have the intended impact upon the father. I find that she lied to the court about the letter because of her embarrassment about sending it and because she feared her wish for a reconciliation in March 2019, if known, would undermine her case - why would she want a relationship with a man who treated her in the manner she alleges? The answer to that question, I find, lies in her low self-esteem, her likely emotional state 6 weeks or so after D's birth, and probably in the effect of the relationship and the father's behaviour towards her.
43. Further, I accept the expert's evidence that the mother manufactured the version of the email of 8 July 2021 placed before the court in May 2022 to record that it had been bcc'd to the father. I find she did so out of a desperate desire to show the court that she had indeed bcc'd the father into the original email of that date. Her actions were rooted, I find, in panic when she discovered that forwarding an email would not capture a bcc'd item rather than out of a desire to maliciously create an email which had never been sent.
44. I find that the mother has added into the CMS letter originally sent in February 2020 to the father at C597-8 the boundaried paragraph I have referred to in the chronology section of this judgment below. She was, I find, in effect updating it. What troubles me about this editing of evidence is that she has admitted manufacturing a copy of the

8 July 2021 email and apologized to the court. However, she has not apologized in relation to the editing of the letter of February 2020, indeed she did not accept that she had and thus she has, I find, lied to the court on this issue. I have asked myself why she lied about this and what effect this lie has on the evidence as a whole. Having considered the matter carefully, I find that this is an example of the mother being afraid to admit what she had done for fear of undermining her case.

45. Standing back and considering the mother and the evidence she gave me as a whole; I find that her desperation to be believed and her fear that she would not be believed has caused her to act in ways in this case which to put it mildly were ill-advised. I accept the submission that as someone who has been a litigant in person at times, she has developed a need to argue her case and promote her causes. I accept that just because she has lied about one matter or manufactured or altered evidence about another, that does not mean she has lied throughout the case and about the matters upon which findings are sought. It does however mean that when factoring in her evidence to my analysis I must tread cautiously, and I do so.
46. In cross-examination the mother revealed for the first time in these protracted proceedings that she had kept diaries. I ordered their disclosure as it appeared to me that they may contain material evidence. In her Children Act statement of December 2022, she told me that she had never intended the diaries to be seen by a court. She had not intended her diaries to be a log. Rather, they were a space in which she could write and express how she felt. In her evidence, she told me that she had kept the diaries in question from the beginning of the relationship until 2021. She had used them with a domestic abuse professional to help her get things straight in her head. She had used them as an opportunity to set out what had happened and how she felt about things from time to time. When she returned to give evidence about the diaries in January 2023, she could not say how long after the event she would make the recordings in the diaries. It would not be years or months. but it could be weeks. The father's case on the diaries is that they have either been prepared by the mother for these proceedings, probably several years after the events described and that she has lied about the nature and purpose of the documents. That submission is based on three factors:
 - a) the existence of a diary is inconsistent with the mother's reasoning for her continually developing case. If she had a diary, she would not have been reliant on memory.
 - b) The diaries do not follow a chronology which can be accurately pieced together from other evidence such as the father's WhatsApp messages.
 - c) They contain assertions about the father which are false.
47. Looking at the evidence as a whole and considering the arguments on behalf of both parties, I find that the diaries are not daily logs and in that sense, they are not contemporaneous records. However, I do not consider that they have been manufactured for the purposes of these proceedings. They are clearly written at different times, using different pens and different inks. Having inspected them, I find that the mother in her evidence was accurate in their description of their contents. They were written during the course of the mother and father's relationship. They were never intended for viewing by a court. They were an opportunity for the mother

to express herself in private. The father may not agree with their contents but part of that is that the content is written from the mother's perspective and is thus necessarily subjective. I thus take the subjective nature of their content into account when I consider the evidence as a whole. I also take into account that the events described therein may not have been written at the time but as the mother told me weeks later. Thus, they are recordings of memories which may have faded or may have been augmented overtime as the mother dwelt on events before writing them down. Whilst it is right that I should factor those matters into my analysis, the fact that the mother did record some events is relevant and cannot be ignored.

48. When she was cross-examined for the second time in January 2023, the mother was obviously highly stressed and appeared overwhelmed. Medical attention had to be called for her. The father had exhibited to his statement to the court WhatsApp messages including intimate images of her. Whilst I excluded them from the court bundle, their disclosure had very obviously impacted on her adversely and impacted on her ability to give further evidence to this court. The father through his counsel and in evidence has apologised to the court and the mother for disclosing intimate images of the mother into these proceedings and thus causing the mother distress. He told me he had overlooked them when going through the WhatsApp messages of which they were part. He told me that he had not meant to disclose them. He denied that he had deliberately left the intimate images in the WhatsApp messages that went to the court. He told me that before he disclosed the WhatsApp messages, he had removed an intimate photograph of himself. I have received a letter dated 16 January 2023 from the father's solicitors. In that letter they offer their sincere apologies to the court and the mother for the inclusion of the intimate images of the mother that were exhibited to the father's statement for the January 2023 hearing. They tell me that it was their oversight due to seasonal pressures that they were exhibited to the statement. I accept their apology which is sincere. What happened ought not to have happened. The judgment in Re M (above) of Mrs. Justice Knowles must be observed. When it is not, it has disastrous consequences. The impact of the disclosure of the images and the Court's knowledge of their existence on the mother in this case was significant. It impacted significantly on her ability to give evidence in the January 2023 hearing, and I take that into account when assessing her evidence.
49. In addition to evidence from the mother, I heard evidence from the maternal grandmother who had provided a statement to the court. She was a calm, considered and credible witness. She gave a factual account with dignity about what she knew of the assault on 10 July 2021 and its aftermath. She told me that her perception was that against a background of escalating threats, her daughter had now been assaulted in March 2021 and again in July 2021. Her concern was clearly for her daughter and her grandchildren.
50. I also heard from the maternal aunt. She answered the questions posed of her in a matter-of-fact manner. Her oral evidence reflected her written statement to the court. On behalf of the father, it was suggested that the aunt had fabricated messages she had exhibited to the statement. The aunt was required to produce her phone for inspection. That inspection showed that the aunt was indeed telling the truth.
51. Ms J is the mother's friend. I have a statement from her in my main bundle at C528. There is a second at C623 in which she requests (i) that her address is withheld from the father who she regards as a dangerous man and (ii) that she has a screen when she

gives evidence. I acceded to her application for a screen and considered it sufficient that the court had her address.

52. In her oral evidence Ms J confirmed that she had met the mother when they had both attended a mother and baby class after M was born. They had become friends and by 2019 saw each other as the mother had told me, quite a lot. They had spoken about the court case. The mother very frankly told me she did not know whether she had asked Ms J for a statement first or whether Ms J had offered first.
53. I found Ms J to be a down to earth, credible witness. As she told me, she had come to court to tell me what she had seen and what she had heard. The mother had confided in her during the course of the mother's relationship with the father. Ms J gave evidence about the telephone call the mother and father had had in late March/early April 2019 when she was in a car with the mother, and she could hear the father on the loudspeaker system. Ms J told me that she had been horrified by the threat she says she had heard the father utter to the mother to the extent that she had disconnected the call. She told me candidly that she had spoken about the threat she had heard with the mother because it was so horrible. They had spoken about it at the time it happened.
54. By the time the father entered the witness box, he looked crest fallen and on occasions worn down. Having considered all the evidence in this case, I find that he is a man who likes to be in control and becomes anxious and stressed when matters are beyond his control. On the face of the papers, I noted that he had accessed counselling for the anxiety and stress he said these proceedings have generated. Although he did not seek participation directions, I directed that he too should give evidence behind a screen and have the support of a member of his legal team with the bundles if he needed that.
55. In relation to the financial aspect of the case, the father told me that he had overlooked a property he had purchased and thus he asserted had inadvertently failed to declare the full extent of his wealth in Schedule 1 proceedings. Equally, the First Tier Tribunal found that he had under-represented his wealth fivefold to them. He was keen to tell me that he had spent £250,000 in an attempt to see his son. All he wanted, he told me, was to be a father to D. However, he accepted that he was in arrears with maintenance for D, contrary to the assertion he had made to this court in his statement at C324. The father has an appeal pending before the Second Tier Tribunal. As I listened to his evidence, I was struck by two matters. Firstly, that his wealth and the preservation of it was extremely important to the father. Secondly, how important it was to him to pursue a matter of principle rather than substance. He just could not see that by being in arrears whilst he pursued his point of principle, his son potentially suffered because his mother was not receiving any money for him. As counsel on behalf of the mother cross-examined the father in depth about this matter he became indignant and just stated "I wanted it clear" and later said "I like things in order" when referring to his insistence that the mother gave her bank account details to CMS, even though he himself had them. At that point, the court had a glimpse of the father's need to be in control.
56. Pausing and reflecting on the previous paragraph, I note that in the Schedule 1 matter and before the First Tier Tribunal the father has misrepresented facts. I find that when it comes to his wealth, the father has misrepresented the truth to the Court or, in other words, lied to the Court. I find that he is a man who will lie to protect his wealth.

However, I have reminded myself that just because he has lied about those matters, I should not proceed to presume he has lied about other matters of relevance in this case.

