

**IN THE FAMILY COURT AT WEST LONDON**

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

Date: 8 July 2021 (to be handed down on 16 July 2021)

**Before :**

**HIS HONOUR JUDGE WILLANS**

-----

**Between :**

**THE LONDON BOROUGH OF EALING**

**Applicant**

**- and -**

**(1) The Mother**

**Respondents**

**(2) The Father**

**(3) The Child (by her Children's Guardian,  
Clare Durkin)**

-----  
-----

**Philippa Parry-Jones** (instructed by **Ealing Legal Department**) for the **Applicant**

**Ann May** (instructed by **Morrison Spowart Solicitors**) for the **First Respondent**

**Kate Hudson** (instructed by **Lock and Marlborough Solicitors**) for the **Second Respondent**

**Gill Honeyman** (instructed by **Lovell Chohan Solicitors**) for the **Third Respondent**

Hearing dates: 14-18 & 21-25 June 2021

-----

**JUDGMENT**

**His Honour Judge Willans:**

1. This is a judgment in public law care proceedings and follows a 10-day fact finding hearing. Within this judgment I intend to preserve anonymity by using the following abbreviations for the relevant participants:

The Applicant	The London Borough of Ealing
---------------	------------------------------

The Social Worker (SW)	Mr Emmanuel Owusu
The Deputy Team Manager (DTM)	Ms Samira Ali
The Contact Supervisor (CS)	Ms Tracey Dickinson
The Mother (M)	.....
The Father (F)	.....
The Son (S)	.....
The Daughter-in-Law (DL)	.....
The Child (C)	.....

2. To assist in understanding I will structure this judgment under the following headings:
- i) Introduction
  - ii) A summary of the proceedings
  - iii) The allegations under consideration
  - iv) The relevant legal principles
  - v) The relevant history of the case
  - vi) Analysis
  - vii) Conclusions

## Introduction

3. This is a fact-finding hearing. The parties are in dispute as to significant alleged events. Because they cannot agree, I will have to decide what really happened. The resolution of the disputed issues will be important when, in due course, I come to consider what the future holds for C and what her living arrangements should be. I do not make those decisions within this judgment and I have not heard evidence relating to final outcomes for C.
4. To help me make decisions as to fact findings I have had regard to the following information:
- i) Final hearing bundles<sup>1</sup> comprised in a digital format
  - ii) Additional documents not contained within the bundles but provided by the parents either shortly before or during the hearing. In particular both parents disclosed audio recordings just prior to the commencement of the hearing [M: 6 relatively short audio clips, and; F: 11 audio clips which I am told run to about 3 ½ hours – it is these clips in respect of which the transcript bundle has been prepared]. Further, F disclosed further limited documentation being 3 photographs and some financial documents in the light of M’s evidence. Finally, F provided a short additional statement shortly before the commencement of the hearing;

<sup>1</sup> In this case I have a final hearing bundle (1601) pages; an additional bundle containing among other matters contact notes and a print off from F’s phone which was seized by the police (3724 pages), and; a transcript bundle relating to audio recordings disclosed by the F (75 pages). It can therefore be seen I have received in excess of 5000 pages of documentation.

both counsel provided short notes putting the audio clips into context, and; counsel for M provided a web link to a photograph of a street cleaner working within the Applicant's local area.

- iii) Live evidence from the following witnesses: (a) The DTM; (b) The SW; (c) CS; (d) M; (e) F, and; (f) S
  - iv) Both written opening notes and closing submissions from counsel for each party.
5. It is important to be clear that, whilst I may not make reference to each and every aspect of the information and evidence provided to me, within this judgment (to do so would be unhelpful and is unnecessary), I have continued to bear in mind all the relevant evidence placed before me. My intention within this judgment is to identify the key features of the information/evidence which was important in making my decisions and then to explain the analysis I applied to that information in reaching my ultimate conclusions.
6. The hearing was conducted on a hybrid basis. I note the following features adopted by the Court to ensure a fair and effective hearing:
- i) Prior to the hearing significant judicial/professional input was put into ensuring the hearing would be conducted in a manner which was both fair to the parties and efficient. A witness template was agreed and a plan for hearing live evidence agreed
  - ii) As part of this both M and F were to give their evidence physically in person at Court. It was agreed that each parent would have two days set aside for their live evidence. Unfortunately this did not provide sufficient and as a result a small portion of M's evidence was heard remotely (as this was intended to be the first day of F's live evidence and the plan was for both parents not to be in the Court building at the same time). A knock on impact was that F's evidence went into a third day. Whilst all counsel were expected to plan their questioning within the available time I am in no doubt they each had the opportunity to put to the other party that which was necessary to test that party's case.
  - iii) In addition the Court made provision for M to be present in the Court building on days 2-3 of the hearing whilst professional witnesses gave remote evidence.
  - iv) M was assisted by an interpreter. Her exact need for an interpreter was felt to be in giving assistance rather than on the basis of requiring simultaneous interpretation throughout. M has at least a fair grasp of English and it is plain she conducted her relationship with her husband entirely in English, given that neither of them can speak the other's native language. There was other evidence within the bundle (see for example Police Body Worn Footage (BWF)) which suggested M was conversant in English. Nonetheless she varied throughout her evidence between answering questions directly (and in a comprehensible manner) and relying upon the interpreter both to interpret the questions and answers. At multiple points I permitted questions and evidence to be

interpreted at the request of counsel for M whether or not M had in fact sought such assistance. I am confident the evidence I received from her is not undermined by language issues.

- v) M at the time of hearing was just within 2 months from an expected delivery date with a new baby. It was this feature in particular which led to the request for her to attend Court on days 2-3 of the hearing. However no application was made for vacation of the hearing and having considered the authority of *F (A Child) (Adjournment) [2021] EWCA 469*<sup>2</sup> I consider it was appropriate to have proceeded with the hearing given: (i) M sought to come to Court; (ii) breaks were provided for all witnesses on a regular basis; (iii) no application was made to vacate; (iv) there was no case management decision required, and; (v) M was at about 7 months of pregnancy.
- vi) Neither party has any learning or other cognitive difficulty.

