

1 **THE FAMILY COURT SITTING AT OXFORD**

2 **BEFORE HER HONOUR JUDGE OWENS**

3

**CASE NO: OX18C00117**

4 **11<sup>TH</sup> FEBRUARY 2019 TO 15<sup>TH</sup> FEBRUARY 2019**

5

**OCC v CT**

6

**Ms Little, Counsel, for OCC**

7

**Ms Rodgers, Counsel, for the First Respondent Mother, M**

8

**Ms Pollock, Counsel, for the Second Respondent Father, F1**

9

**Ms Vaughan, Counsel, for the Third Respondent Father, F2**

10 **Ms Wilkins, Counsel, for the Fourth and Fifth Respondents, acting through their**

11

**Children's Guardian**

12

13

14 This judgment is being handed down [in private] on 15<sup>th</sup> February 2019. It consists of  
15 61 pages and has been signed and dated by the judge. The Judge has given permission  
16 for the judgment (and any of the facts and matters contained in it) to be published on  
17 condition that in any report, no person other than the advocates or the solicitors  
18 instructing them (and other persons identified by name in the judgment itself) may be  
19 identified by name, current address or location [including school or work place]. In  
20 particular the anonymity of the children and the adult members of their family must  
21 be strictly preserved. All persons, including representatives of the media, must ensure  
22 that these conditions are strictly complied with. Failure to do so will be a contempt of  
23 court. For the avoidance of doubt, the strict prohibition on publishing the names and  
24 current addresses of the parties and the child will continue to apply where that

25 information has been obtained by using the contents of this judgment to discover  
26 information already in the public domain.

27

## 28 **Introduction**

29

301. I am dealing with two children, A who is 14 years old and B who is 8 years old. M is  
31 their mother. F1 is A's father and F2 is B's father. M is Brazilian and her first  
32 language is Brazilian Portuguese. She came to the UK in around 2000 and was  
33 granted permanent status here in around 2006. F1 is Rwandan and met M in around  
34 September 2000. They married in Brazil in 2005. F1 came to the UK initially as an  
35 asylum seeker and was granted permanent leave to remain here subsequently. F2 is  
36 British and began a relationship with M in 2009. They were never married and  
37 separated in September 2015. Both F1 and F2 have parental responsibility for their  
38 respective children A and B. These proceedings commenced with an application for  
39 care orders issued on 3<sup>rd</sup> October 2018.

40

## 41 **Background and evidential summary**

42

432. There is a lengthy chronology of social care concerns around the care being given to  
44 the children in this case as set out in the initial social work statement (C6-C10). There  
45 has been intermittent social care involvement with the family since at least 2009.  
46 Initially, there were reports of domestic abuse occurring between M and F1 during  
47 their relationship. Subsequently, in around 2015/2016, M began making allegations  
48 about F2, that he had drugged A and/or was grooming her for sexual abuse. M also  
49 made other allegations of abuse – that she and A had been drugged and that F2 was

50 filming her. When these allegations were investigated by the authorities, they were  
51 found to be unsubstantiated. In December 2016, M alleged that A was sexually  
52 assaulted in school. Despite A denying this, saying it was '*another of her mother's*  
53 *delusions*' (F31 police disclosure) and no evidence being found to corroborate the  
54 allegations following the police investigation, M withdrew A from school. It is then  
55 alleged that M purported to home-school A but did not follow a set curriculum or  
56 routine, causing A's education to suffer.

57

583. In May 2017, F2 made an application for a Child Arrangements Order to enable B to  
59 spend time with him. Within his application he alleged that M was aggressive,  
60 exposed B to inappropriate sexual and violent media and that during a handover on  
61 23<sup>rd</sup> April M was aggressive during a contact handover and exposed her bottom in  
62 front of the children (PL3).

63

644. In October 2017, M alleged that B was being made to perform oral sex on A. When  
65 this allegation was investigated by both police and social services, both children  
66 denied the allegation and no corroborating evidence could be found to substantiate the  
67 allegation. This allegation is part of a series of allegations M has since been making  
68 about the children having sexual intercourse with each other. The children have  
69 consistently denied this when spoken to by professionals.

70

715. In February 2018, B was taken to hospital due to a bruise on his ear. At the time he  
72 said that the bruise was caused by an unknown male at F2's girlfriend's house. In  
73 March 2018, concerns were being raised as to B's sexualised behaviour at school. B  
74 was using sexualised language and was displaying sexualised behaviour. He said that

75 he watched 'naughty videos' at home. On the 28<sup>th</sup> of March 2018, B said that he had  
76 been sexually assaulted when he was 6 years old whilst at F2's girlfriend's house by  
77 an unknown male who had digitally penetrated his anus. In July 2018, there were  
78 further concerns raised about B's behaviour at school where he had strangled another  
79 child following an argument.

80

816. Matters came to a head on the 16<sup>th</sup> of September 2018 when A presented herself at a  
82 police station alleging that she had been physically assaulted by her mother. A stated  
83 that her mother had threatened her with a knife and had pinned her to the floor and  
84 kicked and grabbed her genitals. B was at home during this assault. The police  
85 attended the home, arrested M and placed A and B under police protection.

86

877. On the 18<sup>th</sup> and 19<sup>th</sup> of September 2018, the children's fathers signed s.20 consent for  
88 the children to be accommodated. M signed her consent on the 21<sup>st</sup> of September  
89 2018. The children have remained in foster placements to date.

90

918. The Local Authority issued its application for care orders on the 2<sup>nd</sup> of October 2018.  
92 On the 9<sup>th</sup> of October 2018, the case came before the court for a first hearing and Case  
93 Management Hearing. At that hearing, interim care orders were made in relation to  
94 the children for the duration of these proceedings or further order.

95

969. The matter was before the Court for a CMH on 8<sup>th</sup> November (B41-45) at which DJ  
97 Wakem listed the case for a fact-finding hearing before me on 11<sup>th</sup> February 2019 for  
98 five days, with the LA directed to file and serve "*a schedule of findings it seeks the*  
99 *court to make in relation to the alleged abuse the children have suffered*" (B42). At a

100 subsequent case management hearing before me it became necessary to widen the  
101 scope of this split hearing to consider not just fact-finding but wider threshold. The  
102 Local Authority, supported by the Guardian, was of the view that M has a pre-  
103 occupation with sexual harm and that may necessitate a psychiatric assessment of her.  
104 I did carefully consider whether assessments could be done on the not uncommon  
105 basis of two alternative possibilities, ie either M's allegations are true or they are not.  
106 However, the issues are so unusual and the implications of M making false allegations  
107 so complicated to assess, I concluded that there did need to be a split hearing to  
108 inform any necessary assessments. M's response to threshold also indicated that she  
109 did not accept any of the threshold in so far as it relates to her parenting of the  
110 children. As a result, this hearing needed to consider not just the specific factual  
111 allegations but also whether or not any findings made support a conclusion that  
112 threshold has been crossed for the purposes of section 31. The case is then listed for a  
113 final hearing before me in June this year to consider what disposals may be in the  
114 welfare interests of the children after necessary assessments, including potentially  
115 expert assessment of M, have been conducted in light of the conclusion of this split  
116 hearing.

117

118 Copies of the children's ABE interviews have been filed and served, and reviewing  
119 these, alongside the children's views as recorded in foster-carer logs and contact notes  
120 led the Local Authority to conclude that the allegations about sexual activity between  
121 the children and in relation to F2 are not true. The Local Authority case is that both  
122 children have been clear and consistent about lying at times about sexual matters out  
123 fear of reprisal from their mother (eg F95; F98). The Local Authority does not seek to  
124 prove these allegations and positively asserts they are not true. Accordingly, the LA

125 filed a revised threshold document dated 7<sup>th</sup> December 2018 which is at A29-31. This  
126 includes three allegations of physical harm (paragraph 5), including the assault on A  
127 on 16<sup>th</sup> September 2018, in respect of which the LA seeks findings.

128

129 In the course of this hearing, I have read the evidence contained in the Bundle, viewed  
130 the ABE interviews of A and B and the police interview of M, and heard evidence  
131 from the previous social worker at the time that the allegations I am considering arose,  
132 M, F2 and F1.

133

#### 134 **Parties' Positions**

135

136 The Local Authority case is that neither A or B have been sexually or physically  
137 abused as alleged by M as I have already noted. They have also not engaged in sexual  
138 behaviour with each other and have, out of fear of reprisal, agreed with M's assertions  
139 at times. As a result, the Local Authority contend that A and B have suffered  
140 significant emotional harm and have also suffered physical harm. The Local  
141 Authority also alleges that M has discouraged the children from developing healthy  
142 relationships with their respective fathers, and has neglected the children by leaving A  
143 to care for B on her own for long period. The Local Authority allege that the children  
144 have suffered significant emotional harm as a result of this as well.

145

146 M says that her allegations about the children's sexual behaviour and them having  
147 been sexually and physically abused are not false, and that she has been relying on  
148 what the children have themselves said to her. She accepts that B has displayed  
149 sexualised behaviour but denies that this is due to anything she has done. She also

150 made allegations against both F1 and F2 in respect of domestic abuse, though she  
151 accepts that the children have been exposed to volatility in her relationships with F1  
152 and F2. She alleges that F2 also inflicted sexual abuse upon her. In all she detailed  
153 12 specific findings that she sought in her statement dated 17<sup>th</sup> January 2019 (C101-  
154 106). In her schedule of allegations produced for this hearing she identified 15  
155 specific findings that she sought. As part of my initial case management of this  
156 hearing, having only received the schedule of allegations on the morning of day one, I  
157 determined that in fact only 8 of her allegations were potentially relevant to the issues  
158 in the case, and were ones where it was proportionate to include them within the  
159 scope of this split hearing. The result of that determination is that there are no  
160 relevant findings sought against F1 by M, and the remaining 8 allegations that she  
161 seeks findings on relate therefore only to either F2 or A.

162

163 F1 accepts that the children were exposed to conflict and volatility within his  
164 relationship with M (as apparent from his response to threshold at A50-53 and his  
165 statement C66-69). It is also his case, as pleaded by the Local Authority in their  
166 threshold document, that M has sought to discourage A from developing a healthy  
167 relationship with him as her father (item 6 on the threshold document).

168

169 F2 accepts the final threshold as set out at A29-31 in his formal response document  
170 A32-35, though it is pointed out by his advocate Ms Vaughan that much of the  
171 document relates to M. He accepts that the children have had to speak with the police  
172 about the allegations which will have caused them distress. F2 accepts that B has  
173 displayed sexual behaviour and is at risk of significant harm to his development of  
174 boundaries and relationships. F2 accepts that the children have been exposed to

175 conflict and volatility in M’s relationships with each of their fathers and that M has  
176 sought to discourage the children from developing healthy relationships with their  
177 respective fathers. He denies the allegations made against him by M in respect of  
178 domestic and sexual abuse. He also seeks a finding that M has sought to discourage B  
179 from developing healthy relationship with him as his father.

180

181 The Guardian, as is usual in these sorts of split hearings, is largely neutral with regard  
182 to the findings sought save for pointing out that it is in the interests of the children to  
183 establish a factual basis from which to assess welfare and that the children have  
184 provided consistent accounts to all professionals since they were removed from their  
185 mother’s care. The Guardian was also very concerned about the evidence that has  
186 emerged to show the differences in the way that A and B were viewed by their mother  
187 and submitted that great weight should be placed on the ABE (Achieving Best  
188 Evidence) interviews of the children and the consistency in their accounts to all  
189 professionals overall. As set out in her initial analysis and recommendations dated  
190 29<sup>th</sup> October 2018, the Guardian is of the opinion that the threshold for making public  
191 law orders under section 31 is crossed (E3-5).