57. In his written evidence, the father had doubted that Ms J was a real person. His initial case was that the mother had fabricated Ms J's existence. Once his counsel had seen proof that she was indeed who she said she was, he accepted that and then proceeded to give evidence that he accepted that she and the mother were friends. The fact that the father took the issue to such length is demonstrative, I find, of his level of distrust of the mother but also his need to control. He demanded the evidence in relation to identity and would not accept just one piece of proof. All this in relation to a woman who I find the father had met, as the mother says, at one of M's birthday parties. I also find it relevant that she is the only direct witness of the father's behaviour towards the mother. The father is an intelligent man, and he would have known the potential relevance and weight of such evidence in the context of this case. I find that this is likely to have been a tactic by the father to deter Ms J from giving evidence.
58. I noted at the time and record in this judgment that when the father's alibi for the threatening call in June 2020 was dissected in evidence by Ms Tompkins in cross examination, the father visibly crumpled. His answers became stock and weary.

The Narrative Chronology

59. I now turn to consider the chronology of this case. I am indebted to Counsel in this case for the chronology of agreed facts that they have jointly prepared and put before this court. I have found it invaluable. It has enabled me to consider the allegations made by both parties in context. It also enables me to write that in this section of the judgment, unless I have stated something to the contrary, the facts are admitted. Where, however, I have found it necessary to make findings as I have gone along, I have applied the law as set out in this judgment and provided brief reasons for that finding.
60. I begin this section of the judgment by recording that D's mother and father began their relationship in the Spring of 2017.
61. It is alleged that in July 2017 the father accessed the mother's mobile phone without her knowledge or consent. This allegation is the start of item 11 on the mother's schedule of allegations at A4 in the main bundle.
62. The mother alleges that in the August 2017, the father recorded them having sexual intercourse without her knowledge and consent. It is alleged by the mother that the father told her that he was keeping the footage as insurance should the mother ever annoy him. This allegation forms the substance of item 15 of the schedule of allegations made by the mother and found at A4-5 of the main bundle.
63. The mother further alleges that in February 2018 the father, whilst sitting with the mother in his car outside his home, verbally threatened her, saying "if you ever cheat on me or betray me I'd kill you with my bare hands and bury you under the foundations of one of my building sites... I'm not joking". This allegation is item 4 on the mother's schedule of allegations at A2.

64. It is accepted that on 23 March 2018 the mother was assaulted at her flower shop between 20:30 and 22:30. However, she did not report that until 27 March 2018 when at 18:09 she attended W Police Station. At the police station the mother gave an initial account. That initial account is not part of the admitted facts. In that initial account the mother describes how on the evening of 23 March 2018 shortly after she had taken the bins out, she was walking back into the shop when she felt a blow to the back of her head which rendered her unconscious. When she woke up, she was in the back room of the shop, there was broken glass on the floor, but nothing had been stolen. She recalled that her chest felt sore and that she was bleeding from the back of her head.
65. The mother told me in evidence, and I accept, that she did not immediately report the assault to the police because she needed to access medical treatment first and sort herself out.
66. I note from the documentation disclosed by the police that on 27 March 2018 the mother told them that she does not remember seeing or hearing anyone prior to the attack. After the assault on 23 March 2018 the mother drove to her sister's home. Her sister took her to hospital.
67. The police recorded on 27 March 2018 that the mother reported sustaining the following injuries: (i) bruising and bleeding to back of head; (ii) purple bruising to collar bone and chest; (iii) scratches on right side of neck; (iv) bruising and a slight cut near right eye; (iv) bruising around her right hip.
68. On 28 March 2018, the police contacted the mother at 14:00. She confirmed that she wanted the incident to be investigated. The police records show that the mother was recorded at that time as being hesitant at first about going to court as a witness if a perpetrator was identified but that eventually she did confirm that she would. It is also recorded that she told the police on this occasion that she was not usually in the shop at the time of the assault. The police advised the mother to get CCTV installed to which she responded that it was to be installed that week or the next.
69. On 29 March 2018, the police contacted the mother again. The records show that on this occasion the police told the mother that their investigation was to be closed as there was no CCTV footage or independent witness to progress the investigation. However, they told her that they would re-open the investigation if further lines of enquiry came to light. It is in that context that the mother "stated that she was advised to mention to the police that her ex-husband had location sharing activated on her iPhone" and that she had only realised that after the incident had happened on the Monday. She did not know if it was relevant, but she had a domestic abuse order where all the locks in her house were changed. The ex-husband to whom she must have been referring when speaking to the police is M's father.
70. On 30 March 2018, the police contacted the mother, who provided the police with her ex-husband's details. The relevant police record sets out the steps the mother had taken to improve security as a result of the assault. They are noted to include all the locks being changed on the home she owned jointly with her ex-husband. The police completed the investigation in respect of the 23 March 2018 incident recording "there is no information at present that suggests her ex-partner was involved".

71. I find that the what the mother told the police at the time in relation to the March 2018 incident implied that her ex-husband was responsible for that assault. Despite that, the mother did not raise that allegation with CAFCASS in Children Act proceedings relating to M. The mother now alleges within these proceedings that this assault must have been on the father's instruction. She says that she implicated M's father at the time because the father had been annoyed when she did not originally tell the police about him and because there had been a history at the time of abusive behaviour by M's father towards her. At a later stage the father made the comment "you got what you deserved" in relation to this incident.
72. The assault of March 2018 now forms the substance of item 1 of the mother's schedule at A1 in the main bundle. Further at item 10 of her Schedule of allegations at A4 in the main bundle, the mother alleges that the CCTV that the father installed at the shop in response to this incident was monitored by him on his mobile phone. It is, she says, an example of his coercive and controlling behaviours. Another of which is set out in item 11 of her schedule of allegations, namely that the father would throughout the relationship seek to access the mother's telephone without her knowledge or consent by pressing her finger against the phone's touch pad when she was asleep or attempting to enter likely passcodes.
73. In her oral evidence before me, the mother explained that at the time, back in March 2018, she did not think the father was responsible for this assault. It is only because of what has happened since that she considers it must be him.
74. On 6 April 2018, X Police Force closed the crime report in respect of the 23 March 2018 incident.
75. On 18 January 2019 the mother recorded a conversation with the father. The father disputes that the recording captures him speaking. The transcript in the main bundle at C195 includes the male saying, "think I am joking but you know I'd really do it if I wanted to don't you, Me and my son against the world". The mother says that she will have to hide their son's passport when he is born to which the male laughs before saying "only if you piss me off- thing's that you don't know where my mum lives – I'd just take him there and you would never see him again. She'd help raise him; we wouldn't need you-warned you about before.". The recording ends with the male saying, "just don't get the wrong side of me – Did you find me a green console for the room". In the WhatsApp messages that the father exhibited to his January 2023 statement there is a WhatsApp exchange in which the father discusses with the mother her getting him a green console table and she sends him photographs of suitable console tables in November 2018.
76. D was born on 11 February 2019 by C-section.
77. On 12 February 2019 the mother and D were discharged from the hospital and went to the mother's home. D was readmitted to hospital with his mother on 14 February 2019 but later discharged
78. The father attended the mother's home on 16 February 2019 and took her and D to his home to stay the night.

79. On 16 February 2019, the mother's caesarean stitches tore. The mother attended the GP's surgery on 19 February 2019. According to the record the mother told the GP that the stitches had torn when packing the car with baby items. The mother was advised to rest and not to undertake any further lifting. The record states that the mother became withdrawn when questioned about support from her partner and defensive of him when asked about his decision to let her carry out lifting so soon after the operation. I note from the chronology that the father denies asking the mother to do any such thing.
80. The mother alleges that in February 2019, just after D's birth, the father wanted a break from the relationship, but she did not regard the separation as official. According to her they officially separated in March 2019. D would have been under four weeks old at that time.
81. As I recount the chronology, it is worth pausing and noting that the mother accepted in her oral evidence that prior to March 2019 she had not told the police or any other professional of the abuse she now alleges occurred during her relationship with the father.
82. The first time the mother contacted the police was on 18 March 2019. On that date at 13:00 she reported that the father had become annoyed and shouted at her over the phone. A police record states that the mother had asked the father whether he had cheated, and he had shouted at her. The father denies he behaved as alleged. The police did not take the matter forward recording it as a non-crime.
83. On 26 March 2019 at 15.40 the father attended a police station to report the 'trouble' he said he was having with the mother. He said that she was being sporadic about when he could see the baby and that she had registered D's birth without putting his name on the birth certificate. The police log records that the father told the police that the mother was manipulative, that he alleged that when they were in a relationship she would tell him that other men had been inappropriate with her to trigger a reaction from him and she would fake illness when he asked her to go back to her own home so he could get on with his work. The police recorded no crimes were disclosed by the father and advised him to seek advice from a solicitor.
84. On 27 March 2019 at 14:52 the father called the Y police to report the mother attending at his home uninvited when he was not home. He told the police that his cleaner had let her in and had told him the mother looked haggard, vacant and very unruly. The police advised the father to report concerns to Children's Services if he had genuine concerns over the mother's long-term ability to care for D.
85. The same day at 16:16 the father called H police force to report that he was worried about the mother and her children due to her crying, looking 'out of it' and disheveled, and in need of help. The father told the police that the mother had historically self-harmed. The mother in these proceedings says there is no substance in that allegation. The father alleged on this occasion that the mother was going through a messy divorce which had resulted in assaults. The father told the police he just wanted to know the mother was okay.
86. The police spoke to the mother on the evening of 27 March 2019 in the presence of the maternal grandmother. They told the mother that she had not done anything

wrong, and they advised her to return for her belongings.