### A summary of the proceedings

- 7. I would generally refer to section B of the final hearing bundle.
  - i) The proceedings commenced on 2 April 2020. Consequent to the Covid Pandemic all hearings prior to final hearing have been conducted remotely. At the first hearing an interim care order was made (DJ Nisa) but on the basis there would be no separation of M and C. The Court determined a designation issue and identified the Applicant as the appropriate authority.
  - ii) I conducted the CMH on 22 April 2020<sup>3</sup>. I gave case management directions and fixed a directions appointment and a later IRH for 12 August 2020. On 27 May 2020 I conducted the directions appointment<sup>4</sup>. A key issue related to the planned international kinship assessments. Unfortunately there was insufficient information to determine a timetable with certainty. In addition disclosure orders were made. I should also note that at an early stage the representative for F argued for an early fact finding hearing. I ruled against this as the case did not appear to meet the test set out in the authority of *Re S*<sup>5</sup>.
  - iii) I conducted the IRH on 12 August 2020<sup>6</sup>. Shortly prior to this hearing M had issued injunction (Family Law Act 1996) proceedings against F. I consolidated the same within these proceedings. I gave comprehensive directions towards both a PTR (11 January 2021) and Final Hearing (25 January 2021 – 6 days). The plan was for the first part of the hearing to resolve fact finding before moving onto the welfare issues.
  - iv) On 21 October 2020 the matter was restored to Court (DDJ Drew)<sup>7</sup>. She was asked to approve separation of C from M but adjourned this decision pending further disclosure. The Judge gave comprehensive disclosure

---

<sup>2</sup> §14 on

<sup>3</sup> B29

<sup>4</sup> B34

<sup>5</sup> (A Child) [2014] EWCA Civ 25

<sup>6</sup> B40

<sup>7</sup> B43

directions for the purpose of a contested interim hearing to be heard on 20 November. Her order also provides for a process of international assessment of family members on F's side (previous international assessments related to M's family).

- v) On 20 November 2020 DDJ Drew<sup>8</sup> heard the contested removal hearing. She approved the separation of C from M under the continuing interim care order. Since that date C has been cared for within a foster placement. The Judge converted the final hearing into a 5 day fact finding hearing only and gave necessary disclosure orders.
- vi) I heard the PTR on 11 January 2021. I considered evidential issues and gave further detailed directions as to disclosure and the provision of evidence. I carefully considered the submissions and the order contains a witness template under which each parent would give evidence for 1 day.
- vii) The matter came before me for a 5-day fact finding hearing commencing on 25 January 2021<sup>9</sup>. Unfortunately the hearing was ineffective due to the following reasons:
  - a) Gaps in the directed disclosure which meant a fair hearing could not be heard
  - b) An issue relating to PII (public interest immunity): In summary the Metropolitan Police Service (MPS) had applied to withhold disclosure on the basis of the need to protect an informant. I had initially seen this application in late summer 2020 and had transferred it to the High Court, where it was subsequently heard by Mrs Justice Judd. It then became apparent the PII could not be justified as the documents sought to be protected had in fact already been disclosed largely/entirely into the proceedings by way of M's injunction evidence and thus there was no undisclosed informant to protect. For reasons which are unclear this state of affairs had not been fully actioned as at the date of the fact finding hearing – albeit it has been since and all evidence is before the Court.
- viii) Significant time was taken over the period of the aborted fact finding to ensure the same problems would not be repeated. Comprehensive directions and a detailed timetable was set to avoid further delay. A further PTR was fixed for 17 May 2021 with a 10-day fact finding to follow on 14 June 2021.
- ix) I conducted the PTR on 17 May 2021<sup>10</sup>. It is fair to say complaints continued as to the ongoing state of disclosure. Issue was also raised as to the allegations to be heard at fact finding. Since the aborted fact finding further cross allegations had been made. I determined the matters

---

<sup>8</sup> B48

<sup>9</sup> B57

<sup>10</sup> B64

which would be heard at the hearing. I approved a structure under which the hearing would be conducted and a witness template which would govern the hearing.

- x) The fact finding hearing has proceeded in line with the above case management.

### The allegations under consideration

8. These can be found at A38-45 of the final hearing bundle. There are 15 allegations under consideration (with various sub-allegations)<sup>11</sup>. The allegations are as follows:

- i) *The father repeatedly forced the mother to have sex against her will;*
- ii) *When the mother resisted having sex, the father would assault her and pull her hair*
- iii) *...[Removed]....*
- iv) *The father was violent during sex;*
- v) *A day after the mother discovered that she was pregnant with C, the father had purchased a “medicine” for the mother (in order to induce a miscarriage) and threatened that he would kill the baby if the mother did not drink it*
- vi) *In the period between the beginning of the mother’s pregnancy with C, and certainly up to the incident on 24th-26<sup>th</sup> May 2019,*
  - a) *the father regularly assaulted the mother by kicking, punching (especially in the abdomen because he did not want C), slapping, and pushing (including by her stomach)*
  - b) *the father hit the mother’s stomach, causing her bleeding*
  - c) *the father did not allow the mother to go out, locking her in, ~~restricting her to her room,~~ and refusing to give her a key*
  - d) *the father restricted the mother’s social contact with others, including taking her mobile phone*
- vii) *During 24th-26th May 2019, when the mother was heavily pregnant with twins (including C)*
  - a) *the father held the mother against her will*
  - b) *he repeatedly kicked, pushed, and punched the mother in the face, stomach and chest*
  - c) *~~on 25th May 2019, whilst he assaulted her, the father locked the bedroom door to prevent the mother from leaving~~*

---

<sup>11</sup> Allegation 3 was not pursued at hearing. Those items struck through were removed post-evidence. They do not fundamentally alter the nature of the hearing