192

193 **Relevant legal considerations**

194

195 In addition to considering section 31 (2) of the Children Act 1989 with regard to  
196 threshold, I have had regard to the guidance of Baker J considering fact-finding in Re  
197 IB and EB [2014] EWHC 369:

198

199 “81. The law to be applied in care proceedings concerning allegations

200 *of child abuse is well-established.*

201

202 *82. The burden of proof rests on the local authority. It is the local*  
203 *authority that brings these proceedings and identifies the findings that*  
204 *they invite the court to make. Therefore, the burden of proving the*  
205 *allegations rests with them and to that extent the fact-finding*  
206 *component of care proceedings remains essentially adversarial.*

207

208 *83. Secondly, as conclusively established by the House of Lords in [Re](#)*  
209 *[B \[2008\] UKHL 35](#), the standard of proof is the balance of*  
210 *probabilities. If the local authority proves on the balance of*  
211 *probabilities that the injuries sustained by I and E were inflicted non-*  
212 *accidentally by one of her parents, this court will treat that fact as*  
213 *established and all future decisions concerning the children's future*  
214 *will be based on that finding. Equally, if the local authority fails to*  
215 *prove that the injuries sustained by I and E were inflicted non-*  
216 *accidentally by one of her parents, this court will disregard the*  
217 *allegation completely.*

218

219 *84. In this case, I have also had in mind that, in assessing whether or*  
220 *not a fact is proved to have been more probable than not, "Common-*  
221 *sense, not law, requires that in deciding this question, regard should*  
222 *be had to whatever extent is appropriate to inherent probabilities,"*  
223 *(per Lord Hoffman in [Re B](#) at paragraph 15)*

224

225 85. Third, findings of fact in these cases must be based on evidence.  
226 The court must be careful to avoid speculation, particularly in  
227 situations where there is a gap in the evidence. As Munby LJ (as he  
228 then was) observed in *Re A (A Child) (Fact-finding Hearing:  
229 Speculation)* [2011] EWCA Civ. 12, "It is an elementary proposition  
230 that findings of fact must be based on evidence, including inferences  
231 that can be properly drawn from the evidence and not on suspicion or  
232 speculation."

233  
234 86. Fourth, when considering cases of suspected child abuse, the court  
235 "invariably surveys a wide canvas," per Dame Elizabeth Butler-Sloss,  
236 P, in *Re U, Re B (Serious Injury: Standard of Proof)* [2004] EWCA  
237 Civ. 567, and must take into account all the evidence and furthermore  
238 consider each piece of evidence in the context of all the other  
239 evidence. As Dame Elizabeth observed in *Re T* [2004] EWCA Civ.558,  
240 "Evidence cannot be evaluated and assessed in separate  
241 compartments. A judge in these difficult cases must have regard to the  
242 relevance of each piece of evidence to other evidence and exercise an  
243 overview of the totality of the evidence in order to come to the  
244 conclusion of whether the case put forward by the local authority has  
245 been made out to the appropriate standard of proof."

246  
247 87. Fifth, amongst the evidence received in this case, as is invariably  
248 the case in proceedings involving allegations of non-accidental head  
249 injury, is expert medical evidence from a variety of specialists. Whilst

250 *appropriate attention must be paid to the opinion of medical experts,*  
251 *those opinions need to be considered in the context of all the other*  
252 *evidence. In A County Council v K D & L [2005] EWHC 144 (Fam) at*  
253 *paragraphs 39 and 44, Charles J observed, "It is important to*  
254 *remember (1) that the roles of the court and the expert are distinct and*  
255 *(2) it is the court that is in the position to weigh up the expert evidence*  
256 *against its findings on the other evidence. The judge must always*  
257 *remember that he or she is the person who makes the final decision."*  
258 *Later in the same judgment, Charles J added at paragraph 49, "In a*  
259 *case where the medical evidence is to the effect that the likely cause is*  
260 *non-accidental and thus human agency, a court can reach a finding on*  
261 *the totality of the evidence either (a) that on the balance of probability*  
262 *an injury has a natural cause, or is not a non-accidental injury, or (b)*  
263 *that a local authority has not established the existence of the threshold*  
264 *to the civil standard of proof ... The other side of the coin is that in a*  
265 *case where the medical evidence is that there is nothing diagnostic of a*  
266 *non-accidental injury or human agency and the clinical observations*  
267 *of the child, although consistent with non-accidental injury or human*  
268 *agency, are the type asserted is more usually associated with*  
269 *accidental injury or infection, a court can reach a finding on the*  
270 *totality of the evidence that, on the balance of probability there has*  
271 *been a non-accidental injury or human agency as asserted and the*  
272 *threshold is established."*

273

274 88. Sixth, in assessing the expert evidence I bear in mind that cases

275 *involving a multi-disciplinary analysis of the medical information*  
276 *conducted by a group of specialists, each bringing their own expertise*  
277 *to bear on the problem, the court must be careful to ensure that each*  
278 *expert keeps within the bounds of their own expertise and defers,*  
279 *where appropriate, to the expertise of others (see observations of*  
280 *Eleanor King J in Re S [2009] EWHC 2115 Fam).*

281

282 *89. Seventh, the evidence of the parents and any other carers is of the*  
283 *utmost importance. It is essential that the court forms a clear*  
284 *assessment of their credibility and reliability. They must have the*  
285 *fullest opportunity to take part in the hearing and the court is likely to*  
286 *place considerable weight on the evidence and the impression it forms*  
287 *of them (see Re W and another (Non-accidental injury) [2003] FCR*  
288 *346)*

289

290 *90. Eighth, it is common for witnesses in these cases to tell lies in the*  
291 *course of the investigation and the hearing. The court must be careful*  
292 *to bear in mind that a witness may lie for many reasons, such as*  
293 *shame, misplaced loyalty, panic, fear and distress, and the fact that a*  
294 *witness has lied about some matters does not mean that he or she has*  
295 *lied about everything (see R v Lucas [1981] QB 720).*

296

297 *91. Ninth, as observed by Dame Elizabeth Butler-Sloss P in Re U, Re*  
298 *B, supra "The judge in care proceedings must never forget that today's*  
299 *medical certainty may be discarded by the next generation of experts*

300 *or that scientific research would throw a light into corners that are at*  
301 *present dark."*

302

303 *92. This principle, inter alia, was drawn from the decision of the Court*  
304 *of Appeal in the criminal case of R v Cannings [2004] EWCA 1 Crim.*  
305 *Linked to it is the important point, emphasised in recent case law, of*  
306 *taking into account, to the extent that it is appropriate in any case, the*  
307 *possibility of the unknown cause. The possibility was articulated by*  
308 *Moses LJ in R v Henderson-Butler and Oyediran [2010] EWCA Crim.*  
309 *126, and in the family jurisdiction by Hedley J in Re R (Care*  
310 *Proceedings: Causation) [2011] EWHC 1715 (Fam): "there has to be*  
311 *factored into every case which concerns a discrete aetiology giving*  
312 *rise to significant harm, a consideration as to whether the cause is*  
313 *unknown. That affects neither the burden nor the standard of proof. It*  
314 *is simply a factor to be taken into account in deciding whether the*  
315 *causation advanced by the one shouldering the burden of proof is*  
316 *established on the balance of probabilities."*

317

318 *93. Finally, when seeking to identify the perpetrators of non-accidental*  
319 *injuries the test of whether a particular person is in the pool of*  
320 *possible perpetrators is whether there is a likelihood or a real*  
321 *possibility that he or she was the perpetrator (see North Yorkshire*  
322 *County Council v SA [2003] 2 FLR 849). In order to make a finding*  
323 *that a particular person was the perpetrator of non-accidental injury*  
324 *the court must be satisfied on a balance of probabilities. It is always*

325                    *desirable, where possible, for the perpetrator of non-accidental injury*  
326                    *to be identified both in the public interest and in the interest of the*  
327                    *child, although where it is impossible for a judge to find on the balance*  
328                    *of probabilities, for example that Parent A rather than Parent B*  
329                    *caused the injury, then neither can be excluded from the pool and the*  
330                    *judge should not strain to do so (see Re D (Children) [2009] 2 FLR*  
331                    *668, Re SB (Children) [2010] 1 FLR 1161).*

332

333 I have also been mindful of the President’s reiteration of the basic principles  
334 governing these types of proceedings in Re A (A Child) [2015] EWFC 11 which re-  
335 stated that it is for the local authority to prove, on a balance of probabilities, the facts  
336 upon which it seeks to rely. That burden of proof does not shift to the respondents at  
337 any point in respect of the Local Authority allegations, applying Lancashire County  
338 Council v D and E [2010] 2FLR 196 and Lancashire County Council v R, W and N  
339 [2013] EWHC 3064 (Fam). However, in respect of the additional findings that M  
340 seeks in respect of her 8 allegations about F2 and A, M bears the burden of proof in  
341 respect of the specific findings she seeks and the respondents do not have any burden  
342 of proof to disprove those allegations.

343

#### 344 **Findings**

345

346 Final Threshold is as set out at A29-31 of the Bundle. The criteria that are pleaded by  
347 the Local Authority are: “*at the time protective measures were taken, namely on 2nd*  
348 *October 2018, the children A and B had suffered and were likely to suffer significant*  
349 *harm, the likelihood of harm being attributable to the care likely to be given to them,*

350 *that care not being what it would be reasonable to expect a parent to give to*  
351 *them...The Local Authority asserts that the threshold criteria are met on the basis of*  
352 *the matters set out*

353

354 ***Emotional Harm***

355

356 *1. Whether by reason of her mental health or other motive, the mother has made a*  
357 *number of allegations that the children have suffered sexual abuse that has*  
358 *caused them significant emotional harm and risks harm to their development of*  
359 *relationships:*

360

361 *1.1. In December 2016 the mother alleged that A was sexually assaulted at School*  
362 *[F8] and was engaging in sexual relationships with parents of her peers,*  
363 *which was not true [F46, ED50; F56]. As a consequence she withdrew A*  
364 *from the school, significantly disrupting her education and peer friendships*  
365 *causing significant harm to her emotional, educational and social*  
366 *development.*

367

368 *1.2. Mother has repeatedly told A that she (A) had been abused by F2 when this*  
369 *was not true [ED50d//e].*

370

371 *1.3. Mother's behaviour towards B has led him to allege that whilst staying at his*  
372 *Father's house an unknown man put their "fingers up his butt" when this was*  
373 *not true [FCR15; VRI 59:22;]*

374

375 1.4. Mother has openly discussed her allegations and used sexually explicit  
376 language in front of the children. [ED50g; F46; F50; B VRI 1:15]

377

378 1.5. On a number of occasions Mother has accused A and B of having sexual  
379 intercourse with each other which is not true. [ED50c-g; FCR15; CNR7;  
380 CNR14;F46; F47; F50]

381

382 1.6. The children have had to speak about the above allegations with the police  
383 and a number of professionals causing distress [eg October 2017 F30-31;  
384 current investigation].

385

386 2. Mother has forced B to look at A whilst A was naked, telling him to look at her  
387 vagina [F46]

388

389 3. A has endured humiliation by way of being stripped naked [F57]

390

391 4. As a further consequence of his experiences, B has displayed sexualised behaviour  
392 [C11] and is at risk of significant harm to his development of boundaries and  
393 relationships.

394 **Physical Harm**

395 5. Whether on account of her false beliefs or other reason, the children have been  
396 physically harmed in Mother's care:

397

398 5.1. *Mother has hit B [F47; F50; CNR14; VRI] unless he has said this took place*  
399 *(which it did not) and hit A in the belief that it did [F50] causing B to feel*  
400 *guilt.*

401

402 5.2. *A has been frequently slapped and grabbed [F57; CNR14].*

403

404 5.3. *On Sunday 16th September 2018 the mother threatened A with a knife and*  
405 *then assaulted her by grabbing and kicking her genitals. Mother placed her*  
406 *hand over A's mouth when A screamed out [F56; ED50f]. A left the property*  
407 *via a kitchen window and went to the police station where she was found*  
408 *outside in a distressed state. B was present in the home whilst the assault took*  
409 *place and was aware of what was happening, describing A as "screaming*  
410 *like a horror movie" [F50; also VRI B] and crying out of fear for his sister.*

411

412 ***Neglect/Emotional Harm***

413

414 6. *The children have been exposed to conflict and volatility in the mother's*  
415 *relationships with each of their fathers and the mother has sought to discourage*  
416 *the children from developing healthy relationships with their respective fathers.*

417

418 7. *A spent long periods of time caring for B whilst the mother worked.*

419

420 The findings that M seeks against F2 and A are:

421 1.c 2010-2014 When B became a toddler, F2 would smack him really hard on his  
422 bottom and sometimes it was hard enough to leave a red mark. B would scream in  
423 pain and F2 would say he smacked B to make sure B was listening to him.