87. The reports the father made to the police in March 2019 and detailed above are said by the mother to be deliberately false allegations. They form part of item 12 of the mother's schedule of allegations at A4 of the main bundle.
88. On 30 March 2019 at 17:18 the mother called H police to report that the father was due to come to her home to drop some of her belongings off. He had been asking to take the baby out and had got a little bit angry when she refused. She stated that she was concerned that when he got to her home, he would still want to take the baby away. The record states that the mother was worried because the father had 'threatened in the past to take the baby away from her and go to his Mum's in Ireland.' Later the mother reported that the father attended at the home at around 18.00hrs, that he had dropped off some of the mother's personal belongings, and that he had left without issue when the mother indicated he could not take D out.
89. The mother alleges that in the last week of March/first week of April 2019 the father verbally threatened the mother over the telephone on a loudspeaker in her car saying "you'll end up with your face smashed in" if she were to come after his money. This threat forms the substance of item 5 in the mother's schedule of allegations at A3 in the main bundle. It is said to have been witnessed by the mother's friend who was in the mother's car when the threat was uttered in a telephone conversation that was heard through the car's speakers.
90. At or about the same time when D was about 6 weeks old the father alleges that the mother sent him the letter at C556-558 which enclosed an album he said the mother had compiled for Valentine's Day. He alleges that he received the album and the letter together a few weeks after they broke up. The father's perception was that the mother wanted to reconcile. The mother admits she compiled the book for Christmas not Valentines Day and that the letter includes matters that she had portrayed but denies she wrote the letter or signed it. Further she denies she sent the album to him.
91. On 7 April 2019 at 13:43 the police were called by the maternal grandmother, not the mother.
92. The police made a welfare visit to the mother the same day. One of the attending police constables made a S9 statement after that visit. That statement is at G36- 38. It is a fulsome account of what the mother told him although not verbatim. It concludes by stating the constable's perception that the mother was terrified of the father.
93. The constable captured the initial account given by the mother on bodycam footage which I have watched. I note that the footage records the grandmother saying to the mother "you need to tell them." In essence the maternal grandmother says that if the mother does not tell them, she will tell the police what the mother told her earlier.
94. The initial account provides detail including that the argument started when the father turned up at her home wanting to see D and they had argued. She is recorded as saying that she must have said something wrong, "as he always got angry when this happens." She told the constable that the father had been shouting and screaming in her face saying she was stopping him seeing D, and that she was holding D in her arms when this was happening. The father then left, and the mother called the police.

Some 20 minutes later the mother alleges that the father sent her a text which was along the lines of “this situation with D is not working out”. She stated she thought he had calmed down and thus when he knocked the door a second time she answered. It is then that he confronted her with his belief that she was behind the messages he had received on the dating site. Before leaving the property for the second time the mother alleges that the father threatened to escalate things if she tried to do anything about it. It was only after he had left that she noted that her phone was missing.

95. On this occasion and according to the constable after some probing, the mother gave a history of her relationship with the father. That history included allegations that the father was controlling, ringing her 10-15 times a day, checking up where she was and was often jealous, although the conversations were friendly. She told the police constable that the relationship had deteriorated and that the father was now a very different person to the one she had met in that his anger was now directed at her. She alleged that one of the father’s friends always scared her and she said she knew the father had access to some kind of shotgun.
96. The father attended at a police station on 7 April 2019 at 22:45 and was arrested at 22:47 for common assault and theft. The father was interviewed by the police on 7 April 2019 between 11:42 and 12.15. I have a transcript of that interview in the papers before me in the supplemental bundle at PDF 202. Within the interview the father accuses the mother of making up allegations as she goes along and tells the police that this replicates how she behaved with her ex-husband.
97. The mother’s mobile telephone was not found on the father when he attended the police station on 7 April 2019, nor was it found in a search of his home undertaken at 01.00 on 8 April 2019. The police took no further action in respect of these allegations. The allegation that the father took the mother’s mobile phone on this occasion and failed to return it to her is now item 11 on the mother’s schedule of allegations at A4 in the main bundle.
98. On 10 April 2019, the mother commenced accessing support from MIND. I have before me a letter from MIND written in April 2019. The letter details that after the referral the mother told them of incidents of mental and physical abuse within the relationship. She told them that this had had a negative effect on her mental health and had led her to be fearful of the father and, since the latest incident, she reported being fearful of going out of her property. She told MIND that she had been gaslit and had her confidence and self-esteem undermined by the father.
99. On 11 April 2019 at 14:55 the father reported the mother to Y Police for harassment. The occurrence log records that he told the police that over the last year the mother had continually lied about him and has made false accusations about people including himself. The father’s perception as recorded by the police was that the mother did not want the relationship to end.
100. On 12 April 2019 H police appointed a IDVA to the mother.
101. On 13 April 2019, the father attended A Police Station and reported that he had been arrested on 7 April 2019 for common assault and theft and then released with NFA. The father raised again his concerns that the mother may make further allegations against him and wanted to report abusive messages on his phone from unknown

numbers whom he suspected to be the mother, however there was no proof of this. The father showed the police one of the messages and the police concluded there was no evidence to suggest the messages were from the same person or from the mother, and the messages themselves were not offensive or threatening and are recorded as not containing false information.

102. On 15 April 2019, the mother's midwife recorded that the mother was confused about the behaviours that went on in her relationship with the father and felt fearful after a recent incident. The midwife further recorded that the mother stated the father made her carry the pram and food shopping herself and that opened the caesarean wound.
103. On 15 April 2019 the mother issued a without notice application for a non-molestation order against the father. The same day the mother issued a C100 for an order prohibiting the father from removing D from her care. In her C1A the mother alleged emotional and psychological abuse by the father. Within the C1A she recounted a history that she alleged went back to 2017. The allegations included accusations allegedly made by the father that the mother had made up her ill health in July 2017 and had pretended to faint; allegations that when she would not do as he wished he was verbally abusive and made derogatory comments; he would tell her to leave his home and say he wanted nothing to do with her but then ask her back as if nothing had happened; in November 2017 he is said to have shown her sexually explicit messages sent between himself and other women and then accused her of accessing his phone without his permission making her doubt herself; did not allow her a key to his home although she was virtually living with him; he is alleged to be controlling of her behaviour; she makes the allegation that the father had her pack the car after a c-section and she broke her stiches and alleges that there were four, possibly five occasions when he made her aware that there would be bad consequences for her if things did not work out. The first three times made her uncomfortable, the fourth she recorded covertly. The C1A also includes an account of the alleged incident on 7 April 2019. Having set out what the form included, it is important that I also note what it did not include. There is no allegation on the face of the C1A accusing the father of being behind the assault in March 2018.
104. On 15 April 2019, a District Judge granted the mother both a without notice non-molestation order and a without notice prohibited steps order prohibiting the father from removing D from the care or control of the mother except for the purpose of agreed contact. The father was served with the non-molestation order on 18 April 2019.
105. On 24 April 2019 at 14:11 the father contacted Y Police to report that he had been served with an unfounded non-molestation order. He informed the police that the mother is lying and that he feels harassed. He stated he had instructed solicitors.
106. At 23:00 the same day the mother received a text message from the mobile telephone number 07919154175 which said: "No one cares about your nonsense. No one will believe you. And if you don't stop no one will be able to protect you. Just when you think it's over, when you feel safe, you'll see". That text message was captured by the police and appears at G31 in the main bundle before me. It is the mother's case that the father sent the message, or someone instructed by him in breach of the non-molestation order. That allegation is item 7 on the mother's schedule of allegations at A3 in the bundle. It was put to the father in cross-examination that nonsense is a word

the father uses to describes the mother's actions and that he had used the same description four times in his police interview of 8 April 2019.

107. On 26 April 2019 at 13:21 the mother reported the receipt of the message to H Police. The police viewed the text message. The mother made a police witness statement in respect of the receipt of the message. Within that statement she states that she does not know whether the message came from the father, however she thought it might be in relation to the return date for the non-molestation order which had been served recently.
108. H Police submitted a Cycomms application in respect of 07919154175. No subscriber details were found for the number which was a pay-as-you-go phone.
109. There was a court hearing on 30 April 2019 in the Magistrates' Court. At that hearing the court considered the mother's application for a non-molestation order on notice and listed the matter for final hearing. The court order recorded that the mother refused to accept undertaking proffered by the father in the non-molestation proceedings and intended to seek legal advice about the continuation of the prohibited steps order.
110. On 9 May 2019, the mother attended a police station to report that she had received a worrying text from a number she did not recognize. She wondered if the officer who had dealt with the text she had received in late April would recognize the number.
111. On 15 May 2019, CAFCASS prepared a CAFCASS Letter to the Court. In broad terms the letter records the incidents already set out in the chronology in this section of the judgment as alleged by the mother together with allegations made by her that the father drank alcohol heavily and that she had implied he used recreational drugs. The letter also captures the father's perception that the mother has a history of making false allegations, that the proceedings appear to be a consequence of the end of the relationship, that he is still not on D's birth certificate and that the mother will not acknowledge that he is the father or allow contact. He plans a paternity test. The father stated that he had no intention of removing D from the jurisdiction and would not be able to do so anyway as he is not on the birth certificate.
112. On 23 May 2019, the mother alleged to the police that on 30 April 2019 the father had attempted fraud by placing an order for furniture to be paid for by her business account but delivered to the father's address. The mother claimed that she had not been notified and cancelled the order on 3 May 2019. The mother alleged that the father contacted the company with whom the order was placed and told them he worked for the mother's business and placed his order in the name of her business without her permission. The father's account differs markedly. He states that he paid for furniture from a furniture shop based in Holland ("Eicholtz"), following the parties' trip to Amsterdam in November 2018. He paid for the order on 7 January 2019 from his business account. He realised that there was a lightbulb missing on 30 April 2019 and contacted the shop who arranged for a new order to be set up and sent.
113. On 31 May 2019 at 18:57 the father reported the mother to AB police for reporting him to H Police. The records state that he complained that the mother had reported him for various made-up crimes and issues. Those included, according to the records, TTKs, psychological issues and accusing him of a fraudulent transaction. He provided

an account of the application for the non-molestation order and stated he did not know if it was his. The father told the police that he is struggling to sleep as he is constantly worried that the police will call to arrest him.