- d) *the father refused to take the mother to hospital in spite of the pain she was experiencing*
- e) *he caused her to experience stomach pain, and sustain a bruise and mild swelling to her lip and a mark on her face*
- f) *on 26th May 2019, the Police took the mother to hospital and she was moved to a refuge for her safety*
- viii) *Following the incident on 24th-26th May 2019, the father threatened to kill the mother and the twins whom she was then pregnant with*
- ix) *In spite of the risk, the mother had – prior to these proceedings – said that she wished to reconcile with the father; and in breach of an agreement with the Local Authority, she continued to put herself and C at risk by continuing to meet the father, without the Local Authority's prior knowledge*
- x) *In May 2020, the father had expressed an intention to kill the mother*
- xi) *In spite of the risk posed by the father and her residing at a secret address, the mother stayed with the father on 20th–23rd and 26th-28th September 2020 and 2nd-7th October*
- xii) *The mother disclosed her confidential address to the father*
- xiii) *Whilst the mother and C stayed with the father during 2nd to 7<sup>th</sup> October 2020, the father assaulted and raped the mother, and refused to hand C back to her*
- xiv) *After the incident on 7<sup>th</sup> October 2020, the mother left the father. But in November 2020, and in spite of the risk, the mother again reconciled with the father.*
- xv) *On Thursday 10<sup>th</sup> December 2020, the father raped and assaulted the mother, and removed and damaged her phone*
- xvi) *On 12th March 2021, the mother and father were seen together sitting in a car. When they were spotted by the contact supervisor, they attempted to hide from the supervisor.*

9. It can be seen that these allegations broadly fit into two categories. First, it is said F was domestically abusive to M and that such abuse included serious sexual and physical violence but also included both abusive, threatening and controlling and coercive behaviour. Second, it is said that notwithstanding these circumstances M (and F) have repeatedly reconciled their relationship. It is noted that incidents of alleged violence then followed the repeated reconciliations.
10. In essence M supports, indeed is the source of many of, these allegations. She accepts much of the case as to reconciliation but seeks for it to be understood in the context of a controlling and abusive relationship. In contrast F denies all of the alleged abusive conduct and explains the reconciliations as unsurprising in the context of a non-abusive relationship.
11. It would have been possible to have narrowed the threshold document without doing any injustice to either party and without losing a sense of the ‘broad

canvas' of the case. This was raised as an issue both at the aborted final hearing and at the second PTR. However the majority of allegations have proceeded for determination. I intend to approach the case in a proportionate manner without losing sight of the issues before the Court.

### The relevant legal principles

12. There are many authorities which expound the principles to be applied. I am grateful to Poole J. and the recent authority of *Re JK*<sup>12</sup> for succinctly summarising the relevant factors as follows:

- i) The burden of proof lies on the party that makes an allegation of fact and identifies the findings they invite the Court to make [*here the Applicant but largely reliant on the evidence of M*]
- ii) The standard of proof is the balance of probabilities: whether a conclusion is more likely than not
- iii) Findings must be based on evidence not suspicion or speculation
- iv) The court must take into account all the evidence and consider each piece of evidence in the context of all the other evidence
- v) It is not uncommon for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for various reasons, such as shame, misplaced loyalty, panic, fear, distress. The fact that a witness may have lied does not necessarily mean they are guilty of the matter alleged against them and the fact that the witness has lied about some matters does not mean that he or she has lied about everything. I bear in mind the observations of Macur LJ. in *A, B & C (Children)*<sup>13</sup> whilst recording that no counsel specifically raised these principles in submission.
- vi) As this case concerns allegations of domestic abuse, including coercive and controlling behaviour the principles and guidance at PD 12J of the Family Procedure Rules 2010 apply, as does the guidance given recently by the Court of Appeal in *Re H-N and Others*<sup>14</sup>. At §25-26 I note:

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

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

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

<sup>12</sup> (A Child)(Domestic Abuse: Finding of Fact Hearing) [2021] EWHC 1367 (Fam)

<sup>13</sup> [2021] EWCA Civ 451 §58

<sup>14</sup> (*children*) (*domestic abuse: finding of fact hearings*) [2021] EWCA 448 (Civ)



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

In considering the question of 'coercive behaviour' I have regard to *F v M*<sup>15</sup> which observed that:

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

But I also bear in mind the observations of the Court of Appeal<sup>16</sup> that:

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

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

- vii) I do not detail the observations as to the approach to be taken to fact finding and schedules of allegations. In this case the hearing and issues have arisen in the context of a section 31 Children Act 1989 threshold document with the Applicant seeking to rely on the allegations as evidence that the legal threshold of significant harm has been crossed at the relevant date and that the Court may, if justified, make public law orders at the conclusion of proceedings. However, as in *Re JK* case management has proceeded prior to the authority of *Re H-N*. Notwithstanding this I am confident I have a full appreciation of the issues necessary to determine both the specific allegations and the broader canvas in this case. The schedule I have incorporates specific allegations (e.g. sexual and physical violence) but also elements amounting to a pattern of controlling behaviour (e.g. the restriction of personal autonomy and threats and abuse). I will address my conclusions both through a narrative summary of conclusions but also by referencing back to the schedule within the bundle.
- viii) Although this case involves allegations of serious sexual assault including rape it does not require the Court to consider in any detail whether consent was or was not given on any particular occasion. This is not a case in which the parents fall into disagreement as to whether M's actions were or were not indicative of consent to the sexual acts in question. As such it does not engage *JH v MF*<sup>17</sup>. I do though bear in

---

<sup>15</sup> [2021] EWFC 4

<sup>16</sup> *Re H-N* at §32

<sup>17</sup> [2020] EWHC 86 per Russell J.

mind the learning from that case as to the need for a sophisticated approach to the question of consent.

- ix) More generally I remind myself as to the caution that should be applied when considering the question of witness demeanour as a guide to truth<sup>18</sup>. This may be particularly so in the context of witnesses who are giving evidence other than in their native language. Rather than the manner in which the evidence is given it is safer to have regard to the evidence in the context of ‘illegality, implausibility, inherent inconsistency and lack of detail’. The reality is that a confident witness can be lying and an anxious and stumbling witness truthful. The fact finding process is not intended to be a beauty contest but a search for the truth.

### **The relevant history of the case**

13. It makes sense to break the history into a series of compartments. Through this approach I am sure it will be easier to both understand and analyse the background to the case.