424

425 2. Dates uncertain but during their relationship F2 was sexual abusive to M on two  
426 occasions through forcing her to have anal sex.

427

428 3. c 2014 F2 gave A some tablets to drug her.

429

430 4. c 2014 F2 threw B against the wall and as a result B hit his head.

431

432 5. c September 2017 B was sexually abused in his father's presence by two men,  
433 and an unknown man "putting his fingers up {B's} butt".

434

435 6. During the weekend of 26<sup>th</sup> February 2018 M accepts B's allegations that a man  
436 at F2's girlfriend's house twisted his (B's) ear. M believes that F2 knows who did  
437 this and what happened.

438

439 7. Date uncertain F neglected B in the swimming pool so that the child was at risk  
440 of drowning.

441

442 8. 2017/2018 A sexually abused B.

443

444 I have considered M's allegations first because the Local Authority case against her is  
445 that the various allegations that she has made over a number of years are untrue. If

446 her specific allegations are proven on balance of probabilities, then this is relevant to  
447 the considerations that I must bring to bear when assessing whether or not the Local  
448 Authority allegations within the threshold document relating to (on their case) false  
449 allegations by the mother are proven by the Local Authority (items 1.1 to 1.6 on the  
450 Threshold document). Where appropriate and necessary, I have linked the specific  
451 Local Authority allegations to M's allegations and considered these immediately after  
452 assessing whether or not M's allegations are proved.

453

454 The first allegation that M makes is against F2 in respect of inappropriate physical  
455 chastisement of B (item number 1 on her list of allegations). Her written evidence  
456 about this is in her third statement dated 17<sup>th</sup> January 2019 and simply says: "*I*  
457 *thought F2's parenting style was very harsh. For example, he would leave B to cry*  
458 *and I did not like it. I would want to pick him up but he would tell me not to pick him*  
459 *up. When B became a toddler, I was upset as F2 would smack him really hard on his*  
460 *bottom and sometimes it was hard enough to leave a red mark. B would scream in*  
461 *pain and F2 would say he smacked B to make sure B was listening to him. I would*  
462 *smack him sometimes too but, very, very lightly compared to F2"* (C104 para 14).

463 Her oral evidence about this was contradictory as she initially accepted that she had at  
464 times smacked him on his legs, but also at times said in answer to questions in cross  
465 examination that B was such an easy-going child that she did not have to discipline  
466 him at all. Her acceptance in these proceedings that she has at times physically  
467 chastised B is also at odds with her insistence during the previous private law  
468 proceedings that she did not use physical chastisement at all as a means of  
469 disciplining B.

470

471 At paragraph 7.4 of the section 7 reported completed by the then social worker in  
472 December 2017 (ED8), the social worker noted that both parents appeared to have  
473 different parenting styles, F2 having described himself as “*firm but fair*” and M as  
474 “*too soft*”. At paragraph 7.5 (again ED8) F2 informed the social worker completing  
475 the report that in the past he had smacked B on the bottom as a way of disciplining  
476 him. F2 went on to explain that he had not physically chastised B since he was little  
477 as B knew by the tone of his voice to stop and listen (7.5 ED8). At paragraph 8.3 of  
478 the report M told the social worker that “*F2 would smack B on his bottom if he did*  
479 *something wrong. M said that she is ‘no angel’ but does not believe this to be the*  
480 *correct way of disciplining children. She gives B three warnings and if he does not*  
481 *respond appropriately to her he loses privileges like going on his X-box*” (ED11).

482

483 A has also described to the Guardian that B would be safe with F2 (E6). A has not  
484 alleged anywhere that she was aware of F2 hurting B beyond the allegation that  
485 relates to whether B was thrown on the bed by F2 and banged his head. I will  
486 consider this in more detail later in this judgment as it is a separate specific allegation,  
487 but A’s account to the police is at F8 of the bundle and it was A’s view that it was  
488 accidental at worst and does not seem to have caused her to fear for B’s safety.

489

490 At no point within the private law proceedings did M raise the issue of F2 smacking B  
491 hard enough to sometimes leave red marks. Given that she did raise allegations about  
492 F2 having allowed B to be sexually abused and that F2 had caused physical injury to  
493 B’s ear, it is puzzling in the extreme that she did not also raise this issue at the same  
494 time. She even described F2 as a “*good father*” (PL65 para 8.6) in the addendum  
495 section 7 report completed in April 2018. When M was asked in cross examination

496 during this hearing why she didn't mention this allegation at the time, her answer was  
497 that she "*was not asked*". She was not asked about quite a lot of the matters that she  
498 raised against F2, such as the alleged sexual abuse of B and injury to his ear, yet she  
499 still volunteered them, I note. The social worker at the time also told me in her oral  
500 evidence that she had observed contact between B and F2 and had never seen F2  
501 inappropriately discipline B. She described the parenting by F2 that she had observed  
502 as in fact very warm and loving and the social work evidence notes that B enjoys time  
503 with his father (C16). I am afraid that M was simply not credible about this allegation  
504 in view of the absence of any mention of this earlier in the private law proceedings,  
505 and when I take into account all of the other positive evidence about F2's interactions  
506 with B which undermine M's credibility further. I do not find this allegation proved  
507 on balance of probabilities.

508

509 The next allegation from M against F2 is that he was sexually abusive to her by  
510 forcing her to have anal sex on two occasions. M's evidence about this in terms of  
511 timing is as follows:

512

- 513 • In her written statement at C104 it is "*I think this was between April 2015 and*  
514 *when we split up in September of that year*";
- 515 • In her oral evidence she said it was "*the beginning of 2015*";
- 516 • On her schedule of allegations, it "*happened sometime in 2015*".

517

518 This allegation was not raised by M until 24<sup>th</sup> April 2017. The police logs in relation  
519 to this date appear in section F, specifically F25 and F26 with regard to the police  
520 recording of what M told them about this at the time. F25 records "*the agg?d (sic)*

521 *has stated that she has been anally raped twice in 2015 by the suspect. She cannot*  
522 *recall the exact dates but the second time was on or close to her birthday”. At this*  
523 *point it is pertinent to note that M’s birthday is in March. F25 records “in relation to*  
524 *the rape allegation, the agg’d has stated that during their relationship in Sept 2015*  
525 *the suspect has asked the agg’d for anal sex, she has declined and has accepted that*  
526 *she has then stated that the suspect wanted her to wear a knee length black fur coat*  
527 *and that he rolled her over and started to penetrate her anus, she has then stated that*  
528 *she asked him to stop and he didn’t, and she stated it was really painful and that he*  
529 *started making strange noises which sounded like a dog barking. She said she was*  
530 *crying and very upset but that the (sic) suspect was unaware. It happened again on*  
531 *or around her birthday when she was asked to wear a full length white fur coat, it was*  
532 *similar circs. The agg’d did not attend the doctor despite bleeding from her anus, she*  
533 *did not suffer any other injuries as a result of this”.*

534

535 As was submitted by Ms Vaughan on behalf of F2 and Ms Little for the Local  
536 Authority, the timing of this allegation is potentially significant. It coincides with M  
537 making an allegation the day before that F2’s girlfriend had threatened to throw acid  
538 in her face during a contact hand over when B was returning to his mother’s care. It  
539 also coincides with M meeting F2’s girlfriend for the first time, a fact that is not in  
540 dispute. F2 initially covertly filmed the encounter (after the first couple of minutes he  
541 recorded some of the exchange from his pocket so it is audio only for a few minutes  
542 before returning to video and audio when he removed the phone from his pocket) and  
543 then openly filmed the incident on his mobile phone despite objections from M. All  
544 parties and myself have now had an opportunity to view the footage. As has been said  
545 in previous cases (see for example Re C (a child) [2015] EWCA 1096 and M v F

546 (covert recording of children) [2016] EWFC 29), recording of individuals in Family  
547 cases is far from ideal and quite often reflects badly upon the individual concerned.  
548 This is particularly the case where the recording is covert. However, no party has  
549 sought to argue against the admissibility of this recording and there is power under  
550 rule 22.1 of the Family Procedure Rules for a court to control the evidence in these  
551 proceedings so as to admit it. In the context of a case where the parents' behaviour  
552 towards each other is a relevant issue and where specific allegations are made about  
553 what was said and done in the course of this handover, I have concluded that this  
554 video was necessarily included in the evidence before me and must form part of my  
555 consideration of the disputed issues.

556

557 M's evidence about this recording is that F2 "*set her up*". She gave me no more  
558 detail than this in her oral evidence and this is not addressed at all in her written  
559 evidence for this case. F2 gave evidence that he returned B to his home and met M at  
560 her door where she started making sexual references to his private parts and it was this  
561 that made him record the meeting between M and his girlfriend and that he "*wanted  
562 to capture her behaviour...after continuous police calls wanted to show what  
563 happened, was capturing the truth*". He accepted that recording would not help B. It  
564 is clear from the later stages of the video that M directly asked F2 if he was recording  
565 her and asked him to stop more than once. It is also clear to me that, given the level  
566 of acrimony between the parents which existed on any reading of the evidence, it was  
567 perhaps not wise for F2 to continue to film M when she asked him to stop. From my  
568 viewing of the video it certainly did not help to calm M down after her requests to him  
569 to stop were ignored. And although F2 did not at any point raise his voice in the  
570 video, I can see that remaining after M had clearly started to become angry and had

571 made abusive comments to his girlfriend was perhaps bound to antagonise M further  
572 given his own evidence about volatile M could be. As was put to him by Ms Wilkins  
573 for the Guardian, why didn't he simply walk away and stop filming? He did tell me  
574 that he was worried that if he drove away the police were being called and he did not  
575 want his car to be stopped by the police with his partner and the children in the car. I  
576 can understand that perhaps he was not making the best of decisions under pressure  
577 and in the context of M having made numerous previous accusations to the police  
578 about him. F2 can clearly be heard on the footage saying that he is filming "*for his*  
579 *own protection*", I accept. He gave what I find to be a credible and understandable  
580 explanation for why he thought it necessary to film the encounter, even if this was not  
581 putting B's welfare first. However, with the benefit of hindsight and perhaps greater  
582 objectivity, I think F2 should have stopped filming once M started to walk away from  
583 their argument (and I am very clear that although he remained calmer than M he did  
584 enter a limited argument with M once she had become abusive towards his girlfriend).  
585 He should really have left at that point, in my view, as his remaining clearly did not  
586 help to calm the situation I find. Despite these reservations about how this video  
587 doesn't cast F2 in an entirely positive light, on balance I find it does provide some  
588 extremely relevant evidence about M's behaviour.