114. The next day, 1 June 2019, the father attended at a AB police station to give an account in respect of the mother. He stated that he is innocent and has the evidence to prove it. He wants her to stop making allegations against him.
115. On 3 June 2019 at 12:52 the father contacted Y police for an update in respect of his complaint against the mother. The police log records that H police did not think the offence of stalking or harassment by the mother was not made out. Had it been, Y Police would have expected H police to investigate those matters.
116. It is admitted that on 20 June 2019 a GP examined the mother and confirmed there were no self-harm marks on her arms and legs contrary to an allegation of self-harm the father had made.
117. The unchallenged statement provided by PC Hadley dated 7 and 22 December 2022 recalls that on 23 June 2019 the mother made a phone call to the police to report a suspected tracking device had been placed on her vehicle. The alleged tracker was booked in by the police. PC Hadley had not seen a tracker and so when she was dealing with the matter, she sent a photograph of the alleged device to the high-tech crime unit who reported that they did not suspect it was a tracking device. The device was a small circuit board with two small watch batteries and a tiny red bulb. It could be part of a larger electronic item such as a child's toy. The device had been found in the driver's footwell of the mother's car. The photograph of the device is in the supplemental bundle at pdf27.
118. There was a court hearing on 25 June 2019. On that occasion, the mother was in person, but the father had legal representation. The parties agreed and the court approved: (i) the prohibited steps order to continue (ii) an interim child arrangements order which provided for the father to spend time with D on one occasion each week at a contact centre, with the mother to nominate three contact centres by 9 July 2019 and the father to select one by 12 July 2019 (iii) a DNA paternity test followed by the mother amending D's birth certificate once paternity was established, and (iv) the non-molestation order to continue to 13 April 2020. It is noted on the face of the relevant order that the father expected the DNS test to establish paternity. Contact proposals and arrangements were to be agreed between the parties by email. A final hearing of the applications was listed for 8 July 2019.
119. On 27 June 2019, the mother reported to H police at 14:27 a text message she received at 01:34 from a telephone number she did not recognise. The police viewed the text message which said "Don't kid yourself that you've won. You didn't. He got everything he wanted and you ignored the warning. Now you'll see the consequences, watch your back". The investigation summary records that at the time the mother did not think the father was the sender as the message refers to 'he' not 'I'. H Police submitted a Cycomms application in respect of the telephone number from which the text message was sent. Cycomms came back with an unregistered pay as you go telephone number. The text message the mother received on 27 June 2019 is the subject of item 6 on the mother's schedule of allegations at A3 in the main bundle.

120. In July 2019, the mother's landlord terminated the lease on her shop premises. It is the mother's case that the father maliciously informed the landlord that she was in breach of the lease. This allegation is item 14 of the mother's schedule of allegations at A4 in the main bundle. The uncontroversial evidence is that the mother had been allowing people to stay in her flat above her shop. The father knew that she had done so. In evidence the father accepted that only close members of the mother's family would have had that knowledge. The mother told me in evidence that as far as she is aware she had a good relationship with the shop's neighbours and the landlord. She suspects that the father tipped the landlord off. She told me in evidence that she could think of no one else who would have told them.
121. On 2 July 2019, the mother proposed three contact centres to the father. The same day the father's former solicitor contacted the mother to arrange DNA testing. The mother responded providing her contact details for AlphaBioLabs on 3 July 2019 but invited the father to reconsider the need for DNA testing as there was no doubt that he was the father. She consented to D's birth certificate reflecting the same. Further letters were sent by the father's former solicitor on 16 July, 19 July and 21 August 2019. The mother responded and provided her contact details again on 21 August 2019. AlphaBioLabs also attempted to contact the mother directly.
122. It was not until 6 September 2019 that AlphaBiolabs confirmed that the mother had arranged a collection appointment for a forensic sample to be taken from D. Shortly thereafter on 13 September 2019 the father's paternity of D was established through forensic testing. On 19 September 2019, the mother made a referral to two contact centres. Both of which the father contacted on 26 September 2019 with one responding on 3 October that they had no availability. The father contacted another centre, but the mother stated she had made a referral to a centre at another location.
123. The father made an application to the Child Maintenance Service to start making payments for D. On 23 October 2019, the CMS assessed the maintenance to be paid by the father to the mother for D at £16.72 per week using the direct pay service i.e., payment is made direct between the parents.
124. On 28 October 2019, the father failed to make the first CMS payment. The mother alleges that the father knew he was to make the payment direct to her and had her bank details. The father counters that he had not paid because the CMS were awaiting the bank details from the mother, who, despite their requests, had failed to provide them with the necessary details.
125. On 2 November 2019 the father had his first contact with D at a contact centre. D was by this time nearly seven months old. The mother asserted in her application to the court in December 2019 referred to below that the father had not asked for such contact until September 2019 despite the court order of 25 June 2019.
126. On 7 November 2019, a third partner agency referred to MARAC their concern that a car mechanic had found a tracking device on the mother's car and that the father is believed to be behind this. This gave rise to a MARAC referral. The police report records that supervised contact between the father and D was due to begin that coming weekend and professionals were concerned that there was a high risk to the mother if the stalking behaviour continued.

127. On 22 November 2019, H Police contact the mother regarding the tracking device: the mother was very clear that she did not want any police involvement and confirmed that there had been no further incidents, although she stated that she did have concerns around child contact. The mother now asserts at item 9 of her schedule of allegations at A3 that the father placed or caused that tracking device to be placed on her car.
128. On 11 December 2019, the father wrote an email to the contact centre lead. I have that email in the papers before me. It appears to me on the basis of its plain wording, and I so find, to be an enquiry about D's health and an expression of concern about it. The context of the email was that D was to be admitted to hospital imminently and the father had no information about that. The next day the father emailed the mother asking her to respond to a previous email dated 28 November 2019 regarding the child arrangement order, the birth certificate and the child maintenance payments. He also asked why he was not allowed to bring milk or water into the contact sessions to feed D or to take a photograph of D or allow a family member into the contact sessions. The email ended with the father stating that he had no option but to file a C100 to vary the Child Arrangements Order.
129. On 13 December 2019 at 21:30 the mother responded by email setting out: (i) the advice she had received from the paediatrician treating D for a deterioration in his weight: the advice was to suspend contact with the father for a period of assessment (ii) that she would inform him as soon as there was any change or any further information. The father replied on 14 December 2019 asking the mother to keep him updated on D's health and raising other issues relating to child arrangements. The father did not receive a reply.
130. The next relevant email was sent by the father on 15 December 2019 to the mother's GP expressing his concerns about D and stating that the contact centre lead had concerns for D's welfare in the mother's care and was planning to make a safeguarding referral.
131. On 19 December 2019 at 10:31 the father made a report to the police which triggered a safe and well check in respect of D. They told the father the outcome of that visit at 11:20 the same day. Later in the afternoon at 13:42 the father sent an email to the mother asking her whether D had been admitted into hospital. The father was concerned and accordingly, on what he asserts was advice from the police, he also called social services to try to ascertain the position. The social services said that the mother would call him with an update, but this did not happen.
132. The mother's case is that the allegations the father made to the police in December 2019 were false as was the allegation he made to the GP on 15 December 2019. These allegations are detailed in items 12 and 13 of the mother's schedule of allegations now before this court.
133. On 20 December 2019 the mother issued an emergency application to suspend the interim child arrangements order that required D to spend time with the father due to a deterioration in D's weight. The mother references within her application that she had told the father that she had been advised to suspend contact on medical grounds and that she had stated that she would keep him up to date on D's condition, however she

complained that he had made what she asserted were two malicious reports; one to the police and the other to social services.