#### *Events prior to M arriving into this jurisdiction*

14. Both parents share the same Islamic faith although F derives from state A and M from state B. These countries are globally distant from each other and likely to share marked differences in cultural/societal norms.
15. F is aged 61 years. His home country experienced a period of war when he was aged around 18 and he subsequently left that country, proceeding through a third state before entering this country in 1991. He has lived here ever since and appears to have full rights to remain. He has three children from a former marriage, which appears to have lasted between 1995 and 2004. On separation his wife returned to her home country and he raised the children alone. All three children are now adults with S being the youngest of the children and still living at home on an episodic basis. I should record that mention was made at the hearing to F’s conduct towards his previous wife. However, no findings are sought and I simply do not have an evidential foundation for making findings.
16. M is aged 26. Prior to her marriage to F she lived in state B with her parents and a number of siblings. An expert assessment in the case tells me that she achieved good grades at school and prior to marriage studied computing and typing; worked in a solicitors and later undertook a course in make-up and hairdressing<sup>19</sup>. I am also told she has been previously married to an individual from state C. This marriage appears to have been short in length and ended when M discovered her husband already had a wife in State C. I am told the marriage was never consummated.
17. The parents met on a Islamic online dating/marriage site. M alleges F falsely claimed to be aged 40. F claims M falsely claimed to have been aged 35. In any

---

<sup>18</sup> SS (Sri Lanka) v SS for the Home Department [2018] EWCA Civ 1391 per Leggatt LJ.

<sup>19</sup> E42 §3.2.2.3

event the introductions proceeded successfully and over the next year and a bit F visited M in state B on multiple occasions. He was introduced to her family and they proceeded towards marriage. It is clear from the evidence that the finalisation of the marriage was delayed to ensure F obtained the necessary visa to allow M to move to this country on marriage.

18. There are no allegations between the parents with respect to this period, aside from the complaints above. Both parents would describe the marriage as a 'love match'.

***13 March – 26 May 2019***

19. M arrived in the UK on 13 March 2019 and joined F at his home in London. It is agreed F had not disclosed the existence of his adult children and M first met S when she arrived at what was now the matrimonial home.
20. On 26 May 2019 (74 days later) the MPS attended the home address following M raising concerns with a third party. Both F and S were arrested and M removed to a place of safety. Within this period C was conceived (it would seem probable in late March/early April). **Allegations (i)-(vii)** arise out of this period.
21. M describes a pattern of sexual and physical assault throughout the period. The key driver is alleged to be F's demands for sexual activity leading to M being raped on numerous occasions, starting it would appear with an event 4-days after arriving at the home. The extent of the sexual assaults vary somewhat in the evidence but include up to twice daily on some reports. Linked to these assaults are said to be physical misconduct either because M was unhappy or unwilling to have sex or as part of F's mode of sexual conduct. So it is alleged he punched, slapped and hit the Mother and was violent during sexual activity. Further to the above M raises an allegation of controlling and coercive behaviour in which F restricted her movements outside of the home to include locking her in the property. But moreover a suggestion that she was not allowed to leave the property on her own; was not provided with a key; had her mobile phone controlled and with her being compelled to wear conservative traditional Islamic costume for some or all of the time.
22. A further separate and specific allegation relates to the fact that M was initially pregnant with twins but that one of the twins did not progress beyond this period. It is alleged either/both that F sought to terminate the pregnancy by compelling M to take medicine or other substance and that he physically assaulted M in such a way as to cause her to miscarry the second twin.
23. To complete the picture it should be explained S was arrested on the basis that he was alleged to have assisted F in preventing the Mother leaving the property on 25-26 May 2019 and in doing so had assaulted her, but also that he had in some way inappropriately watched M whilst she was in the shower (an allegation interpreted as voyeurism by the MPS). I should make clear that no findings are sought against S and the MPS have NFA'd (no further actioned) the allegations. I am asked to reflect on the presence of a bruise/swelling to M's lip and a mark on her face at the time she was removed. Aside from this there is no extraneous or objective evidence to assist me with my investigation into the facts.

**27 May – 7 December 2019**

24. Following removal M received the assistance of a local domestic violence support group. Pursuant to this support she moved to a confidential refuge address in N[...], Wales. At this time M was subject to a spousal visa (*I have been corrected post judgment that this visa had been obtained but was subject to conditions including to inform the Home Office were she to separate from F*). She alleges F had threatened to remove his support for the same and to cause her to be returned to state B. Whilst at the refuge M was supported to make an application for leave to remain based on domestic violence. This was pursued and in November 2019 she obtained indefinite leave to remain in her own right<sup>20</sup>.
25. Notwithstanding their separation the parents started to meet during this period. The circumstances of such meetings are in dispute and I will have to determine the circumstances in which the parents came to be back in contact; how F knew exactly where M was; and the quantum and circumstances of their meetings.
26. In summary I understand M to be stating that she was under continual pressure from F to meet with him threatening to get her into trouble with the authorities for telling lies. M specifically additionally relies upon messaging said to come from F, which is said to date from July 2019, in which he threatens to kill both her and the unborn child and/or to cause her significant harm<sup>21</sup> ('permanent disability') [*Allegation viii*]. It is during this period that at least some of the F's audio recordings were made and M argues these were coerced from her and held over her head as a threat to be used against her as required.
27. It seems clear F did visit M on at least some occasions and on at least one occasion they were together in Portsmouth. F suggests there was more systematic meeting on a regular basis with him travelling to see M and to take her out. From his perspective these meetings proceeded naturally on the basis that there was no truth in the previous allegations. It is clear the refuge were unaware of the same. The MPS have subsequently seized F's mobile phones and there is a large print out of material in the additional documents bundle. Much of this includes 'whatsapp' messaging between F and M (or subject to argument a third party). The contents of this messaging is said to be illuminating as to the actual quality of the parents relationship. F denies being the author of the threatening messages identified above and suggests M fabricated the same. Whilst it is quite clear there is a continuing allegation of coercive controlling behaviour during this period it is less clear whether M alleges any actual physical or sexual violence during the same period. She does state that her willingness to meet with F followed him apologising for his previous behaviour and promising not to repeat it.
28. In November 2019 DL was due to give birth. M told the refuge she intended to visit DL for a short period but that F did not know the address. In contrast F alleges he provided M with the same address and that she in fact stayed with him during this period. On 7 December 2019 M left the refuge. It is agreed she returned to live with F.