589

590 As can be seen in the video, M rang the police. The police disclosure records that she  
591 called the police alleging that her ex partner "*had turned up at callers property –*  
592 *threatening to throw acid on callers face*" (F20). At F21 the police log records "*in*  
593 *the original call the caller reports that F2 dropped off their son and then has asked*  
594 *her to come to the car which was parked in the opposite cul de sac, M has walked to*  
595 *the car and states that F2 has set her up to make a fool of herself and this has*

596 *angered her. She states that after the introductions were confirmed, F2's partner was*  
597 *upset that she got her name wrong and has then threatened to throw acid in agg?d's*  
598 *(sic) face". The police viewed the footage at the time (F21). The footage does not*  
599 *record any threat being made against M by either F2 or his girlfriend and certainly not*  
600 *in the terms that M alleged. In fact, as was noted by the police at the time, the footage*  
601 *shows M approaching the car, meeting F2's girlfriend, and after a tense but*  
602 *reasonably polite exchange of pleasantries with F2's girlfriend, M becoming angry*  
603 *and being verbally abusive to F2's girlfriend, dropping her trousers to expose the top*  
604 *of her bottom and in fact acting as the aggressor and trying to physically stop F2*  
605 *filming her. It also shows her using sexual language. B is clearly present throughout*  
606 *this encounter and will have witnessed his mother's behaviour, I note.*

607

608 F25 in the police disclosure notes that M was challenged by the police about what is  
609 shown on the video (and that it doesn't show any threat being made towards her).  
610 What is very striking about this note is that it clearly records M telling the police  
611 before anyone apart from F2 had viewed the video the following: "23/04/2017 16:37  
612 *F2...has turned up at callers property – threatening to throw acid on callers face. Sus*  
613 *has come to drop their son off and said to agg?d my girlfriend is in the car waiting for*  
614 *you. Aggd has gone to the vehicle and female has said if you come any closer then I*  
615 *will throw acid on your face. Sus has then started videoing aggd... 23/04/2017 22:30*  
616 *Agg?d (sic) reports that the suspect dropped off their son and then has asked her to*  
617 *come to their car which was parked in the opposite cul de sac, agg?d (sic) has walked*  
618 *to the car and states that sus has set her up to make a fool of herself and this has*  
619 *angered her. She states that after the introductions were confirmed, the partner was*  
620 *upset that she got her name wrong and has then threatened to throw acid in agg?d's*

621 *(sic) face...Sus has shown police a recording of the encounter and there is no threat*  
622 *heard on the recording. The recording is as described by the agg'd (sic) but there is*  
623 *no threat made as alleged. When challenged, the agg'd (sic) stated that he started*  
624 *recording after the threat was made".* Having viewed the video, it starts with M  
625 meeting F2's girlfriend (who is standing outside of the car) and this does seem to be  
626 the first time that they have met each other from the introductions that each gives to  
627 the other. The only issue at first is that M seems to have somehow understood that  
628 F2's girlfriend's name was not what she is told at this meeting, with M suggesting that  
629 F2 told her something else though he can be heard saying that he did not tell her  
630 anything about his girlfriend. For the first few minutes there is nothing of any real  
631 concern, apart from the obvious point about F2 recording M as I have noted. Then M  
632 clearly becomes angry and agitated and starts swearing at F2's girlfriend and making  
633 very derogatory and sexual remarks about her (the words "cunt" and "pussy" are used  
634 for example) and this all takes place in the hearing and sight of not just B but at least  
635 one other child. At no point is any threat made by either F2 or his girlfriend to M. M  
636 in contrast is clearly recorded as saying to F2 that he was in "*deep shit*" and then she  
637 walks away (having been walking backwards and forwards in an increasingly agitated  
638 manner) saying that she is going to call "*the law*".

639

640 When the police spoke to M later that same day, they noted her appearance and  
641 behaviour as being of concern: "*slightly dishevelled on initial attendance, seemed*  
642 *drunk or under the influence of something as very animated and agitated. Behaviour:*  
643 *emotional, erratic, went from very upset and teary to shouty and aggressive...Danger:*  
644 *concerns for the mental health of the agg'd"* (F26). It is at this point that M made her  
645 allegation that F2 had raped her anally in the terms noted at F25. F26 to F28 then

646 details the efforts made by the police to ascertain from M whether she wished to  
647 pursue a prosecution against F2 in respect of this allegation. At some point in May  
648 2017 it appears that M had indicated she wished to make a withdrawal statement but,  
649 despite repeated attempts by the police to get her to complete the statement, she did  
650 not in fact do so. She was also given until the end of October 2017 to decide whether  
651 or not she wanted to pursue or withdraw the allegation (F27). She asked the police for  
652 more time to consider but, as the police reasonably concluded (I find), she had had  
653 sufficient time by then to consider her position and was given until 10<sup>th</sup> November  
654 otherwise the matter would be filed. She then failed to engage further with the police  
655 in November and the matter was closed as far as the police were concerned on 24<sup>th</sup>  
656 November 2017 (F28).

657

658 F2 has been very clear and consistent in his evidence, both in his statement (C127  
659 para 18) and orally to me, that he has never been sexually abusive towards M and that  
660 these allegations of anal rape are wholly fabricated by M. Both he and F1 separately  
661 described that M appeared to be unduly preoccupied with sexual matters (F2 C44 para  
662 6, F1 C68). F1 did go on to explain in his oral evidence that this was more something  
663 that he was aware of from work colleagues who knew both him and M. I also have an  
664 unchallenged statement in the Bundle from SM (C132-136) which details two  
665 occasions when M has referred to sexual matters during arguments with F2 in the  
666 presence of others. F2 and F1 clearly told me that they did not really know each  
667 other, despite working at the same factory. F1 told me that he knew F2 by sight in the  
668 works canteen but not to talk to him. Both were credible and compelling witnesses  
669 about this and, despite the implication by M that they were somehow colluding to  
670 present M in a negative light, I do not find any evidence at all that they have colluded

671 with each other. I am satisfied that they do indeed only know each other by sight and  
672 only as a result of both working in the same factory and through having both been  
673 involved with relationships with M.

674

675 I do not find M's allegations of sexual abuse of her by F2 to be proved on balance of  
676 probabilities. Whilst I accept that a victim of a sexual assault may well struggle to  
677 recall all or many details of the assault, and after a lapse of time may struggle to  
678 identify a particular date and time for the assault, it is striking that the date ranges that  
679 M has referred to at various points for these assaults vary incredibly widely. Initially  
680 she dated the alleged incidents to the early part of 2015 and certainly before her  
681 birthday in March. However, she then dated the second alleged incident to September  
682 2015 and in her oral evidence to me it was both "*early in 2015*" and "*about two*  
683 *months before split up...around the time that the relationship was ending*". It is also  
684 striking that none of her accounts provide the sort of sensory, contextual detail that is  
685 often seen in accounts of sexual assaults. What detail there is around timings, what  
686 happened and how is contradictory in each version that she gives. When this is  
687 coupled with the fact that she did not raise any allegation until approximately two  
688 years after she alleges that the assaults took place, and in the context of her making a  
689 false allegation of a threat to throw acid in her face and where she is clearly angered  
690 and upset about F2 being in a new relationship as he told me and as the video shows, I  
691 am afraid it further undermines her credibility about these allegations to the point that  
692 she is simply not a credible witness about them, I find.

693

694 The next allegation on M's schedule that falls to be considered is that sometime in  
695 2014 F2 gave A some tablets to drug her. This allegation is first made by M on 8<sup>th</sup>

696 May 2016 when she called the police to report that A was being groomed over the  
697 phone (F7). The police log records *“caller informed police that she had heard her*  
698 *daughter having phone conversations at 5.30am several months ago. She stated that*  
699 *she had heard the other person on the phone threaten her daughter, along the lines*  
700 *of? If you say anything, we will show the videos?. This happened on three different*  
701 *occasions so caller questioned her daughter who stated that in October (not known if*  
702 *2014 or 2015), caller?s (sic) ex-partner had taken her upstairs, given her a squash*  
703 *drink with a pill in it. This made caller fall asleep. When she awoke she couldn’t*  
704 *remember anything and had a pain in her legs”*. A was then spoken to by the police,  
705 both with her mother present and on her own. On each occasion A denied that  
706 anything had happened and said that nothing had happened as M described. The  
707 police also checked her phone and found nothing of any concern on it, noting it to be  
708 *“a normal 11 year old?s (sic) phone!” (F8)*. Somewhat bizarrely, M also appears to  
709 have alleged at about the same time as this that F2 was *“stalking her by placing a*  
710 *camera in her loft. Police attended on this occasion and no such camera was found*  
711 *and there was no further action” (F8)*. At F9 it is also noted that on 9<sup>th</sup> May 2016 M  
712 rang the police to chase action on her complaint of A being groomed and make  
713 allegations that the police were not acting appropriately by only sending one officer to  
714 her address rather than two and querying whether that officer was trained in  
715 determining that there was no evidence of crime, only to become *“very abusive on the*  
716 *phone”* when the police call handler attempted to explain that she had been dealt with  
717 by a properly trained officer. It is also noted that M did not bring any of her concerns  
718 in this regard to the attention of the officer who had attended on 8<sup>th</sup> May 2016.  
719 A was asked about this allegation in her ABE interview. She was asked very  
720 generally about her mother making accusations about her and as is recorded at F125

721 said *“she would always tell me that F2 used to like abuse me when they were together*  
722 *and then she made me like, like I did tell it wasn’t true and she like, won’t say she*  
723 *made me lie but she made me go to the Police, I mean like she called the Police and*  
724 *the Police were round and then made me say that they abused me...And they did and I*  
725 *said they didn’t abuse me and like after said to her after they didn’t abuse me, they*  
726 *didn’t abuse me but she didn’t believe me, she still had it in her head”*. A is very  
727 clear in that interview that her mother told her that F2 would abuse her and that this  
728 did not happen. A also explains in some detail in her interview (F125-126) that M  
729 accused A of using drugs and having inappropriate relationships with teachers and her  
730 friends’ parents.

731

732 It was submitted by Ms Vaughan for F2, and it is part of the Local Authority case, that  
733 this allegation is in the context of M having made another allegation that A was being  
734 sexually abused at school and that allegation when investigated turned out to be  
735 unfounded. That allegation was made to the police on 13<sup>th</sup> December 2016 (F16) by  
736 M. As is recorded at F17, M told the police that she was *“basing her suspicions on*  
737 *alleged inappropriate behaviour by her daughter a year ago whereby when she sat*  
738 *down at a parents evening she did not shut her legs properly then earlier today she*  
739 *has noticed a dollar bill missing from the house and alleges to police that daughter*  
740 *admitted to taking this and when asked why said it was because of the issues at*  
741 *school. She believes this to mean the daughter is being sexually abused”*. A was  
742 spoken to by the police at the time of this complaint and denied that any sexual assault  
743 of any kind had taken place *“stating her mother has jumped to conclusions because of*  
744 *this alleged incident a year ago and that over the last year her mother has had*  
745 *multiple ideas and delusions about her and her brother being abused and that nothing*

746 *anyone says or does can change her mind” (F17). In her ABE interview A is very*  
747 *clear that she has not been sexually abused by anyone and that she thinks her mother*  
748 *has leapt to conclusions based on her sometimes coming out of school twenty minutes*  
749 *late because of talking to her friends (F126), thinking that she was “doing like sign*  
750 *language to the teacher’s (sic) during parents evening” (F126). A also indicated that*  
751 *it may have been as a result of something said by F1 to M about her not sitting*  
752 *properly when wearing a skirt (F126).*

753

754 In her oral evidence to me, M said that A had “*suggested*” to her that A was having  
755 an inappropriate relationship with a teacher at school. She also suggested both in  
756 evidence in chief and when cross-examined that A had made up this allegation  
757 because of an argument about bed-wetting, and because of an argument about  
758 stealing. In her written statement she alleged that A may have made this up because  
759 of being challenged about stealing money by M (C28 paras 25 & 26). Her evidence  
760 about this, frankly, lacks any credibility whatsoever. She was vague about any details  
761 of what A said to her, even admitting that on her own account it appears to have been  
762 something that whatever A said was “*suggested*” rather than explicit detail. Very  
763 bizarrely she also seemed to be telling me that this allegation came out because of an  
764 argument and implied that A may have been saying this as a way of countering the  
765 accusation of stealing. As was properly submitted by Ms Little on behalf of the Local  
766 Authority, that would make it more likely than not that even if A did say what M  
767 alleges, it was made up to stop the argument about stealing. A has consistently told  
768 everyone else, including the police at the time that the accusation was made in 2016,  
769 that what her mother has said about this is not true. A has also told her foster carer  
770 that “*her mum told her that he (F2) had sexually abused her (A). She says that mum*

771 *told her this on a daily basis for around 18 months and then not so much in the last 6*  
772 *months. A is unsure if she is having memories of this because of the continuous*  
773 *allegations by mum, or if they actually happened. A is fairly sure that they are just*  
774 *awful memories because of what mum has said over and over again.” (FCA4). F2*  
775 *has also provided credible and consistent evidence that he did not abuse A as M*  
776 *alleges. As a result of all of the evidence before me on this aspect, I am satisfied that*  
777 *M has failed to prove on balance of probabilities that F2 gave A tablets as she alleged.*  
778 *I am also satisfied that the Local Authority has proved on balance of probabilities that*  
779 *in December 2016 M made a false allegation that A was sexually abused at school*  
780 *(1.1 threshold criteria A29). I will return to consider the consequences of that false*  
781 *allegation later in this judgment. I am also satisfied on balance of probabilities that*  
782 *that M has repeatedly told A that she (A) has been abused by F2 when this was not*  
783 *true (1.2 threshold criteria A39).*

784

785 The next item on the schedule of allegations made by M is that F2 threw B against the  
786 wall and as a result B hit his head. This is said to have taken place sometime in 2014  
787 and M did not herself witness this as she accepts. F2 accepts that there was an  
788 incident when he described having difficulty getting B to go to bed at bedtime. He  
789 told me that he repeatedly told B to go to bed and resorted to picking B up and taking  
790 him to bed, then dropping B onto the bed. His oral evidence to me was that this was  
791 from sufficient height and with sufficient force for B to bounce on the sprung mattress  
792 and hit his head against the wall as a result. I have carefully reviewed what he  
793 described doing in his oral evidence to me. He demonstrated dropping B onto the bed  
794 from a height that appeared to be a little under a metre. He described B bouncing off  
795 the sprung mattress and immediately he heard a bang as B hit his head on the wall.