134. The mother's application was heard by a Circuit Judge the same day. The father had had no prior notice of the hearing but was able to join the hearing at short notice by telephone. Having heard the parties, the learned judge suspended the contact order on the basis of the medical evidence before the court.
135. On 26 December 2019 and 1 January 2020, the mother sent e-mails to the father providing him with an update in respect of D's health. The father acknowledged the email of 1 January 2020.
136. Within his statement to the court dated 4 November 2022 at C709 the father alleged the mother had deliberately reduced D's feed to suspend his contact with D. However, at the beginning of the fact find the father's counsel clarified that the father was not seeking a finding to that effect and that the mother would not be asked about it in evidence.
137. The next court hearing took place 10 January 2020. On that occasion the court, by consent ordered the continuation of the suspension of the child arrangements order for D but granted parental responsibility order to the father and directed a section 7 report
138. The next event of note took place on 12 February 2020. On that date the CMS reassessed the maintenance to be paid by the father to the mother for D at £440.54 each month. The father did not oppose the variation. However, on 1 March 2020 the father failed to make the first reassessed CMS payment because, according to him, the mother had not provided CMS with her account details.
139. The mother wrote to the father on 16 February 2020. I have that letter at C597-98. The father says that the mother has doctored that letter by inserting a paragraph at the bottom of C598 which is boundaried on my copy to highlight it.
140. On 27 March 2020 CAFCASS prepared a section 7 report in which they recommended, due to contact centres being closed, that community contact take place between D and the father with the mother and a third party present, with an outline on how this should progress to contact at the father's home and eventually overnight contact. CAFCASS concluded there was no further role for them.
141. A Dispute Resolution Appointment was listed on 20 April 2020, but this was vacated (on 16 April 2020) on the basis that the mother told the court that she was in self-isolation and would be unable to engage effectively in a hearing whilst caring for two children.
142. On 9 June 2020 at 23:55 the mother received a voicemail from a telephone number she did not recognise. The voicemail was an audio recording of a voice saying, "and I will kill you, and I will kill you, and I will kill you". The mother reported the voicemail to H police who submitted a Cycomms application in respect of the number. No subscriber details were found for the number. However, the investigation discovered that a top up voucher for the telephone that sent the voicemail had been purchased from a particular newsagent local to the father's home on 9 June 2020 at 17:01. The police checked with the newsagents. There was no CCTV for the relevant

period. However, the police investigation ascertained that the call had been made from a cell-tower proximate to where the father lives. The mother did not make a statement to the police about this malicious communication until 26 March 2021. The malicious communication of 9 June 2020 is the subject matter of item 8 on the mother's schedule of allegations at A3 in the main bundle. The father initially placed before the court text messages which were intended to show that the voice mail could not have been sent by him as he would have been away from the area on a bike ride at the relevant time. The messages are at C744 in the bundle. During the course of the hearing, I gave the father an opportunity to file a statement from the friend with whom he took the bike ride that day. The father took that opportunity and filed a statement from DF. On behalf of the mother the contents of that statement were accepted. The mother's case, as put in cross-examination, was that on the timings provided by DF, the alibi was not made out. In the main the father did not accept that. However, he did accept that on the timings as provided by DF, he would have had the opportunity to make the call from the identified cell-tower although he denied making that call.

143. There was a further court hearing on 16 June 2020 at which the court ordered that the father should resume spending time with D at a contact centre and directed that the father make the referral to a specific contact centre. On 26 June 2020, the father received an email from that specific contact centre stating that following advice from the National Association of Child Contact Centres, the centre may be able to open subject to various conditions.
144. In the meanwhile, on 19 June 2020 the father contacted the police to ascertain if there are any investigations against him still pending.
145. On 28 June 2020, the father sent the mother an e-mail asserting that he cannot identify any contact centre that is open until the end of August 2020. The father suggested that they should follow the CAFCASS officer's advice and continue contact with the mother and a third-party present.
146. On 6 July 2020 the mother sent the father an email in which she stated that: (i) the specific contact centre was holding a place for D in accordance with her previous referral and intended to open at the beginning of August 2020, and (ii) a number of contact centres are opening mid-July or early August . The same day the mother began an appeal to the CMS Tribunal.
147. According to the mother, between 6 July and 11 July 2020 the mother sent the father a letter by recorded delivery setting out six contact centres that were either open or opening within the month. The father disputes that the mother sent this letter and asserts that no such letter was received from the mother.
148. On 11 July 2020, the mother made a referral to another contact centre.
149. On 24 July 2020, the father closed the CMS case to end his liability to pay maintenance for D.
150. Two days later, on 26 July 2020, the father sent the mother an e-mail stating that he agreed to attend a specified contact centre and would be in touch in respect of the centre to be used on the alternate week.

151. The Dispute Resolution Appointment hearing in the Children Act proceedings on 28 July 2020 was vacated.
152. On 1 August 2020, D recommenced spending time with the father at a contact centre. The contact was limited to 30 minutes. Contact also took place at that centre on 15 August 2020. However, the mother cancelled the next due contact on 5 September 2020. The mother states that she did so because she asserts that D was unwell. Contact resumed on 3 October 2020 but was cancelled again on 17 October 2020 by the mother who suspected she had Covid-19 and subsequently tested positive for it. Similarly, a court hearing on 21 October 2020, listed as a final hearing in the Children Act proceedings, was vacated due to the mother having Covid-19.
153. In November 2020, the contact centre closed for one month due to the lockdown imposed by the government. On 2 November 2020, the mother's small claims application against the father was sealed by the Court and on 13 November 2020 the father was served with the mother's Form A in Schedule 1 proceedings.
154. On 1 December 2020, the father accepted a referral to another contact centre but on 5 December 2020 the mother cancelled contact due to her car breaking down. The mother provided a receipt to the contact centre to prove the recovery of the car. On 19 December 2020, contact yet again did not proceed as the mother informed the contact centre that she was unable to attend this contact.
155. Contact did not resume until 9 January 2021. On 23 January 2021, the mother cancelled contact again due to family circumstances. D next had contact with his father on 13 February 2021. From my reading of the papers, this is the last time D had contact with his father.
156. A few days later, on 19 February 2021 the next court hearing was vacated due to the mother having Covid. Similarly, the court hearing on 24 February 2021 in the Schedule 1 proceedings was vacated. On 24 February 2021, the father issued his application for enforcement in the Children Act proceedings. Within those proceedings there was a report from CAFCASS which recommended contact in the community. The mother, in evidence, accepted that she was not in agreement with that recommendation.
157. The next matter of note occurred on 18 March 2021. On that day, the mother issued her first application for a legal services payment order against the father and on 22 March 2021 the mother served that application on the father's solicitors. On 22 March 2021 the father reported the mother to the police alleging that a friend's wife had sent him a copy of a Facebook message she had received. He believed the message originated with the mother who he thought was using a false social media profile. Within the police records it is stated that the father thought that this was just the start as the court was coming to a decision about their son and "she is clutching at straws. He said he did not know how many other people she will have messaged."
158. It is an agreed fact that on 25 March 2021 the mother was assaulted by a male assailant at around 13:00 at the location shown in a photograph that is before me at G130 in the main bundle. I find that the assault occurred in a field close to a pedestrian crossing on a main road. At the time of the assault the mother was out for a walk and was pushing D in his buggy.

159. The mother dialed 999 at 13:36 on 25 March 2021 and reported the assault. It is recorded that the mother told the police that she had been assaulted 30 minutes ago. She had been kicked and had injuries to her ribs and a swollen right eye from being hit. She described her assailant as being a white man wearing a hoodie, dark face mask and leather gloves who said to her “drop the finance case M, this is your last warning” whilst also being told to “keep quiet or I’ll come back.” The father in evidence accepted that this is what had been said but denied that he had instigated the assault.
160. At 17:42 on 25 March 2021 the mother had a telephone consultation with the GP regarding her injuries and was advised to attend Accident and Emergency.
161. H Police attended the mother at her home at 18:10 on 25 March 2021. The police body camera footage for the attendance runs from 18.20 hours for 1 hour 3 minutes. I have viewed it more than once. The police also took photographs of the mother’s injuries on 25 March 2021 which are before me in the main bundle.
162. On 25 March 2021 at an unrecorded time the mother attended a local Urgent Care Centre as a walk-in patient. The medical history taken from the mother was recorded as:

“States was attacked at approximately 13.00 whilst walking with her son. States was punched in the face. Was threatened and was kicked in right ribs. States does not know person. Was told to drop financial case. No loss of consciousness. Occurred in field close to where patient is staying currently. Patient’s son is 2 and was in the buggy at the time of the assault. States no one was in the vicinity of the assault.” When the history was taken from the mother she was observed to be physically shaking, scared and reluctant. On medical examination on 25 March 2021 the mother was noted to have the following injuries: (i) swelling and redness to the infra-orbital region; (ii) severe swelling and bruising to the right eye orbit; (iii) bony tenderness to right zygoma; (iv) 9cm squared bruise to anterior aspect of chest over rib region, tender to touch and pink/purple discoloration. The diagnosis made following examination was: (i) head injury – blurred vision to right eye; (ii) right zygoma tenderness; (iii) high probability fractured rib.”
163. On 26 March 2021, the police attended the mother at her home and recorded a witness interview with her on body camera footage from 19:50 hours for a total of 1 hour and 19 minutes. I have watched that recording multiple times.
164. H police received a call from a witness to the 25 March 2021 assault who reported running past the field in which the mother was assaulted at 12:45 and seeing a male wearing a hoodie top park his dark blue car by the gate to the field and then enter the field through the gate. The police checked the ANPR cameras in the area where the assault of the mother occurred at 13:00 on 25 March 2021. The father’s black range rover motor vehicle was captured at 14:26 on 25 March 2021 on a specific named road. The capture is of the front half of the vehicle only so it cannot be seen who was driving the car and who, if anyone, was a passenger. The father in evidence said that he had been driving between sites that day.