---

<sup>20</sup> C99

<sup>21</sup> I26-I31 but also at G86-88 (which includes the previous but also some additional detail)

**7 December 2019 – 10 January 2020**

29. During this short period the parents once again lived together at the matrimonial home awaiting the birth of C. It is unclear whether any specific allegations are made during this period. I should record that the Applicant had effectively lost track of M following her removal to a place of safety. There was no dialogue between the Applicant and the domestic violence group such that the Applicant did not know where M was living. It only became aware of her location being with F following a midwifery referral from the local hospital in the period building up to the birth of C.

**11 January – 31 August 2020**

30. Following the birth of C the allocated social worker commenced a conversation with the parents around safeguarding measures and an assessment process. As part of this process the parents entered into a working agreement under which M would separate from F for the period of the assessment and there would be no informal contact between the M/C and F<sup>22</sup>. During this period M experienced a series of moves. It may be that I have the exact detail slightly wrong but my understanding is M initially left hospital with C into B&B accommodation. I believe she may then have moved to a further B&B before moving on 9 April 2020 into a mother and baby foster placement. Subsequently on 1 June and 12 June 2020 she moved into successor mother and baby foster placements due to personality and other issues<sup>23</sup>.
31. The factual matrix for this period is somewhat confused. First, there is an issue as to the nature and quantum of meetings between M and F during this period. That there were occasions when they met is not in dispute. There is an example of a meeting at a Post Office and another occasion whilst at the Westfields Shopping Centre. M, I believe, characterises these meetings as limited and largely unplanned. In contrast F alleges there was multiple contact and meetings during this period when he would surreptitiously see M and C whilst they were accompanied in the community. A further complication is the evidence of M that for a short period (at around this time) she established a sexual relationship with a prior male friend from state B. M made clear that this individual was not previously her 'boyfriend' but that she had started a relationship with him in February 2020 to help in her separation from F. She ended the relationship, she reports, shortly afterwards when she became aware it would complicate her continuing care of C. In any event there is evidence<sup>24</sup> of M engaging in sexual activity on around 10 February 2020 as she went on to seek prescription of the 'morning after pill'.
32. There are two specified allegations relating to this period. The first relates to the question of M meeting with F [***Allegation ix***]. The second allegation flows from messages said to have been sent by DL to M in which it is suggested F is threatening to kill M<sup>25</sup> [***Allegation x***]. It seems these messages were reported to the MPS with the assistance of the foster carer. I note it was in the course of

---

<sup>22</sup> H47 (father); H49 (Mother); H51 (Both parents).

<sup>23</sup> C33

<sup>24</sup> F14

<sup>25</sup> I1

passing on these allegations that M first reported the suggested earlier threatening messages from July 2019 referred to at *allegation viii* above.

***1 September – 4 October 2020***

33. It would appear the planning for the Applicant with respect to M and C was progressing positively. By the start of September 2020 steps had been taken to permit a move into independent accommodation and a flat was found in L[...]. On 1 September 2020 M and C moved into this accommodation. It was intended this would be and remain confidential so far as F was concerned. The evidence suggests that this remained the case for the first couple of weeks of September. However, from about that point on F and M commenced meeting again. On the evidence of M she first met F accidentally at a market in Ealing. He subsequently collected her and brought her to London at least once and on a separate occasion took her to Portsmouth. In addition to this on 1-2 occasions she alleges he attended outside her property and sought to coerce her to go with him, threatening to burn her with acid if she refused (as she claims to have done). These are not specific allegations under consideration but fall to be considered as part of the wider picture. M's account is therefore of contact surrounded by coercion and of F discovering her address from a friend. In contrast F claims to have been provided with the address by M and to have met on a number of occasions with a full relationship resuming.
34. I pause to note the detail relating to the Portsmouth visit. On this occasion M alleges F made threats to kill her and drove his car deliberately into collision with a third party vehicle whilst travelling on the motorway. Both police and ambulance services are said to have attended. This is not a specific allegation but falls for consideration as part of the evidence. *Allegation xi and xii* arise out of this period.

***4 October – 10 December 2020***

35. On 7 October 2020 the MPS were called to attend at the matrimonial property. It became apparent both parents were at the property and there was a stand-off with F refusing to give C to M. Arising out of this attendance M alleged to have been raped and physically assaulted. Her account is of having been forced to leave L[...] with F on 4 October 2020 and in some way held against her will for the following few days. F denies these allegations. It was these events, when brought to the attention of the Applicant, which led to the ultimate removal of C from M's care into foster care in the following month. Following removal M and F resumed living together albeit it is in dispute as to whether this was pursuant to consensual decision making or coercion on the part of F.
36. On 10 December 2020 the MPS were called for a further time with M alleging having been raped and assaulted. Pursuant to this report M attended the Havens Unit. Whilst no evidence of sexual assault was established the Mother relies upon some bruising/marks referenced within that report as evidence of her allegations. These matters comprise *allegation xiii-xv*.

***11 December 2020 to date***

37. In summary there is no suggestion of the parents resuming home life together. There is however evidence of attempted communication prior to the aborted fact finding hearing at the end of January 2021. Further F alleges the parents met up in January 2021 and travelled to Brighton for the day. Further each make allegations against the other in the period following the aborted fact finding hearing. Finally there is allegation xvi in which CS reports seeing the parents together after M's contact on 12 March 2021. Both parents dispute this allegation.
38. At the PTR I determined the parents post January 2021 allegations should not be considered at this hearing. M had alleged being threatened by F whilst F alleged being visited at home and threatened by men on behalf of M. I considered a line had to be drawn in the sand and particularly so as the previous fact finding had to be aborted in part due to the unfairness to the parties in proceeding on allegations without the opportunity for full disclosure. I was unwilling to allow this situation to arise again. Presciently I had observed at the aborted fact finding that one could not rule out further repeated allegations in the run-up to the next hearing. My decision was not challenged.