796 He accepted that this was not a sensible thing for him to have done and that it resulted  
797 in B having a slight bump on his head. This is, I find, entirely consistent with what A  
798 told the police on 8<sup>th</sup> May 2016 when she was asked by them about the allegation:  
799 *“when asked about the potential assault on her brother she stated that her brother*  
800 *had been misbehaving one day (thought to be June last year) and the ex-partner had*  
801 *thrown him onto a bed in the room they share. Her brother hit his head on the wall as*  
802 *he landed but daughter wasn’t sure if this was an accident or deliberate but*  
803 *nevertheless believed the ex-partner did not intend to hurt the child” (F8).* In her oral  
804 evidence to me M accepted that B did not have serious injuries and did not require  
805 medical attention. She also accepted that B had not told her about the incident  
806 himself and that this would suggest that it was not significant enough to B to cause  
807 him to tell her. I do find that it is more likely than not that B simply banged his head  
808 accidentally on the wall as a result of F2 dropping B onto the bed in a way that was  
809 likely to result in B getting accidentally slightly injured. This allegation by M is not  
810 therefore proved on balance of probabilities.

811

812 The next allegation that M makes on her schedule is that B was sexually abused in  
813 F2’s presence by two men and an unknown male *“putting his fingers up his butt”*.  
814 This also links to item 1.3 on the Local Authority threshold criteria. This allegation  
815 by M is first raised by B telling police officers on 28<sup>th</sup> March 2018 that *“when he was*  
816 *6 years old when he was at his dads partners house that a man put a finger up his*  
817 *butt” (F40).* Again, M accepts that she was not present at the time of this alleged  
818 incident and that she is relying on what B has told her and the police. As with M’s  
819 false allegations of sexual assault of her by F2, the timing of this allegation is  
820 potentially significant. It was made during the previous private law proceedings and

821 at a time when the social worker was preparing an addendum section 7 report for  
822 those proceedings. M's account to the social worker about this allegation is recorded  
823 in that section 7 addendum report as follows "*B had told her last year that a man had*  
824 *sexually assaulted him. M stated she did not report this incident to the Police. B told*  
825 *her that there were two adult males who put Sellotape on his mouth and his father*  
826 *was there too. M stated that B told her that this incident was recorded on a camera.*  
827 *M said after B told her she checked his bottom for any injuries and there was*  
828 *'damage' to B's bottom. M said that she put sudocream on the area which was*  
829 *'damaged' but she did not seek medical attention. M said she and B have not spoken*  
830 *to each other about the incident since. M stated she regretted not reporting this to*  
831 *Police but didn't because Social Care were not involved as they had just closed their*  
832 *assessment. In addition, her relationship with F2 was not good at the time. M stated*  
833 *she did not 'see the point' of contacting the Police as she was being accused by*  
834 *professionals of calling them unnecessarily"* (PL64-65 paras 8.2 and 8.3).

835

836 What is very odd about M's account, both above and in her oral and written evidence  
837 to me that she did not report this to the police at the time and this was because she had  
838 lost faith in them, is that the police disclosure clearly shows her reporting the other  
839 allegation to the Police in April 2017 about the threat to throw acid in her face and the  
840 sexual assault allegations. The police log, as I have already noted, shows numerous  
841 attempts by the police to follow up her complaint about the sexual assault allegations  
842 and her lack of co-operation with them into November 2017. It does therefore seem  
843 peculiar that if B told her about this allegation in around about March 2017 as she  
844 alleges, she didn't mention this as part of her allegations made in April 2017. It is  
845 also very concerning that, on her own account, she did not report what appears to have

846 been a serious sexual assault resulting in injury to B and that she did not seek medical  
847 attention for him. She has given absolutely no explanation for the failure to seek  
848 medical attention when one would expect a parent to do precisely that in the  
849 circumstances alleged.

850

851 B was asked about this in his ABE interview. He is asked an open question by the  
852 officer after describing events on 16<sup>th</sup> September 2018 about whether “*anything like*  
853 *this has happened before?*” and B says “*well, one time when I was gonna visit, I was*  
854 *visiting my Dad...cos I see my Dad every 2 weeks...and um my butt was itching...and*  
855 *when I came back, Mum put some cream on it and she saw a scratch in my butt...She*  
856 *said um, did they put your finger in my in my bum, I said no and she said she will*  
857 *ground me forever if she, if he’s, if I don’t tell the truth and I was telling the truth so I*  
858 *had to say yes. (officer)Right OK, so what happened to your butt? (B) I have no*  
859 *clue...But they didn’t do it (officer) But your Mum thought someone had is that right?*  
860 *(B) Yes (officer) But, OK but you had to say someone had but you had to lie is that*  
861 *what you’re saying? (B) Yes to not grounded forever” (F98). B goes on to describe*  
862 *having to make up a description of a man who assaulted him and feeling “very sad”*  
863 *about having to lie “to not get hurt or not get grounded forever and not let my life be*  
864 *me doing nothing” (F98). M told me in her evidence that B told her this had*  
865 *happened and denied forcing him to make up the allegation. She also said that she*  
866 *believed this had happened to B because he used words that a seven year old would*  
867 *not know. I am very clear from all of the evidence before me, particularly her*  
868 *language in front of the children in the video I have seen and her own admission that*  
869 *this sort of behaviour was typical of her arguments with F2 when the children were in*  
870 *the house, that she has used sexually explicit and inappropriate language in*

871 circumstances where the children could overhear this. F2 also accepted that their  
872 arguments were typified by the sort of thing shown on the video and, as I have already  
873 noted, both F1 and F2 have provided credible evidence about M's propensity to use  
874 sexual terms. M herself also accepted in her oral evidence that despite her allegation  
875 B continued to have unsupervised contact with his father and that her only  
876 reservations about overnight contact recorded in the social services documentation  
877 between the first and addendum section 7 report were that she did not want it to take  
878 place at F2's house without giving any details why. She did suggest in her oral  
879 evidence that somehow this continued contact with F2 is what led to B changing his  
880 story. However, B's account in his ABE interview of being forced to lie by his M is  
881 extremely compelling, I find. F2 has also given very credible and compelling  
882 evidence that this alleged sexual assault of B did not take place. I do not find this  
883 allegation proved on balance of probabilities and am satisfied on balance of  
884 probabilities that it was M's behaviour (forcing B to lie under threat of grounding or  
885 fear of being hurt and exposing him to inappropriate sexual language) which led to B  
886 making this false allegation. Item 1.3 on the threshold criteria is therefore proved on  
887 balance of probabilities.

888

889 The next item on M's schedule of allegations is that during the weekend of 24<sup>th</sup>/25<sup>th</sup>  
890 February 2018 a man at F2's girlfriend's house twisted B's ear and that F2 knows  
891 who did this and what happened. This allegation also surfaced at about the same time  
892 as the allegation in relation to B being sexually abused that I have dealt with above.  
893 As the addendum section 7 report records at PL60 paragraph 5.1.4 the Emergency  
894 Duty Referral team received a referral on 27<sup>th</sup> February 2018 stating that B had been  
895 referred to the hospital on 26<sup>th</sup> February 2018 after M had contacted the out of hours

896 GP due to B complaining of a pain to his ear and a bruise on his right ear. B was seen  
897 by his then social worker at home on 27<sup>th</sup> February 2018 who records that B told her  
898 *“that the injury to his ear happened at his father’s girlfriend’s home on Sunday and*  
899 *had been caused by unknown male who lives in the house and whom he has seen ‘like*  
900 *six times before’. Some details surrounding what B said were inconsistent to those*  
901 *outlined in the Emergency Duty Team Referral” (PL60 para 5.1.5).*

902

903 F was spoken to about this by the police on 1<sup>st</sup> October 2018 who record that *“he*  
904 *became very cagy and said that he had a mark on his ear and his mum saw it he felt*  
905 *that it was felt tip but he went to the Dr’s who felt it. It was harder to get detail from*  
906 *B but he stated that he didn’t know how it happened and it wasn’t his dad as his dad*  
907 *cares for him” (F50).* B also told the police in his ABE interview that he was forced  
908 by his M to lie about his ear (F99-100). He is very clear that nothing happened to his  
909 ear but he was forced to lie about a bruise on his ear by his M who thought that  
910 something had happened to it having noticed a bruise on his ear as he was going to  
911 bed (F110). It is very apparent from the evidence in the Bundle that no-one at school  
912 saw any bruise or injury to B’s ear on the Monday 26<sup>th</sup> February 2018. The complaint  
913 about the injury is made on the evening of 26<sup>th</sup> February 2018 when M contacted the  
914 out of hours non-emergency medical number as she told me. The social worker was  
915 very clear in her evidence to me that the injury to B was very apparent when she saw  
916 him on 27<sup>th</sup> February 2018 as he had very short hair and his ears stick out. As I noted  
917 when hearing closing submissions, I can take judicial notice of the fact that current  
918 medical opinion is that it is impossible to date bruises with any degree of accuracy.  
919 The absence of any visible injury on the Monday at school alone would not therefore  
920 establish positively that the injury was not present at that point. However, this is part

921 of wider evidence which includes B saying that he was forced to make up a lie about  
922 this by his M who believed that F2 had done something, and in the context of M  
923 having made other manifestly false allegations about F2 by this point. It is also in the  
924 context of a dispute about the amount of contact that B could have with F2. I also  
925 have the credible evidence from A in her ABE interview that “*when she (M) usually*  
926 *physical with e she usually twists my ear...like she would like just pinch and grip and*  
927 *twist*” (F136). The health professional view was that the injury was consistent with a  
928 twisting or pinching mechanism as recorded at the strategy meeting held on 16<sup>th</sup> April  
929 2018 (F36). F2 has also provided credible and compelling evidence that this  
930 allegation is untrue.

931

932 As a result of B’s inconsistencies in his accounts of what supposedly happened, and  
933 his evidence in his ABE interview that M forced him to lie, as well as my earlier  
934 finding that she forced him to lie about the alleged sexual abuse of him by F2 and the  
935 fact that no injury at all was seen on B at school on Monday 26<sup>th</sup> February 2018, I do  
936 not find that M’s allegation is proved on balance of probabilities. However, I do not  
937 have sufficient evidence to be satisfied on balance of probabilities that this injury was  
938 deliberately caused by M as Ms Vaughan submitted in closing. At best, I have  
939 sufficient evidence to be satisfied on balance of probabilities that the injury is more  
940 likely than not to have arisen when B was in the care of his mother after returning to  
941 her care from contact, but I cannot go further than that.