165. H Police also spoke to a builder who was seen on a neighbour's ring doorbell footage which they had viewed. The neighbour is seen speaking to mother at 13:14 on 25 March 2021. The builder confirmed that he pushed the buggy to the mother's home for her as she said she had been attacked in a field and was holding her right eye. The police launched a media appeal for information in respect of the assault on 25 March 2021 in response to which a woman responded that she had seen a woman with a child in a buggy in the field on two occasions between 12:00 and 14:00 in the week commencing 22 March 2021 at the same time as a man matching the description of the suspect wearing a dark hoodie and face mask.
166. The assault on 25 March 2021 is item 2 at A1 in the mother's Schedule of allegations. The mother says the assault was at the father's direction and on his instruction. The father accepts that the mother was assaulted as she says on 25 March 2021 but denies it was on his instruction. He asserts that either the mother orchestrated the attack herself or wrongly attributed responsibility for it to him to prevent the father having contact with D.
167. The mother alleges in one of her Children Act statements to this court that after reporting this incident to the police, she observed a person sitting in a car opposite her house who appeared to be watching her and her home.
168. On 27 March 2021, the mother cancelled D's contact with his father. Two days later on 29 March 2021 the mother issued an application for, and was granted, a without-notice non-molestation order against the father to last until 29 March 2022. The father was served with that order the same day. At a court hearing on 30 March 2021 the court suspended the interim child arrangements for D to spend time with his father and consolidated all applications: Children Act (including enforcement), Family Law Act and legal fee payment order. The next day, on 31 March 2021, the mother's small claim application was allocated to the small claims track by a District Judge, on the basis that the outstanding court fee of £170 was paid by 22 July 2021.
169. On 17 April 2021, H Police confirmed that there will be no further action regarding the 25 March 2021 incident.
170. On 21 April 2021 there is a record that the mother sought advice from the health visitor due to her concern that D witnessed the assault on her and the impact it may have on him.
171. There was a court hearing on 23 April 2021 at which the father withdrew his application for enforcement and the court made case management directions for a fact-finding hearing. Further the court made a legal fee payment order against the father in the sum of £25,850 to be paid by 7 May 2021. The father was ordered to pay the costs of mother's application for legal funding at a sum of £3,250. The father paid this without issue.
172. Shortly thereafter on 28 April 2021, there was the first effective hearing in the Schedule 1 application. At that hearing, the court made directions in respect of cross financial disclosure. On 26 May 2021, the parents exchanged replies to their financial questionnaires.

173. The first fact find was held on 10 June 2021 before a Circuit Judge sitting in the Family court. The learned judge found that the mother had been assaulted on 25 March 2021, but the court did not find the assault was directed by the respondent. Directions were given to further the Children Act proceedings including an updating S7 report.
174. On 2 July 2021 the mother filed an application to appeal the finding of fact made by that Circuit Judge on 10 June 2021 and permission to appeal an earlier the order of 30 March 2021 of a District Judge out of time. The order of that District Judge was a case management order which had limited the ambit of a fact find to a single allegation.
175. On 8 July 2021 at 09:19 the mother notified the father's instructing solicitor by email that she has issued an appeal against the judgment reached following the fact-finding hearing. The mother asserts that she blind copied (bcc'd) the father into that email. The father denies that he received that email. The father alleges at item 3 of his Schedule of allegations at A7 – 8 that the mother manufactured the email to look as if he had been copied in. Whilst it is not in the father's Schedule, it is clear to me from reading the case papers and hearing the evidence that the father believed the mother had manufactured the bcc'd part of the email to show that he had had notice of the appeal and thus had a motive for instigating the attack that occurred on 10 July 2021. This allegation caused this court to permit the instruction of a single joint expert to address whether or not the email had been manufactured. That expert gave evidence before me. Having heard that evidence, the father when cross-examined on behalf of the mother accepted that it was more likely than not that the mother had bcc'd him into this email but asserted that he had not received it.
176. On 9 July 2021 at 16:07 the mother served the solicitor instructed by the father and the father with the disclosure order made by the CMS Appeal Tribunal on 7 July 2021.
177. On 10 July 2021 at 19:19 the mother left her home with D and went shopping at the Co-op store and turned on her body worn camera. At 19:31 the mother and D returned home from the store. The mother's body worn camera recorded from 19:19 to 23:02 on 10 July 2021. The recordings are automatically saved by the device every 30 minutes at 19 minutes and 49 minutes past the hour. I have viewed the footage. On returning home, the device is clearly inside a bag with a view on an angle of what appears to be an interior doorway.
178. On 10 July 2021 at 21:27 an unknown male wearing a black hoodie, a face mask and blue medical style gloves attended the mother's home and knocked on the door saying, "Delivery for [mother's name]". It was accepted in evidence by the father that on 10 July 2021 the mother was expecting a delivery from Amazon. When the door was opened the man forced his way inside. It is accepted evidence that this can be seen on the mother's doorbell footage which was viewed by the police. I have viewed the footage. The man puts his hands out and appears to push the mother back whilst stating "Now just listen".
179. I have viewed the footage from the body worn camera inside the bag. At 21:28 on that device a man can be heard telling the mother to listen and that he has a message from the father, who he mentions by his first name. The message is that she is to drop the

appeal and the finance proceedings, or she will be dead. As the man leaves, it goes quiet and all that can be heard is D asking is his mother alright. Thereafter there is no sound from the mother at all. At 21:31 the mother can be heard apparently coming around. The mother makes sounds as if she is in pain. The first thing she says is to D when she asks if he was okay - a query she repeats. D can be heard asking his mother if she is okay and whether or not he can give her a cuddle.

180. The unknown male left the mother's home and slammed the front door on his exit. This can be seen on the mother's Ring doorbell footage seen by the police. On the doorbell footage I have viewed the bottom half of his face is covered up to the tip of his nose.
181. After a prolonged period of the mother's camera recording a long period of nothing, punctuated by the mother making sounds indicative of pain, at 21:53 hours on that device D can be heard saying he is frightened. Shortly thereafter the mother can be heard speaking to someone. The sound is indistinct, and it is unclear to my ear who she is speaking to. She is extremely quiet.
182. It is accepted that on 10 July 2021 at about 21:52 a call was made by the mother to emergency services and an ambulance was requested. I have listened to the 999 call. She told the call handler that the Amazon delivery man had hit her. She said she could not get up off the floor.
183. An ambulance attended the home of the mother. The time the ambulance arrived at the scene has not been recorded but the ambulance was at the scene by 22:00. The mother opened the door to the ambulance crew. It is admitted by the father that within the ambulance notes the mother is described as disorientated and appeared highly distressed. The ambulance crew noted blood on the floor in the home in their written notes, although a paramedic is recorded as saying "no blood or anything on the floor" on the police body worn camera footage. The paramedics considered D's medical condition at the home.
184. At or about 22:00 the same day the mother telephoned the maternal grandmother. She was distressed and extremely quiet. She told her mother she was hurt and on the floor. D was besides her. She told her mother she did not know what had happened. The grandmother went to her daughter's home. She was present when the paramedic spoke to D. D told the paramedic, in effect, that a man had done it and the man was shouting. The man had hit his mother. The grandmother saw that her daughter's eye was swollen and becoming more so as they waited to go to the hospital in the ambulance.
185. On 10 July 2021 at an unrecorded time after 22:00 H Police attended the mother's home and recorded that they found the mother to be very quiet, very slow to recall information and in a state of shock, with a large swelling to the right side of her face near her eye. They activated their body cameras and recorded footage at the mother's home on 10 July 2021 from 22:46 for 39 minutes. I have viewed that footage more than once.
186. On 10 July 2021 at approximately 22:56 hours PC Branson searched the mother's home for anything that had been disturbed or damaged. I have viewed the relevant body-worn camera footage. I note that it is the police officer who suggests that he

should grab her bag and make sure everything is as it should be. The mother does not take the officer to the bag or its contents. It is the officer who found the camera in the bag. The mother told the officer she had worn the camera earlier that day. When showing the officer the camera, a recording showed on the menu stamped 10 July 2021 at 21:19 which ran for 30 minutes to 21:49 hours. PC Branson reviewed the recording and on the recording at 21:28:21 hours on 10 July 2021 the door can be heard to be opened and a male voice states: “I’ve got a message for you from [the father’s name]. Drop the appeal alright. No one believes you and no one ever fucking will. Shut up and listen. Right drop the finance charges. Or you’ll be dead before you get any of his money. Alright. You listening, alright. Do you understand then? Alright, good”.