### Analysis

39. I received independent evidence from SW; DTM and CS; I received family evidence from both parents and S. Ultimately I found the professional witnesses to be genuine and honest and straightforward in the presentation of their evidence. This does not mean that there was not room for criticism as to assumptions they applied as to the true state of affairs between the parents but I do not consider these viewpoints to be corrupted by bias or partiality. Ultimately the resolution of issues in this case will be led by my evaluation of the parental evidence. The social work team members can simply provide an outsiders assessment of what was at times was a deeply confused and changing picture. It is clear that neither SW or DTM was given a full picture of events at all times and this will have undoubtedly shaped their impression. I have the distinct benefit of being able to assess all the evidence with the threads of evidence drawn together and with the opportunity to hear both parents. CS is in a different category as she is a direct witness to one of the allegations. I will deal with this allegation in greater detail below but at this point I observe that I found the witness to be a genuine witness who was doing her best to assist the Court. Indeed I did not understand the examination of her to suggest anything to the contrary. The issue will be my evaluation of the reliability of her evidence.
40. The position with respect to the family evidence is different. S was called to be questioned on the specifics of certain events (see 25 May 2019) but also as to the generality of behaviour in the household over the period. In assessing his evidence I bear in mind that he has a natural allegiance to F, and perhaps particularly so given the allegations made against him. This causes me to approach his evidence with caution. Additional to this to some extent I found his evidence to be somewhat distancing of himself from the matrimonial home. In the end assessment his presence/non-presence over the period was unclear and difficult to follow. I sensed to some extent he simply did not want to find himself brought further into this adult dispute. This is understandable given the allegations of voyeurism raised against him which turned out to have no merit whatsoever on the evidence. It is also perhaps understandable given the manner

in which his history was raised (some limited convictions but also observations on the quality of his parents relationship when he was a young child). Having made these points it is fair to observe that he did not simply give evidence wholly in support of F. Much of his evidence was to make clear he was not present to be able to help the Court. If he had wished to simply assist F then it would have been simple to have adapted his evidence to provide an account supportive of F. I intend to approach his evidence with caution but to weigh it in the balance.

41. F gave evidence without an interpreter and has a grasp of English. However, there were features to the presentation of his evidence which suggests his grasp was not quite as solid as might be hoped. His evidence was slow and frequently discursive. He would often repeat back the question put in such a way as to leave me unsure as to whether he was seeking clarity or agreeing with the question. At times he appeared to struggle with the content of questioning despite being able to understand the question when I repeated it for him. I was unclear whether this approach was evasive and sought to stall the process of answering or whether it was simply idiosyncratic to F. More substantially there is within the evidence a basis for considering F has been willing to be deceitful to professionals and continue a relationship with M in breach of a written agreement. These features lead me to be careful in approaching his evidence as it is clear he has the ability to shape information in a manner which suits him best.
42. As with F, M was not an entirely satisfactory witness. Again I record the complication that may have arisen out of her giving evidence in a foreign tongue. However there were aspects of her evidence, such as her unwillingness to accept her role as one of the parties to the whatsapp messaging, which was difficult to understand other than through the prism of a witness who was seeking to evade the underlying content of the messaging. As with F, much of the history of their interactions from May 2020 onwards were kept from the Court and professionals. Whilst I will have to investigate the motivations for this it is clearly something which should cause me to be careful in scrutinising the evidence of M.
43. Ultimately in a case of this sort there is a need for anxious and careful scrutiny of both parents evidence. The manner in which the parents gave their evidence and the underlying inconsistencies the evidence revealed add to this need.

### ***Some General Points***

44. Fact finding hearings in the family arena are rarely straightforward. Occasionally, the Court has the benefit of admissions or findings made elsewhere (such as before the criminal courts) which may permit a strong foundation for approaching the case. Elsewhere the Court has the 'benefit' of objective real evidence (e.g. photographs or CCTV) or other reliable third party testimony (such as independent expert, lay or professional evidence). However in many cases the Court has only the most limited foundations on which to build and is required to determine between conflicting and contrasting evidence from each parent in respect of events largely or entirely occurring within the private sphere and thus entirely out of sight of independent and objective viewers. Whilst this does not absolve the Court of the duty to seek to find facts it adds to the challenge confronting the Court. The complications in this case are



additional given the multiple changes in direction found in the evidence of separation and apparent reconciliation. As such the evidence cannot be seen to have a simple direction of travel but appears to circle back on itself in a manner which may lead to confusion and certainly makes more difficult any settled assessment. The analysis of these features is to be undertaken in the light of the allegations of coercive and controlling behaviour and the principles found within Practice Direction 12J. Importantly though, whilst PD 12J informs the Court and whilst the case law guards against the Court falling into stereotypical thinking, I must remind myself that each case will turn on its unique facts and PD12J etc simply does not provide an answer as to where the truths lies on the facts of this case

45. In considering whether or not a coercive and controlling relationship exists reference may be had to both the specifics of the case but also to generic principles that might permit or encourage controlling actions. Examples of the same generally revolve around imbalances in the power relationship (e.g financial, physical or other imbalance) which may be exploited to leverage control over the other party to the relationship. However proof of the existence of such imbalances is not of itself evidence that the same has been exploited to the disadvantage of one of the parties to the relationship. To an extent most if not all relationships contain areas of imbalance but this does not mean that most, if not all relationships involve controlling behaviour. The reality is that the parties to many a relationship do not choose to exploit the available situation but are rather focused on a mutual goal or aspiration to their joint benefit. I must be careful not to assume that the existence of an imbalance or the opportunity for control of itself establishes controlling attitudes. I must also be mindful of the possibility for controlling characteristics and patterns of behaviour to exist but fall short of a controlling and coercive relationship. A relationship is capable of throwing up disputes which can be viewed as incorporating controlling aspects without the same being demonstrative of a globally controlling relationship. What this requires from the Court is a careful and anxious scrutiny of the realities of the relationship.
46. In due course I will reflect upon the changes in direction this relationship has taken over the period under examination. I recognise it to be well understood that individuals subject to a controlling relationship may struggle to leave such a relationship and may be seen to return to the relationship even though it is objectively clear to be both abusive and damaging to them. It is in the very nature of a controlling relationship to promote the notion that the victim can only find worth or purpose in the relationship; that the relationship is positive for the controlled individual and that any shortcomings are not with the perpetrator but rather with the victim. This warped appreciation maintains and perpetuates the abuse. This being the case evidence of apparent ‘reconciliation’ needs to be treated with care. It has potential to mislead the objective observer as to the lived experience of the parties to the relationship. As with all in this case I will be well advised to reflect on the broad canvas of the evidence when considering the specific details.
47. I have reflected on how best to examine the issues in this case. A judgment is by its very nature linear and must be in order for the contents to be readily understood. However, evidence rarely fits comfortably on a linear path. Many of the issues in this case have the effect of circling back and requiring of re-