942

943 The next allegation on M’s schedule relates to an incident in the swimming pool  
944 where she alleges that F2 neglected B who was therefore at risk of drowning. Again,  
945 M accepts that she was not present at the material time. It is common ground between

946 the parties that there was an occasion when F2 took B swimming. This is set out in  
947 the section 7 report completed in December 2017 at paragraph 7.9: *“F2 reports that B*  
948 *fell swallowing water, he grabbed onto a person who he thought was his Father, but it*  
949 *was another man. F2 said he did not tell M about the incident, as in his view it was*  
950 *not a ‘problem’. In F2’s view this incident has been blown out of proportion by M”*  
951 *(ED10. In his statement at C129 F2 describes “B running around ...and went into the*  
952 *wave pool. B was under the water for a couple of seconds at most and this was*  
953 *because he got water up his nose and panicked. I had ‘told B off’ and he sulked for a*  
954 *short time. Afterwards, we went for dinner at a Toby Carvery and B was happy,*  
955 *stating that he enjoyed himself. B was not left to drown as is stated by M”.*

956

957 M’s account is in her statement at C105 and says that *“B also told me that when he*  
958 *was swimming with his Father, he said he had been under the water and had to grab*  
959 *someone’s leg to lift himself up. He was crying when he told me this. He said his*  
960 *Father was near him and should have helped but did not. I asked F2 about it and he*  
961 *said B was under the water for a few minutes and that nothing serious had happened.*  
962 *I was very worried (para 24).* This incident is not mentioned at all in M’s first two  
963 statements in these proceedings, though it clear from the section 7 report at ED13 that  
964 she expressed concerns about this to the social worker then and described it as being  
965 described by B as nearly drowning. F2 gave very clear and credible evidence to me  
966 about going swimming with three children and trying to watch all three between  
967 himself and his girlfriend. He very fairly accepted that he may have momentarily  
968 taken his eyes off B and this is when B went under. However, he described this as  
969 only being for the briefest of periods and in terms that made it clear to me that this  
970 was the sort of momentary immersion and panic that a child often experiences when

971 learning to swim. He was also very clear that B was absolutely fine afterwards. I can  
972 see that by F2 not telling M about this (I find) very minor incident that this might feed  
973 into M's fears and suspicions. However, I can also see that F2 would not necessarily  
974 have thought to mention such a minor incident and, based on the other false  
975 allegations that M has made about him, can see that in some sense he was damned if  
976 he said something and damned if he did not. In fact, what is clear on all the evidence  
977 before me including M's own, is that this shows that M seems to have been  
978 determined to think the worst of F2 and at least has therefore exaggerated what she  
979 says B told her about this incident. I do not therefore find this allegation proved on  
980 balance of probabilities.

981

982 The final allegation on the schedule produced by M is that A has sexually abused B.  
983 This links directly with item 1.5 on the threshold document. It is not disputed that M  
984 has accused A of this on several occasions. M case is that the accusations are true  
985 based on what she says the children have told her and that she believes what the  
986 children have told her. M also accepts that she herself has never seen anything directly  
987 in terms of the children's behaviour that has led her to suspect that this was going on.

988

989 The first time that these allegations surfaced for professional involvement was on 26<sup>th</sup>  
990 October 2017. It is not in dispute that on that date A herself called the police. A was  
991 described by the police who attended as tearful, telling M "*why don't you tell them*  
992 *what you're saying I've done*" (F30). As is set out in the police disclosure, they  
993 investigated the allegation at the time and both children denied the allegation. They  
994 also could not find any corroborating evidence to substantiate the allegation. When  
995 the police spoke to M she seems to have told them that she had "*suspicions*" (F30)

996 that her son and daughter were engaged in sexual activity between themselves. She  
997 did not allow the officer attending to speak to the children alone. A social worker  
998 then spoke to the children but it is noted “*got varying stories but no firm disclosures*”  
999 (*F30*).

1000

1001 M’s written evidence about this appears in her statement at C26-27 paras 16-18. As  
1002 she described there and in her oral evidence to me, she said that B told her “*out of the*  
1003 *blue, he said to me that he had been ‘giving’ A ‘head’*” (*C26 para 16*). She said that  
1004 she challenged A about this and A responded that she did not care and “*seemed*  
1005 *dismissive*” (*C26 para 17*). This description of A as dismissive is wholly at odds with  
1006 the upset and tearful child that the police see on arrival and this apparent change in  
1007 her demeanour is not covered in M’s written or oral evidence. M implied in her  
1008 statement at C26-27 para 18, and was explicit in her oral evidence to me, that the  
1009 children had opportunity to collude about their accounts before the police spoke to  
1010 them and this explains the different accounts that they have given later. However,  
1011 having carefully reviewed the ABE interviews several times, as well as the accounts  
1012 given to other professionals, there are some differences in the children’s accounts  
1013 which support a conclusion that they are not colluding in making up what they are  
1014 saying. Those differences are not significant enough, in my view, to suggest that their  
1015 credibility is undermined. In fact, they are consistent about the main details and any  
1016 differences are often due to differences in perspective (as well as age and  
1017 understanding), for example when B was downstairs on 16<sup>th</sup> September and A and M  
1018 upstairs and he couldn’t hear everything that was said upstairs and didn’t know what  
1019 everything he could hear meant such as what he describes as a “*grinding noise*”  
1020 (*F93*).

1021

1022 The trigger for the current proceedings on Sunday 16<sup>th</sup> of September 2018 relates to  
1023 another of M's allegations that A had been sexually abusing B. This is also linked to  
1024 item 5.3 on the Local Authority threshold document. On 16<sup>th</sup> September 2018 A  
1025 presented herself at a police station alleging that she had been physically assaulted by  
1026 her mother. A stated that M had threatened her with a knife and had pinned her to the  
1027 floor and kicked and grabbed her genitals. B was at home during this assault. A fled  
1028 from the home (F44), then tried to contact her social worker (F46). A was found by  
1029 PC Gillingham slumped on the floor near the Police station (statement of PC  
1030 Gillingham F56-57). A was crying to the point of choking her words, PC Gillingham  
1031 reports *"she said that she was scared to go home because her Mum is poorly and had  
1032 hurt her. Her mum was saying she's been doing stuff with her brother but her mum  
1033 had also told police before that A has been sleeping with her teachers"* (F56). He  
1034 records A's account of the assault at F57: *"Her mother was also in the kitchen and  
1035 was shouting at her, accusing her again of being a paedophile and accusing her of  
1036 sexually assaulting her brother. At one point A said that her mother pulled out a  
1037 large kitchen knife from the drawer and told A that she was to stab her. It was  
1038 following by her mum saying she would let A 'bleed out' A wasn't sure what this  
1039 meant. All the doors in the house on the ground floor were locked to stop A leaving  
1040 the house. As the verbal insults and accusation escalated, A told me that just by the  
1041 foot of the stairs, her mother grabbed hold of her and pinned her to the ground. Her  
1042 mother was on top of her and grabbed her hard between the legs, hurting her  
1043 privates. After this, her mother has kicked her hard between the legs, again in her  
1044 privates. She said her mother wasn't really saying anything as she was doing this  
1045 because she was out of breath from holding A down...Today her mother told her to*

1046 *write down everything she eats and drinks, even if it is just tap water. A believed this*  
1047 *was possibly a control thing. A used this as an opportunity to jump out of the open*  
1048 *kitchen window. Her mother had locked all of the doors. She left her mobile phone*  
1049 *and also her glasses behind. A had been walking around for about two hours before*  
1050 *coming to the Police Station. My observations of A are that she presented as very*  
1051 *genuine, very timid and emotionally exhausted. She was not complaining she was in*  
1052 *any pain after being assaulted and declined medical assistance. I have been a Police*  
1053 *Officer for nearly 13 years and have dealt with many challenging situations. Very few*  
1054 *interactions get to me, but I feel very sad for A and with what she has been through.*  
1055 *The best way to describe her was broken”.*

1056

1057 Police attended the home, arrested M and placed A and B under police protection.  
1058 Both children were spoken to (separately) and B gave an account of his mother  
1059 believing they (the children) had had sex *“it has not happened, I have told its not true*  
1060 *but she doesn’t believe me, its crazy”* (pre-interview assessment F66). He also stated  
1061 that he has to lie so as to not upset mother. B stated *“she hurt my head today – she hit*  
1062 *it hard -it nearly made me cry... She is really mean to my sister. She forces her to*  
1063 *come upstairs by smacking and punching her – it happened today. She punches really*  
1064 *hard – but mostly smacks. Demonstrates – very hard* (F67).

1065

1066 A, in her pre-interview assessment (F68-74) stated she had been thinking about telling  
1067 for a while (F72). On that day she overheard M asking B inappropriate things about  
1068 her *“she says you like it, like it a lot, states to him that he likes pussy...he says leave*  
1069 *me alone, don’t want to talk about it, go away”* (F73).

1070

1071 Following her arrest, M was detained until interview at the police station. The  
1072 custody record shows that a mental health assessment (requested as a result of  
1073 information from other sources F144) did not identify any mental health issues at the  
1074 time and M was described as unconcerned (F150).

1075

1076 When interviewed by the Police, M gave a no comment interview (FOa-n). In her  
1077 first statement for these proceedings, M accepted that she lost her temper, used bad  
1078 language and shouted at A and stated, *“I think I tapped her on the shoulder”* (C25  
1079 para 9), but denied any physical attack. She alleged that the argument took place after  
1080 B had said to her (M) *“I have been licking A again”* (C25 para 8). M twice referred  
1081 to A calling her (M) *“delusional”* and stated, *“as far as I am concerned, nothing*  
1082 *physical happened between A and I at all and she totally vanished”* (C26 para 13).

1083

1084 On the 18<sup>th</sup> and 19<sup>th</sup> of September 2018, the children’s fathers signed s.20 consent for  
1085 the children to be accommodated. The mother signed her consent on the 21<sup>st</sup> of  
1086 September 2018. The children have remained in separate foster placements. Since A  
1087 left the home on 16<sup>th</sup> September, any contact between the children has been  
1088 supervised.

1089

1090 Both children gave ABE interviews, B on 1<sup>st</sup> October 2018 (F79-105) and A on 3<sup>rd</sup>  
1091 October 2018 (F106-137). As I have said, I have viewed these videos several times in  
1092 course of these proceedings, having first seen them for the purposes of an earlier Re  
1093 W hearing to determine whether either child should be called to give evidence (no  
1094 party in fact sought for them to give evidence so I did not have to determine this point  
1095 in fact). The demeanour of the children in each interview is, in my view, striking. B

1096 has a palpable sense of relief at being able to tell someone what has been going on in  
1097 his home. A is quiet, restrained and does not appear to be exaggerating or  
1098 dramatizing her account.

1099

1100 In her ABE interview A described hearing M talking to B *“Because like would like*  
1101 *say like, like how could you do this to me? Everything I do and you do this to her and*  
1102 *like she would say the ‘p’ word and the ‘d’ word and stuff over and over again saying*  
1103 *like kinda like you do this to A and she does this to you and bla bla bla bla. I don’t*  
1104 *know if she like hit him in the room because I obviously couldn’t see it I could just*  
1105 *hear it” (F112). A described “then when she finished she started having a go at*  
1106 *me....and then when she finished she pulled a knife on me.... That I’m gonna go to*  
1107 *prison and that she’s gonna send me out of the house and I’m disgusting calling me*  
1108 *names and stuff.... Paedophile.... And like child molester and stuff.” (F113).*

1109

1110 A described M starting to ‘fight’ with her because she wouldn’t go upstairs (F117)  
1111 *“She slapped me round the face, she kicked me, she grabbed me and she hair pulled*  
1112 *me and she like, pinched me as well”(F118), “she only kicked me in the private area*  
1113 *once and the legs was kinda like twice.....well she obviously meant to kick me but I*  
1114 *don’t know if it was meant to be my private area because when I was on the ground*  
1115 *she was like grabbing me in my private area really hard and I was like trying to*  
1116 *scream but she was covering my mouth”(F119). She went on to describe M grabbing*  
1117 *her private area “she like gripped it with force” (F119).*

1118

1119 A describes going to her room and M coming in and again kicking her in the private  
1120 area (F121) and that she then attempted to lock herself in the bathroom and alleges M

1121 pretended to call the police to threaten her before unscrewing the door with a  
1122 screwdriver (F123). A stated M told her to write down everything she eats and drinks  
1123 so M can control what she has in the kitchen; at that A jumped out of the kitchen  
1124 window (F122). She described attempting to find the social worker at the family  
1125 centre but it being closed and eventually ending up at the police station. When asked  
1126 how she felt about her mother slapping her and fighting, A stated *“I’m kinda like used  
1127 to it, but it does make me quite upset and I feel I’m not like in a normal family”*  
1128 *(F124).*

1129

1130 During her interview A also repeats how her mother *“told me like to get undressed  
1131 completely”*(F115-116) and recounts previous occasions when this occurred *“well she  
1132 like told me like this was when she pulled me out of my old school and then she told  
1133 me to get undressed and she told, this was in our old house, then she told me to like  
1134 get undressed, like completely naked and she called me into the bathroom and she  
1135 made me open my legs like really wide....And then she made me like go to sleep naked  
1136 and not in, not in my bed like a spare, like mattress thing with no duvet only like, a  
1137 mattress sheet which you use to cover your mattress with”* (F116). A described M  
1138 shouting to her to sit on the toilet lid with her legs open and that M and B came in  
1139 (F116-117). A dates M’s false accusations from the time of separation from F2 with  
1140 physical harm from the beginning of 2017 (F125).