187. The assault on 10 July 2021 is item 3 on the mother’s schedule of allegations at A2 in the main bundle. The mother asserts that the assailant was acting on the father’s instruction. The father denies this allegation. He responds to this allegation at item 2 of his schedule of allegations at A7 in the main bundle and makes the counter-allegation that the mother organized this attack to prevent the father having contact with D. In cross-examination, the father told me that “its bonkers... she opened the door ... despite needing to use a camera to go to the shops –none of it makes sense.”
188. On 11 July 2021 at 00:20 the mother attended a General Hospital A&E unit by ambulance. She was seen by a hospital doctor. The medical history taken from the mother at 01:15 is recorded as: ‘Patient assaulted in alleged home invasion. Patient reports confusion and lapse in memory of the event. Loss of consciousness – unsure how long for.’ When the history was taken from the mother she was observed to be disorientated and very distressed.
189. On examination at 01:15 on 11 July 2021 the following injuries were noted to the mother: (i) right periorbital swelling ;(ii) injury of right zygoma and right ridge; (iii) injury of right eye and patient reports blurred vision; (iv) posterior cranial swelling. The mother was referred for a CT scan of her face and head which revealed no fractures or intracranial bleeds.
190. The father was arrested on 11 July 2021 in the early hours, he is recorded as being in custody by 03:21 on 11 July 21 for burglary, assault occasioning grievous bodily harm and witness intimidation.
191. The father was interviewed by the police with a solicitor present on 11 July 2021 from 17:39 until 18:39. I have viewed the relevant video of that interview. It ends with the father telling the police that he has watched the video and that he is in the same boat as the police.
192. The father asserts that he did not become aware of the Children Act appeal until 12 July 2021. It had not been put to him in his police interview and his solicitor has confirmed in a sworn statement that it was not sent to the father by their firm until that date. It is the father’s case that as of 10 July 2021 he considered the Children Act proceedings were proceeding in the right direction. He had not been found by the Circuit Judge to be behind the attack in March 2021 and there was a DRA hearing listed in the autumn. Why then, he asks rhetorically, would he want to act in a manner which would jeopardise his relationship with his son?

193. H Police launched a media appeal for information in respect of the assault on 10 July 2021 in response to which a number of people claimed to recognise the male but were unable to provide his name. They also conducted door to door enquiries in respect of the assault, but none revealed any relevant information, save for a dark blue or black Ford Escort or Ford Galaxy being seen in the area around the relevant time. Markers were placed on the vehicles to be stopped with driver and occupant details to be obtained to ascertain if they match the clothing or accent of the mother's assailant.
194. On 21 July 2021 Mrs. Justice Judd granted permission to the mother to appeal the findings of fact made by the Circuit Judge on 10 June 2021. On that occasion the mother's application to adduce fresh evidence about the assault on 10 July 2021 was listed for an oral hearing.
195. Returning to the chronology, the mother provided her account of the assault on 10 July 2021 in an ABE between 11:39 and 12:25 on 5 August 2021. I have viewed the video of that interview.
196. On 9 September 2021, CAFCASS wrote a letter to the court recommending that all contact between the father and D should be suspended as a result of the allegation made by the mother in respect of the incident on 10 July 2021.
197. On 22 September 2021, H Police confirmed that there will be no further action regarding the 10 July 2021 incident.
198. On 27 September 2021, the mother issued a further application for a legal services payment order.
199. At a hearing on 5 October 2021 Mr. Justice Peel sitting as an appellate court granted the mother permission to rely on fresh evidence (the recording of the 10 July 2021 incident) in her appeal and set the appeal down for hearing.
200. The mother's appeal came before Mrs. Justice Morgan on 27 May 2022. The mother's appeal against the decision of the Circuit Judge was allowed and the court made directions for a re-hearing before me. At the hearing before Mrs. Justice Morgan the mother claimed for the first time that she had blind copied, the father into the email of 8 July 2021. She did so in response to the father's counsel raising the fact that the father would have been unaware of the Children Act appeal at the time of the July attack. The email in question is at C581 of the main bundle. The mother now asserts that she did not mean it to look like and be taken as the original. She accepts that she copied and pasted the bcc line into an email which she forwarded to her solicitor. She said she did that because she had bcc'd the father into the email, but the bcc line would not have come out if she had simply forwarded the original. The father says this is one example of her doctoring evidence and misleading the court.
201. At the court hearing on 5 August 2022, I made directions made to ensure fact-finding effective. The applicant mother stated through her counsel that she had instructed CYFOR solely to obtain a certified copy of the SD card on which the recordings of the 10 July 2021 are contained. The father sought confirmation from CYFOR. CYFOR confirmed on 16 September 2022 that the mother's account as recorded on the face of the order made on 5 August 2022 was accurate and correct.

202. There was a further court hearing on 16 September 2022 when I conducted a pre-trial review and made further directions to ensure the effectiveness of the fact-finding hearing.
203. On 7 October 2022 the mother's witness, Ms. J issued an application.
204. The court hearing began on 14 November 2022.

My Findings and My Reasoning

205. I now turn to set out my findings and my reasons for reaching them. Although this judgment is of necessity written in a linear fashion, it should be read as a whole. In reaching this section of the judgment I have already made findings along the way. The findings I have made either in the earlier sections or in this part of the judgment are made on a holistic appreciation of the evidence. In the paragraphs below I deal with the allegations chronologically.
206. As I have stated earlier, I have found that the mother is a woman of low self-esteem. On the other hand, and on the basis of the examples I have already given, I find that the father is a man who likes to be in control and who is protective of his personal wealth.
207. I find that the mother is a caring and intuitive parent who is unlikely to deliberately expose her children to harm - physical, emotional or psychological. I consider that given her experience of the father in the relationship and the hurt she will have felt on separation, there probably was some reluctance on her part to facilitate contact between the father and D initially. I find that the father would have found this frustrating. However, I find that the mother consented to all interim contact order arrangements made by the court and that she complied with the requirements set by the court. Only three of the planned contact sessions were missed by the mother; each for a valid reason. I accept that the mother refused to agree to progress contact outside the contact centre but that I find her stance was rooted in a desire to protect D not to hurt the father. I find that the mother only sought to stop D's contact with his father after the March 2021 assault. Given the findings I make below that was not in my judgment unreasonable. I do not find, as the father asks me to do, that the mother has fabricated allegations against him and orchestrated assaults upon herself in the presence of D to thwart his contact with their son. Having considered all the evidence I find that for the mother the children and their welfare are her priority. Whilst she may not have proceeded with contact at the pace the father wished, I do not consider that she would have allowed D to witness his mother being assaulted at all, let alone twice.
208. I find that the father has sought to discredit the mother within these proceedings and to professionals involved with the mother and D. I accept that he made multiple accusations about the mother to the contact centre lead seeking to pressure the lead into making a referral about the mother to social services. The father inferred in his written evidence and asserted in court that the mother had made false allegations about M's father. That was not borne out by the papers, and I find it is not true. In his police interview on 11 July 2021, he told the police that the mother had a history of making up this type of allegation. There is no evidence to support that allegation, which is untrue.

209. I have set out in the narrative chronology each time the father reported the mother to the police. Looking at the chronology as a whole, I find that he did so in the context of the mother reporting him for his behaviours towards her. It seems to me, and I so find, to have been his way of providing a counterbalance and deflecting the police.
210. Having heard and read all the evidence, I have concluded that in the early days of the relationship, the mother and father had an active sex life. The mother alleges that they had sex in the garden in view of the CCTV cameras. The father denies this and states he has never behaved in that fashion as he has neighbours. On this point, I accept the mother's account. It is corroborated by her pink diary wherein the mother has entered this event together with her conflicting and conflicted feelings about it. The mother has not made that up. It is clear from the entry that the mother feared the father and what he might do in those early stages of the relationship causing her to ask her diary – "he says he loves me so he won't actually release it will he?". She tells her diary she does not want to break up with him knowing, in her words, she is lucky to have him. She then writes "I will be good, I won't annoy him and I will ask again really nicely and he will delete it". Whilst the mother's allegation is that the father recorded it and threatened to use it against her, she accepted in cross-examination that he had never acted on that threat. What I took from the mother's evidence was her genuine fear that he would use the recording, not that he had actually threatened to use it against her as she now alleges. That observation is at one with the diary entry. Thus, whilst I find that the mother was fearful of what the father would do with the recording, I do not find that he did actually threaten to use it against her.
211. Looking at the evidence as a whole, I find that the mother's relationship with the father became increasingly abusive. I take into account the submission that the mother did not make any formal allegations of abusive behaviour about the father before their separation. I also factor in that the mother had taken action against M's father in the past when his behaviour demanded that she do so. Thus, I accept the submission that the mother knew of avenues available to her and could have taken steps to protect herself earlier. However, I do not accept the submission that if the allegations were true, the mother would have taken action earlier. I remind myself that those who are the victims of abuse can be embarrassed or frightened to reveal their truth and that not all victims make allegations at the time the abuse occurred.
212. I also take into consideration the album that the mother prepared for the father and to which I have referred to above, and the WhatsApp messages that the father has produced. In both, there are photographs of happy family times. However, I remind myself that people rarely take photographs of unhappy events and thus photographs set in albums or in WhatsApp messages are unlikely to tell the whole story.
213. I have read the mother's diary with care. It provides her necessarily subjective perception and it is not a log. However, I find it significant that in her pink diary she refers to what is obviously allegation 4 in her schedule- the threat made by the father in February 2018: "If you ever cheat on me or betray me I'd kill you with my bare hands and bury you under the foundations of one of my building sites... I'm not joking." On the basis of the diary entry, I find that the father did threaten the mother as alleged.
214. The February 2018 threat is consistent in nature and type with that recorded by the mother on 18 January 2019. I have considered the transcript of the relevant call at

C195 in the main bundle carefully. I find that the male person on the transcript is the father. The reference to the green console is compelling. We know from the father's own WhatsApp messages that in November 2018 the father was asking her to find green console tables for him. The idea that the mother has been threatened by another and she just coincidentally has been procuring green consoles for that person too is beyond absurd. It seems to me to be equally unlikely that the mother has manufactured this transcript from scratch and just hit on the lucky coincidence of the green consoles by chance. The only reasonable explanation, and I so find, is that this is clearly a transcript of the mother in conversation with the father. The recording has captured the threat. It is a warning not to get on the wrong side of him. I find that the father made the threat on 18 January 2019.