assessment alongside other features. In effect this is the ‘broad canvas’ in play. However, guiding a reader through the process of assessment remains a challenge and there is a danger insight being lost as the focus is on demonstrating the twists and turns arising out of the evidence. A second feature of this case relates to the vast canvas available. There is a real danger of ending up ‘bogged down’ in the detail of the case and losing sight of the underpinning picture. I have concluded the best way in which to approach this analysis is to set out my essential findings in the case and to identify those features which have led me to reach these conclusions and those factors which have not shaped my conclusions (or have been less probative as to truth). In doing so there will be much evidence which fits into the above approach but does not justify specific mention. By its very nature this analysis will take on a broader rather than an overly detailed appearance. Nonetheless I consider this is both the most proportionate and the best way of setting out my analysis in this case. This will most importantly permit the parties to understand and evaluate for themselves my inherent reasoning. I consider nothing of value will be gained from taking the readers of this judgment through each and every turn of the evidence.

48. Before setting out my analysis I would finally state my intention to focus first on the period from March 2019 through to the end of that year. I consider that the material substance of each parties case can be largely understood on the basis of the parties conduct through that period. In my assessment such conclusions as are reached with respect to that period are likely to sound significantly in consideration of the later period. A finding of coercive behaviour and physical<sup>26</sup> abuse during 2019 would be bound to resonate when considering the conduct of the parties in both October and November 2020. However, equally were I to favour F’s case for the earlier period it would be perverse for that not to carry equivalent weight in assessment of the later period. The reality is that each party portrays the other in stark terms and it is most likely that behaviour patterns will have continued throughout the period rather than taken a marked departure in a different direction after 2019.

#### *A coercive relationship?*

49. This allegation whilst not a decisive or necessary requirement of the case is plainly relied upon by M as underlying and explaining the complicated history found within the evidence. I have considered this feature of the case with real care and in doing so I have reached the conclusion that this is not a case in which a controlling and coercive relationship was in play. In reaching this conclusion I acknowledge the presence of factors which might come into play and suggest the potential for such a controlling relationship (see §45 above). In particular I note; (a) the age imbalance between the parties; (b) the financial imbalance between the parties; (c) the imbalance that arises from M’s limited association with this jurisdiction and her precarious immigration rights dependent upon F; (d) the societal imbalance that derives from M’s social isolation in a foreign jurisdiction; (e) the physical/sexual imbalance arising out of their differential physical positions; (f) the ‘information’ imbalance that might be said to derive from F’s perceived better understanding of how this society functions and the likely response of state agencies to the parties situation; (g) the cultural/religious imbalance that might arise out of a shared cultural view in which the male party may be taken to have a dominant and overseeing responsibility. As noted above

---

<sup>26</sup> I will generally refer to physical abuse as inclusive of sexual abuse.

the presence (or perceived presence) of these features does not of itself establish a controlling relationship. It simply supplied material for such a relationship were F minded to exploit the same. Here, M's case seeks to adopt the majority, if not all of these points as a foundation for her case. I certainly have given appropriate weight to this potential but ultimately fall back on the available evidence. I address these points in due course.

50. I would highlight the following factors in reaching my conclusions:

- i) The description of the relationship given by M does not fit a conventional controlling relationship in which coercion has insidiously entered the relationship and over a period of time the ability of one party to self-protect has been worn down. The alleged circumstance of this relationship stand starkly in contrast to such a description. On M's case the relationship was immediately abusive (physically and sexually) at a very high level. She contends she was raped for the first time around 4-days after arriving at the home and that sexual abuse continued on the same basis thereafter on a twice daily basis. In addition to this she was subjected to frequent and highly physical abuse including being punched and kicked. Her case is described as being an effective prisoner in her home and subject to the sexual whims of her husband. During this period she recounts losing one of intended twins due to a physical attack and being encouraged to take some form of substance to abort the pregnancy. She could not leave on her own and has given an account of being restricted within her bedroom. On her evidence it is difficult to identify little if anything positive in the relationship to balance against this high level of abuse. The point made is that this was not a relationship with any subtlety. The Father was a wholly abusive, and consistently so, perpetrator. In my assessment this is not a scenario which fits the conventional understanding of coercive control. In contrast to a typical controlling relationship in which the victim develops personal self doubt as a means of control this was a case in which the control was simply comprising of threats to prevent the abuse being revealed.
- ii) Moreover (and without determination of the truth of the allegations) the period of such control was relatively short (some 10 weeks). This would inevitably limit the extent to which this behaviour might be inculcated into M as normative behaviour. I struggle to see this being the case and indeed the evidence of M on 26 May 2019 was effectively of being released from a position of subjugation. She was clear she was being mistreated and welcomed the MPS as a rescuing force. Furthermore this period was not surrounded by patterns of similar treatment. On the evidence M was content and properly treated whilst living with her parents in her home country. When she left F she left to a place of refuge in which I can properly assume she was safeguarded and to some extent (although the full extent is in dispute) educated to reject the position she had found herself in. Nothing in the above is an answer to the question of whether F utilised imbalances to his advantage or more importantly as to whether he in fact abused M. Rather it explains my assessment as to the real doubt I hold as to whether this relationship was maintained through controlling and coercive behaviour.