1141

1142 B gave a what I find to be a fluent and convincing account of events on 16<sup>th</sup>  
1143 September from his perspective in his ABE interview: *“That’s when my mum said  
1144 ‘were you doing it to her?’ ‘cos she like saw me going in the room and she thought  
1145 that, mum was, like my sister in the room, even though she wasn’t. Then that’s when*

1146 *it happened, she was hurting me because she thought that I was doing it, I was doing*  
1147 *it, even though we never did and never want to, and ummm, and then, I got liked*  
1148 *punched two times here, one there and one there by my mum for no reason....and um,*  
1149 *my sister got, she told to wait in my room and she closed the door and went to A and*  
1150 *she started like pulling, I didn't see her but I just heard her saying 'stop it mum' I*  
1151 *heard her crying and she was downstairs with mum. Mum told her to go upstairs and*  
1152 *she said no, that's when I heard a grinding sound? A grinding...And that's when I*  
1153 *heard this screaming, and I was crying in my room, very, very quietly.... because I*  
1154 *didn't want my mum to think that I like doing it even though we never did and we*  
1155 *never want to. That's when my mum wouldn't stop it and my mum said go to her*  
1156 *room, she did it and then, um um, I was downstairs and then so was my mum and we*  
1157 *were talking downstairs about like I had to lie not to get in trouble and I feel really*  
1158 *bad for my sister, that's when I gave her the chance to leave and tell. About what*  
1159 *happened, I gave her the chance and um, that's when she left the house," (F81-96).*

1160

1161 B described A's scream as "like a horror scream" described as "I think they're going  
1162 through a lot of pain, a lot of pain.... I thought it was very sad and very brutal"  
1163 (F94). He also described thinking that M was trying to kill A (F94-95) and is very  
1164 clear that this is what he thought not what he has been told by A (F95).

1165

1166 B's account in his ABE interview is of M first saying 'are you doing it or not' 1- 3  
1167 weeks previously and that he had been hit on a number of occasions as a result (F83).

1168

1169 During the interview B also stated, "I don't know why, but I'm actually finding this  
1170 fun....and basically I'm feeling grateful for myself because I'm actually saying it and

1171 *not be feeling nervous basically” (F86). It is this part of the interview that conveys*  
1172 *the palpable sense of relief at telling someone what has been going on that I have*  
1173 *noted earlier.*

1174

1175 Three weeks later, B’s foster carer records that B told her the following: “21.10.18 I  
1176 *was asking R what did he enjoy playing at home apart from the iPad, he said*  
1177 *sometimes telly but mostly iPad I said did you play With your sister, he said*  
1178 *sometimes but not really because of what mum says we do, I said what do you mean*  
1179 *he said you know what happened, my mum says I have sex with A I said did that only*  
1180 *happen once he said no lots of times. But it’s hard because if I say we didn’t I get into*  
1181 *trouble but if I say we did A gets in trouble so it hard because either Me or A would*  
1182 *get hit. He said i don’t know why mum thinks that I have sex” (FCR15). This is also*  
1183 *entirely consistent with the account that B gave in his ABE interview.*

1184

1185 M’s account of her allegations about A’s abuse of B are in her first statement at C26-  
1186 27 and in relation to the 16<sup>th</sup> September 2018 at C24-26. At C27 she describes  
1187 finding inappropriate material on A’s phone, indicating that it is “*a clip of a young*  
1188 *black boy who looks anything from 7 to 10 years old saying to the screen that he*  
1189 *wants to have sex with someone. It is totally bizarre and inappropriate and I*  
1190 *challenged A and she was dismissive and said it was for fun...I screen shot the clip at*  
1191 *the time and I attach a copy at FCT1”.* There is indeed a screenshot at C33 exhibited  
1192 to her statement but this appears to be of a search of the NHS website about  
1193 vaccinations and a URL relating to women’s trainers. There is some image below that  
1194 last search but the image is wholly blurred and simply does not corroborate what M  
1195 alleges was on the phone, I find.

1196 During her oral evidence to me about her allegations, M was less than forthcoming, I  
1197 find. I have made allowances, as Ms Rodgers submitted was appropriate, for the fact  
1198 that English is not her first language (though she has never asked for or required the  
1199 assistance of an interpreter in these proceedings). Some of the questions she was  
1200 asked, including those by her own advocate in eliciting evidence in chief, were at  
1201 times simply too long and potentially structured in a way that might have made them  
1202 less clear to someone who speaks English as a second language. However, any  
1203 questions that were causing her difficulty were simplified by the advocates and even  
1204 then, M gave answers that either deflected from the question, for example saying that  
1205 the questions needed to be put to A or B, or elicited allegations that police and social  
1206 care records (including those of the foster carers) were either inaccurate or that the  
1207 maker of the record in question was lying. She lacked credibility as a result, I find.  
1208 She also gave conflicting accounts about if she had made physical contact with A  
1209 during the argument on 16<sup>th</sup> September 2018, at one point accepting that as she had  
1210 put in her written evidence she had ‘tapped’ A on the shoulder, but also then going on  
1211 to deny that she had touched her - “*I never touched her*”. Again, I am afraid this  
1212 made her a far from convincing witness. Her allegation that the children have  
1213 colluded about their later accounts given to police and other professionals is also  
1214 wholly unsubstantiated, I find. The children were not alone together for any  
1215 significant length of time after the police were called on 16<sup>th</sup> September 2018 (A  
1216 having in fact gone to the police station at this point), and as I have noted their  
1217 accounts do not sound like rehearsed stories that they have put together. Their  
1218 demeanour in interview when they give their accounts is also consistent with them  
1219 telling the truth. A in particular seems emotionally worn out by everything that she is  
1220 describing, as was noted by PC Gillingham in his statement at F57.

1221 It was also striking that M was initially emphatic that she believed what her children  
1222 said and yet, when it was put to her by both Ms Little for the Local Authority and Ms  
1223 Wilkins for the children that the children had consistently told everyone else that A  
1224 had not sexually abused B, she completely refused to acknowledge this at first.  
1225 Eventually, in answer to a direct question from Ms Little, she indicated that she only  
1226 believed what the children told her themselves and she would like the opportunity to  
1227 have them tell her that it didn't happen. On the accounts given by M herself, A did  
1228 deny that it happened when challenged by M so it is odd that she did not therefore  
1229 believe A at that stage and preferred what she says B said to her. Based on the lack of  
1230 consistency and credibility in M's evidence about this allegation, and the broadly  
1231 consistent accounts of the children to all professionals and foster carers since the  
1232 police became involved on 16<sup>th</sup> September 2018, I am satisfied that not only has M  
1233 not proved on balance of probabilities that A sexually abused B, but also that it is  
1234 more likely than not that A was physically assaulted by her mother as A described  
1235 happening on 16<sup>th</sup> September 2018. I therefore do not find M's final allegation  
1236 proved but do find item 1.5 on the threshold document proved on balance of  
1237 probabilities. I am satisfied on balance of probabilities that A and B did not say what  
1238 M alleged they said in support of her allegation that they were engaged in a sexual  
1239 relationship.

1240

1241 Item 1.4 on the threshold document is that M has openly discussed her allegations and  
1242 used sexually explicit language in front of the children. The latter part of this  
1243 allegation is amply proved on both the evidence of the video which I have dealt with  
1244 earlier in this judgment, as well as on M's own evidence that she would use sexually  
1245 explicit swear words in arguments with F1 and F2 and that the children could have

1246 overheard this. CNR1 clearly records B as telling the social worker prior to contact  
1247 with his mother that *“he hopes mum does not bring up the sex stuff”*. The children’s  
1248 accounts in their respective ABE interviews and to other professionals during their  
1249 investigations of M’s allegations also supports a conclusion that M has discussed the  
1250 allegations with the children. Even M’s own evidence, both written and oral, is that  
1251 she questioned the children about the various allegations. I am therefore satisfied on  
1252 balance of probabilities that this threshold criterion is proved.

1253

1254 Item 1.6 on the threshold document is in part in fact a statement of undisputed fact,  
1255 namely that the children have had to speak to numerous professionals and police. Her  
1256 response to the final threshold is less clear about this aspect, though, as she does not  
1257 appear to address it at all. Given the number of false allegations that I have found her  
1258 to have made, and the consequent number of professionals and police that the children  
1259 have therefore had to speak to repeatedly and unnecessarily as things have turned out,  
1260 I am satisfied on balance of probabilities that this criterion is also made out.

1261

1262 Item 2 is the allegation that M forced B to look at A whilst A was naked and forced  
1263 him to look at her vagina. A gave a very clear and coherent account of this happening  
1264 when she was interviewed by the police (F116-117). It is something that is wholly  
1265 consistent, I find, with what appears to be a very bizarre and worrying tendency on the  
1266 part of M to expose the children to inappropriate and sexually explicit language, as  
1267 well as her apparent need to exert control over A by forcing her to write down  
1268 everything that she ate or drank. This links to item 3 which essentially is that A has  
1269 been humiliated by being forced to strip by her mother. Again, A gave a very clear  
1270 and credible account of this in her interview (F116) and this is consistent with A

1271 having told her foster carer that her mother hates her and favours B (FCA3 and FCA5  
1272 for example). I am satisfied that threshold criteria 2 and 3 are proved on balance of  
1273 probabilities. Again, as I have noted above, this is extremely concerning in terms of  
1274 what it says about how A has treated by her mother in comparison to B.

1275

1276 Item 4 on the threshold document is that, as a result of his experiences, B has  
1277 displayed sexualised behaviour and is at risk of significant harm to his development of  
1278 boundaries and relationships. M accepts (C40) that B has displayed sexualised  
1279 behaviour but disputes that this is because of anything she has done. Given my earlier  
1280 findings, I am satisfied that M has exposed B to inappropriate sexual language and, in  
1281 her questioning of him about whether or not he and A have engaged in sexual activity  
1282 has probably exposed him to inappropriate sexual language and ideas as is evidenced  
1283 by B's account in his ABE interview, supported by that of A in her ABE interview. In  
1284 addition, as M accepts that the children have spent significant periods of time on their  
1285 own because she was working, and the children's own evidence of looking after  
1286 themselves for prolonged periods, it does appear more likely than not that B would  
1287 not have been subject to appropriate boundaries and limitations on access to age  
1288 appropriate material online. I am therefore satisfied on balance of probabilities that  
1289 this threshold criterion is also proved. This also links to item 7 on the threshold  
1290 document which is that A spent long periods of time caring for B whilst M worked.  
1291 M appears to largely accept this (C41) but seeks to qualify it by stating that she was  
1292 working without family support and would check on the children in person and on the  
1293 telephone. Her evidence about this aspect of the case is somewhat unclear. She  
1294 seems to effectively be saying that she had no choice but, as was put to her by Ms  
1295 Little, both children had fathers nearby and M's own account is that she was prepared

1296 to allow some contact with each father. Indeed, her case is that any limitation on  
1297 contact arose because of the fathers choosing that. However, she gave no clear  
1298 answer as to why she did not use the fathers to help more with child care. She was  
1299 also very clear that she worked as much as she did to provide the children with  
1300 discretionary extra items and holidays, rather than it being a case of her having to  
1301 work as much as she did to provide simply the essentials. I am therefore unclear a)  
1302 why she was unable to slightly adjust her hours to reduce the time that the children  
1303 spent alone and b) why she didn't use each father to help more as she accepts that she  
1304 left A and B with F1 at times for this purpose. I do find this criterion made out on  
1305 balance of probabilities.