215. I find that the father similarly threatened the mother in a conversation on the car telephone in the last week of March/early April 2019. This conversation was overheard by the mother's friend, Ms J, who was sat in the car. The evidence of Ms J on this issue was compelling. Consequently, I find item 6 of the mother's schedule of allegations proved.
216. I noted at the time that it was the mother's friend that ended the call because she considered it abusive. I find that to an objective third party such as Ms J it obviously was. That the mother did not act, I conclude is a reflection of her conflicted emotions at that time and her inability to see matters clearly. That finding is supported by a recording in the mother's medical records made by the midwife in April 2019 to the effect that the mother was confused about the behaviours that went on in the relationship with the father.
217. I find that the mother's conflicted feelings are similarly evident in her initial reluctance to tell the police on 7 April 2019 what had been happening in her relationship with the father and what had happened that day. Having considered all the evidence and on the basis of the mother's initial account, I find that on that day the father was abusive to her, shouted in her face when she was carrying D and took her mobile phone off her. I take into account that after his arrest the mother's phone was not found on the father upon his arrest later that day or in his home when it was searched in the early hours of the next morning. However, phones are easily thrown away and the fact that it was not found is, I find, unsurprising given the approximately 10 hours between the giving of the initial account by the mother and the father's arrest. I thus find item 11(iii) of the schedule of allegations on behalf of the mother proved.
218. I also conclude that when speaking to the police on 7 April 2019 the mother was accurate in her assessment of the father that he was by now a very different man to the one she had met and was angry at her all the time.
219. On 24 April 2019 the mother received a threatening text from an unknown number. There can be no doubt the threat was sent because it was viewed by the police on 26 April 2019. The text had been sent from a pay as you go phone and was thus untraceable. She was warned in the message that if she did not stop "no one will be able to protect her." I accept that "no one is going to believe you" is likely to be a reference to the mother's issued application for a non-molestation order and prohibited steps order against the father. It is in my judgment more than a coincidence that the mother's application was dated 15 April 2019, the ex parte orders had been

served on the father on 18 April 2019 and that the next hearing was fixed for 30 April 2019. There is no evidence that the mother fabricated this text from a burner phone as the father alleges she did to support her applications to the court. I find that the father did have a motivation to send the text. Further, I find that the nexus between the sender and the father is established by the substance of the text itself. Item 7 of the mother's schedule is thus proved.

220. I also find that the father sent or caused to be sent the message of 27 June 2019. The message stated, "don't kid yourself that you've won". That was a clear reference to the interim child arrangements hearing that had taken place on 25 June 2019 and the person who sent the text getting everything he wanted. There is no suggestion by either the mother or the father that it could be a reference to anything else. Neither the mother nor the father suggested anyone else at the time would have had reason to send the mother a message of that nature from an unknown number, nor was she in any dispute, as far as this court knows, with anyone else, let alone a dispute with someone where she might have been perceived as having won. There is only one reasonable explanation for this message and that the father sent it or caused another to do so on his behalf.
221. Item 8 of the mother's schedule relates to a threat allegedly made by or on behalf of the father on 9 June 2020. It was a voicemail of an audio recording of a voice saying that "And I will kill you and I will kill you and I will kill you". The father initially tried to establish that he could not have sent the message because he was out of the area and on a cycle ride and would not have had the opportunity to purchase the relevant top up card or send the message from the relevant tower. That tower is closest to the father's home. I find that this is not evidence manufactured by the mother and that there can be no other reasonable explanation other than that this message was sent by the father. Item 8 is accordingly proved.
222. It is an admitted fact that on 25 March 2021 that the mother was assaulted, in the presence of D and that she was injured. The issue is who assaulted her -did the mother arrange this assault herself as the father alleges or was it at his behest? The father asserts that the mother orchestrated this to frustrate his contact with D. However, I agree with the submissions that the fact the mother reported the assault immediately and took part in a media campaign makes it unlikely that she was the instigator. Putting it another way, if she had orchestrated this as alleged then why would she want her assailant caught and why would she help the police catch him? In my judgment, I find the context of the assault is actually the mother's application for a LSPO which she made on 18 March 2021 and was served on the father on 22 March 2021. Further on 22 March 2021 the father reported the mother to the police because he believed she was behind Facebook messages that had been sent to his friend's wife about him. Standing back and looking at the evidence as a whole, I find that by 22 March 2021 the father would have been angry with the mother and frustrated that she was not heeding his threats. I have already found that the father was protective of his wealth and accordingly he would have been threatened by the LPSO. No one else had a motive for this attack but him. As I have already found, he had already threatened that if she crossed him, she would be harmed. By issuing the application for a LSPO she had crossed him. The father argues - why would he do this with an application to enforce contact pending? In my judgment, the answer lies in this being about the

money, not the child. Accordingly, I find item 2 on the mother's schedule of allegations proved.

223. On the basis of all the evidence, including the expert evidence, I find that the father did receive notice of the mother's application to appeal the findings made on 10 June 2021 on 8 July 2021. I accept the expert's evidence that the father was blind copied into the original email and the fact that the mother manufactured at a later date a facsimile of that email does not detract from that finding. I also accept the expert's evidence that there is no reason why the father should not have received it. I find it compelling that he received emails before and after this particular email but not one which gives him a motive for the assault on 10 July 2021. I find that the father has lied about receiving the initial email as a blind copy on 8 July 2021; that he wrongly sought to make hay when he discovered the mother had quite improperly manufactured a facsimile which she had sent to the court and that at some point he had deleted evidence that he had received the original email. Ms Howitt rightly brings to my attention that the expert could not say who deleted it but given this was the father's email account and he had produced no evidence to prove anyone else did have access to it and could have deleted it, I find the only inference I can draw is that the father has deleted it and in doing so has misled the court.
224. On the evidence I have heard and read, I find that the father alone had motive for the assault on 10 July 2021. He would, I find, have been angered and frustrated by the mother's appeal. The father says that this was an assault orchestrated by the mother. I have sympathy with the father when he says that it does not make sense that the mother is so frightened that she wears a bodycam to go shopping but then opens her door to a delivery man without first checking his identity or using a door chain or anything of that nature. Set against that is the fact that the mother was expecting a delivery from Amazon and opened the door almost automatically, having become used to such deliveries throughout lockdown. I add into the mix that sometimes people act illogically and without thinking. Perhaps it was just a kneejerk reaction to open the door. Perhaps some matters just cannot be explained. In making my judgment, I have concentrated on what I can see and hear of the assault, the lead up to it and the aftermath. Having viewed the footage more than once, I was struck by the fact that the bodycam had obviously just been left switched on in a bag. I record that the manner in which it was in the bag did not record any salient visual record of the attack and I observe that if this was manufactured evidence it might be reasonable to anticipate a better view would have been prepared. I have set out in the narrative chronology what I can hear on the recording. In my judgment, it is telling that after the assault there is no running commentary or narrative which implicates the father in this assault, there are just the murmurings of the mother who is in pain and her repeated question of her son- are you okay? Her only concern is for her son., There is nothing within the papers that I have read or the evidence I have listened to that would suggest this mother would allow her son to witness such an assault. I also take into account that the mother does not at any point take the police to the bodycam nor does she hint that footage might exist. The bodycam and its footage are found by the police officer whilst searching to see what if anything was missing or had been disturbed. When you watch the police body-worn footage and the footage of the mother's bodycam, it is clear the footage on the mother's bodycam was found as a matter of chance. That in my judgment is not consistent with an attack orchestrated by the mother as the father has alleged. The substance of the threat recorded on the mother's

bodycam implicates the father in the attack. Putting it colloquially, even though he was not the assailant, he is likely to have been behind it and to have instigated it. The message delivered to the mother on 10 July can have no other meaning. Thus, I find item 3 of the mother's schedule of allegations proved.

225. On the basis that the March 2021 assault and the July 2021 assault provide a pattern I am asked to say that the assault alleged on March 2018 at item 1 of the schedule of allegations was also likely to have been instigated by the father. However, I do not consider that allegation proven. I take into account that at the time the mother, she says at the father's insistence, blamed M's father. I also factor in that fear and suspicion can distort allegations viewed with hindsight. However, I conclude that the context in March 2018 was different. In March 2018, the mother was not standing up to him in court. The triggers for both the March 2021 assault and that on 10 July 2021 are in my judgment the ongoing court proceedings and the perceived threat to his wealth; putting it another way, the father's anger and frustration that he could not control the outcome in court and the financial implications for him of protracted litigation.
226. Standing back and considering the case as a whole, there is only one further finding that I consider that I need to make. That relates to the fact that D witnessed the assault on 25 March 2021 and that on 10 July 2021. He will also have seen his mother's injuries, he will have experienced his mother's reaction to the assaults and the effect his father behaviour has had on his mother. Given the findings I have made in this case about his father's behaviours, I find that D is likely to have been emotionally and psychologically harmed by what he has seen and what he has experienced.
227. In the circumstances of the findings I have made, I do not consider any other findings necessary. Hence the other allegations are not considered and are not proven.
228. That is my judgment.