1306

1307 Items 5.1 and 5.2 on the threshold document relate to M hitting B unless he admitted  
1308 that he and A had been sexually active with each other, and hitting A in the belief that  
1309 it did and causing B to feel guilt. Again, given my earlier findings I am satisfied on  
1310 balance of probabilities that as the children have consistently described in their  
1311 interviews and to professionals since they were taken into care, this has happened.  
1312 B's guilt about being in this invidious position in particular is compelling and  
1313 touchingly described by him in his ABE interview, for example at FF92-93. A has  
1314 also been frequently slapped and hit as again the children have consistently and  
1315 credibly described. This is also supported by the evidence of F2 about how M would  
1316 discipline the children, often lashing out unpredictably. Items 5.1 and 5.2 are  
1317 therefore found proved on balance of probabilities.

1318

1319 The final item on the threshold document which falls to be considered is 6. M appears  
1320 to accept that the children have been exposed to volatility in her relationships with

1321 each of the children's fathers (C24 para 6 and C41 para 10). However, she denies that  
1322 she has sought to discourage the children from developing healthy relationships with  
1323 their respective fathers.

1324

1325 Given the findings that I have already made about M's false allegations in respect of  
1326 F2 and B, I am satisfied on balance of probabilities that this alone justifies a  
1327 conclusion that she has sought to discourage B from developing a healthy relationship  
1328 with his father. In addition, I find that she has done so in an extremely devious,  
1329 insidious and concerning way. Much was made in her evidence and in her advocate's  
1330 submissions to me of the fact that M did allow contact with both fathers and this was  
1331 not a case where she was refusing any contact. However, as I have already noted, it is  
1332 significant that whenever contact between F2 and B was due to increase, or assessed  
1333 by the professionals involved as appropriate to take place in a way that M did not  
1334 agree with such as overnight, M raised false allegations. Some of her false allegations  
1335 are, quite frankly, bizarre. On 9<sup>th</sup> October 2016 she contacted the police to allege that  
1336 F2 was somehow involved in his ex-wife's body being buried under a primary school  
1337 and that he had married a sixteen year old girl and had a son with him. There is  
1338 simply no evidence at all to substantiate these allegations. In addition, M clearly  
1339 sought to force B and A to join in with the false physical and sexual abuse allegations  
1340 against F2, as my earlier findings also demonstrate.

1341

1342 F1's evidence about contact was also striking in this regard, I find. He told me that M  
1343 would not allow him to be a hands-on father during their relationship and that when  
1344 they separated he was not told about A's life and schooling and only saw A where and  
1345 when was convenient for M. I found his evidence to be credible and compelling

1346 about this. He was very fair when asked about his impression of M as a mother and  
1347 described her as a good mother. When questioned by Ms Rodgers about why he had  
1348 not done anything to seek to increase his contact with A, he told me that he didn't  
1349 know what to do and where to get advice. He also accepted that, despite his concerns  
1350 about M, he did not inform any of the authorities about her. At worst he seems not to  
1351 have thought to try to get any advice and to have been rather passive in relation to  
1352 contact arrangements for A, I find. He appeared to have been genuinely wary of  
1353 'rocking the boat' with M and therefore did not challenge the limitations she imposed  
1354 on his contact with A, I conclude. Considering the volatility that M has at times  
1355 displayed with both partners and the way in which she reacted to F2 pursuing  
1356 increased contact with B, this wariness is perhaps more understandable than it would  
1357 have been otherwise.

1358

1359 F2 also gave credible evidence to me about why he did not go to the authorities to  
1360 report his concerns about M. He was very clear that he thought her behaviour was  
1361 mainly directed towards him or as a result of his being in the family. He also gave  
1362 very clear and compelling evidence about why he chose to reduce contact with B and  
1363 then stopped it altogether in early 2018. He explained that he wanted to move from  
1364 weekly contact with B to fortnightly contact to help fit with his new relationship. In  
1365 fact, he sought contact per fortnight with an overnight stay, as the private law papers  
1366 reveal. It is perhaps therefore a moot point as to whether this represented a reduction  
1367 in overall contact that B would have with his F and could, in fact, be argued that this  
1368 would result in slightly less frequent but longer contact that was of better quality for  
1369 B. F2 agreed that he stopped contact altogether after the referral alleging that he had  
1370 allowed B to be sexually abused at his girlfriend's house (referral made on 28<sup>th</sup>

1371 February 2018). He told me that he made the difficult decision to stop contact to  
1372 protect him and B from false allegations and because he was worried and had to  
1373 protect his family. This evidence from him was compelling and credible, I find. He  
1374 accepted that stopping contact may not have been ultimately in B's best interests, but I  
1375 find that considering the extremely serious false allegations that M was by this point  
1376 repeatedly making about him, it is understandable. It is also understandable that this  
1377 would have been placing not only him but also his family under considerable strain.

1378

1379 F1 described M leaving A and B in his sole care at times when it suited M. This was  
1380 not challenged by M and neither was his evidence that this took place even after he  
1381 had been investigated for and cleared of rape. M's apparent reasons for restricting  
1382 contact with him therefore simply do not make sense, I am afraid, and further  
1383 undermine her credibility in relation to her evidence that any problems about contact  
1384 between A and her father related solely to F1 being a "*useless father*".

1385

1386 F1 and the social worker also clearly told me that F1 only had information about A's  
1387 schooling after these proceedings commenced and this came from social services  
1388 rather than M. This is consistent with what F2 also told me about not being given  
1389 information about B's sexualised behaviour at school or the meeting that was held to  
1390 discuss that behaviour on 13<sup>th</sup> July 2018 until the school told him. He also told me  
1391 that he had to find out the information himself from the school about B being removed  
1392 from school and was not consulted about this before it happened. F1, I find, was not  
1393 only not told about A being withdrawn from her school after the false allegation of her  
1394 being sexually abused at school in 2016, he was also not even consulted about  
1395 whether she should be withdrawn from school or what schooling arrangements should

1396 then be put in place. It should be remembered that both F1 and F2 have parental  
1397 responsibility and are therefore entitled to information about their child and to be part  
1398 of major decisions about the exercise of parental responsibility for them.

1399

1400 I did not find M credible when she told me that the reason F1 did not have more  
1401 contact with A was that he was not interested. She gave one example of inviting him  
1402 to attend a concert in London that A was participating in. F1 accepted that he had  
1403 been invited to this (though neither were very clear as to how much notice he was  
1404 given) but told me that he couldn't go because he was working. He was adamant that  
1405 he had not been invited to A's birthday parties as M alleged. He gave very  
1406 convincing evidence that the only time M contacted him about A's birthday was on  
1407 one occasion to request that he bought A a guitar for a present. M in contrast  
1408 provided absolutely no detail about how and when she notified F1 of A's birthday  
1409 party arrangements and I am satisfied as a result that it is more likely than not that she  
1410 did not in fact invite him as she said. This, coupled with her restrictions on contact  
1411 including her insistence on being present when F1 had contact with A (apart from  
1412 when she left A and B with F1 to help her working arrangements), leads me to  
1413 conclude that it is more likely than not that M did discourage A from developing a  
1414 healthy relationship with her father and this aspect of item 6 of threshold is also  
1415 proved.

1416

1417 Finally, as this hearing has also been concerned with section 31 threshold, I have  
1418 considered whether my findings support a conclusion that the children have suffered  
1419 significant harm as a result and as alleged by the Local Authority. I am quite clear  
1420 that the children have suffered significant physical and emotional harm as a result of

1421 the findings of what their M has done to them and exposed them too. For example,  
1422 because of her false allegation about A being sexually abused in school, A was  
1423 removed from school against her wishes and spent about three months at home,  
1424 socially isolated and without adequate schooling. M told me in evidence that it was  
1425 permitted to home school A but, given that she was at work for most of the time on  
1426 her own account and does not appear to have hired a tutor, it is hard to see how she  
1427 was ensuring that A was receiving appropriate education for her age. M did not  
1428 dispute that A did not want to leave her school either. This will therefore have caused  
1429 A significant emotional harm and potentially harmed her educationally as well. The  
1430 false allegations of sexual abuse and her humiliation of A as set out in items 1.1 to 3  
1431 will have caused A significant emotional harm too, I find. Similarly, they will have  
1432 caused B significant emotional harm, and in addition item 4 means that B has suffered  
1433 and is at risk of suffering significant emotional harm because of his exposure to a lack  
1434 of appropriate boundaries and inappropriate sexual language by M. Both children  
1435 have suffered physical harm because of M's physically harming them as set out in  
1436 items 5.1 to 5.3. I also find that this physical harm will also inevitably have caused  
1437 the children emotional harm as they clearly do love their mother and have struggled to  
1438 understand why she would have hit them. The evidence of F2 and the evidence from  
1439 the police disclosure of M's erratic behaviour at times and unpredictability will no  
1440 doubt have also added to the emotional harm that these children have experienced as  
1441 they would not have been able to predict when their mother would become angry and  
1442 hit them. It was also striking that M herself gave me evidence that she struggled to set  
1443 boundaries for the children, particularly A, and tended to simply give them what they  
1444 want. Finally, items 6 and 7 do support a conclusion that the children have been  
1445 neglected by their mother and as a result have suffered significant emotional harm.

1446 Threshold for the purposes of section 31 is therefore crossed considering all my  
1447 findings.

1448

1449 **Conclusions**

1450

1451 For whatever reason, I am satisfied that M has sought to convey an impression that A  
1452 has engaged in inappropriate sexual activity and, extremely worryingly, has  
1453 apparently based this on at what at its highest is normal teenage behaviour such as  
1454 wearing shorter skirts and sometimes coming home slightly late from school. It will  
1455 be a matter for further expert assessment as to why M has done this, but I would put  
1456 on record that this is, in my view, an extreme reaction and suspicion on the part of a  
1457 child's mother. I am not clear from the evidence so far before me whether M does in  
1458 fact believe that A and B have been sexually abused and have sexually abused each  
1459 other. The situation is complicated by her having made up allegations to frustrate B's  
1460 relationship with F2, as I have found. It also links to what M herself told me about  
1461 the different ways in which she views A and B, as Ms Wilkins for the Guardian  
1462 highlighted in closing. A was described by her as defiant and difficult and B as easy  
1463 going and not a problem. It is striking that on her own case M seems to have very  
1464 easily thought the worst of A in relation to A's alleged sexual abuse of B. She also,  
1465 on her own account, left the children on their own for prolonged periods even after  
1466 she says that she first formed the view that A was sexually abusing B. Why she  
1467 would, as I have found, make up what she says A and B said to her about admitting  
1468 the sexual abuse, is simply unclear to me at present and any further consideration of  
1469 this aspect of the case would be leading me to inappropriate speculation. It is also  
1470 striking that M does clearly love her children and there is a clear bond between the

1471 two children, despite what M has put them through (E6 para 13 Guardian’s initial  
1472 analysis and recommendations). R, in particular, shows emotional warmth towards his  
1473 mother in contact and this is reciprocated from M (Contact notes CNR1-61). They are  
1474 also polite, well-mannered children who “*have also clearly benefitted from some*  
1475 *positive parenting* as the Guardian noted in her initial analysis and recommendations  
1476 (E5 para 11). It is therefore even more puzzling as to why their mother should have  
1477 behaved towards them in the way in which I have found that she has and in so doing  
1478 should have caused them such significant physical and emotional harm.

1479

1480 I have before me an application by the Guardian in accordance with Part 25 of the  
1481 FPR for there to be a psychiatric assessment of M. This application is unopposed by  
1482 any party. In light of the findings I have made and the concerns about M’s motivation  
1483 that I have noted above, I find that this is a necessary assessment to justly determine  
1484 the remaining issues in the case which will relate to welfare disposal. In addition,  
1485 concerns about M’s mental health have been previously raised by the police and other  
1486 professionals dealing with her, although there is no indication that any mental health  
1487 difficulties were identified. In terms of the draft questions for the proposed  
1488 psychiatrist, these also need to specifically refer to the findings that I have made in  
1489 this judgment and need to include comment by the expert on M’s acceptance and  
1490 insight into those findings, I think. The outcome of that assessment will then inform  
1491 the other evidence that will need to be filed for the final stage of these proceedings  
1492 which is timetabled to take place before me over three days commencing 17<sup>th</sup> June  
1493 2019.

1494

1495

A handwritten signature in black ink, appearing to read 'A. Dew'.

1496

1497

15<sup>th</sup> February 2019