- iii) This becomes material when I then consider the consequent behaviour of the parties post-first separation (26 May 2019). It is quite clear to me that the parties thereafter quickly resumed contact and that M played a central role in permitting this to be the case. M now urges me to understand this as being the application of the existing controlling relationship. For the reasons given I simply do not accept this. The reasons for the resumption of the relationship require explanation but I cannot find the explanation in an internalised acceptance of abuse as acceptable behaviour for the reasons set out above. On any reasonable assessment of her case the Mother in being removed had escaped a plainly abusive relationship. Her actions thereafter are inexplicable if this is correct. First it is clear to me that M must have supplied F with details as to her location in South Wales. Her explanation for the same is obscure but appears to be that a friend who was given her new details supplied the same to F<sup>27</sup> although this is not explicitly stated. I cannot accept this evidence given the absence of any credible explanation of how this information would have been shared with F or indeed exactly by whom. I have heard the suggestion that F travelled to South Wales for business purposes but this would plainly not explain how he came to be aware of M's location. Second, there is a significant level of warm and affectionate messaging and video communication between the parents. I consider it relevant that this information is only before the Court as it was downloaded by the MPS when they seized F's phone. At the date of the PTR the content of this messaging was not available to the parties (although I can assume the parents would have had some sense of its contents from memory). It cannot be said that either party exercised a tactical advantage in deploying the information. It has been shared 'warts and all' in its full version. The contents are it seems to me significant in their representation of the parents relationship. There can be no doubt it shows the parents engaging at arms length in a loving fashion; it shows them each planning to meet and providing information to allow the same; it includes evidence of video calls in which M was comfortable (indeed choose) in engaging with F in her underwear notwithstanding the alleged background history. Whilst it includes evidence of tension in their relationship at times it simply does not support the notion of a continuing controlling relationship.
- iv) I was struck by M's unwillingness to accept that she was the author of many of the messages. Whilst I accept there were changes in telephone number and personal identification associated with the messaging, it must have been clear (indeed known to M as the obvious originator of the messaging) that this had been her messaging F. It was unfortunate that time was taken just to get M to accept she was the individual messaging when on any reasonable overview this was plainly the case. This led to the bizarre situation in which it was being suggested F might have a second wife with whom he was having a child in Wales and who was messaging him, even though the obvious (and actual) explanation was that this was M messaging F as to the results of a (likely) 20-week scan. I am in no doubt that M and 'Bivi'/'Me' are one and the same. The real question, as counsel for C raised in submissions, was why M would

---

<sup>27</sup> G82

be so reluctant to accept this was her. The answer I have reached is that the messaging simply was inconsistent with the case she was putting as to only meeting F due to control and coercion. She was left in the unhappy position of having to deny the obvious to avoid the irresistible truth.

- v) This conclusion is further supported by the photographic and other evidence of the parents meeting on a regular basis whilst the Mother was in South Wales. Having heard both parents I favour the evidence of F that he would regularly travel to Wales to meet and on occasion collect M to travel to London/elsewhere. I am in no doubt these trips were consensual and not enforced on a coercive basis. The messaging shows M collaborating in the planning of the trips and the pictures point to the parents happy in each other's company. I appreciate behind a happy visage may lie emotional turmoil but the range and nature of pictures runs counter to this possibility. In reaching this conclusion I specifically accept the evidence of F that receipts and bank information place him in South Wales on a regular basis and that this was to meet with M. It should be said this entirely fits with later behaviour patterns post Wales. I reject the notion of this evidencing F visiting business connections. In this case by the conclusion of evidence there was no doubt there were occasions on which F visited/met/collected M. I also favour F's evidence with respect to a trip to Portsmouth during this period. I consider M's account of this journey implausible. I question the logic of her friend both collecting her and returning her to London when F was present at the meeting and was himself coming from and returning to London. Indeed I accept the evidence of F that there is photographic evidence of M with him at the matrimonial home on this occasion. The arguments to the contrary based on M's hair changing its shape and the detail of the jewellery she was wearing do not gainsay this evidence.
- vi) I consider it noteworthy that during this period there are no reports of actual physical/sexual abuse. Given I find there was ongoing contact during this period I will need to evaluate why this was the case. I will need to consider whether this was indicative of F evidencing a significant change in behaviour or whether in contrast it supports the suggestion that the previous allegations were invented or exaggerated. In saying this I appreciate there are the alleged text messaging of July 2019, a point I will return to shortly.
- vii) I also consider it noteworthy that all of this was happening behind the backs of the refuge workers. As I have observed above, whilst there is room for dispute as to the exact level of self-protective education being provided to M, it is implausible that there was not a surrounding ethos based around self-protection. Plainly M was sufficiently engaged with the unit to work on achieving her own right to remain (successfully obtained prior to leaving the unit in November 2019). But it cannot be overlooked that she must have been deceiving the unit on the multiple occasions on which she left the unit to meet F. On any occasion throughout this period she could have confided in the workers if she felt under threat, yet at no point did this happen. It is also quite plain that she misled the unit when she explained her plans to spend time in London in

November 2019. She did not as she claimed intend to spend time with her sister and mother in preparation for her sister's childbirth<sup>28</sup> but rather gave the address for DL as plainly supplied by F<sup>29</sup> shortly before the same visit. I accept the evidence of F that during this visit the parents spent time together.

51. Even allowing the broadest latitude to M's case I cannot reconcile this history with the existence of an effective and enduring/operative controlling and coercive relationship. The answer to this behaviour lies elsewhere. A point I am bound to return to below.
52. In reaching this overarching conclusion I have considered the following points and reached the following collateral conclusions:
  - i) There is in my assessment good evidence of F taking an overly paternalistic and 'knows best' attitude to M. The evidence around his approach to M leaving the property alone (pre-26 May 2019) was to a limited extent explicable but I was left with the strong impression that he was treating M not as an equal partner but as a young person who needed his guidance to reach the right decision. I accept factored into this situation was the reality of a new married life and of M being in unfamiliar circumstances. Yet F's attitude was it seems to me overbearing in guiding M. I have formed the view that this flowed in part from the parties age difference and also from cultural attitudes rather than from an intention to coerce M. I accept this behaviour might justifiably be viewed as controlling and having heard all the evidence I am in little doubt M found this period unexpectedly constrictive of her personal autonomy. My sense of her life prior to marriage was of far more freedom and it seems to me it must have come as a great shock to her to travel to London only to find herself under the firm guidance of her new husband. I have no reservation in being critical of F in this regard but consider that whilst it demonstrates F exhibiting controlling behaviour it simply does not make out a case for a controlling and coercive relationship.
  - ii) I was less impressed by the evidence of M that she was compelled to dress in non-western islamic attire. There really is no evidential foundation for this allegation and all the pointers suggest the opposite. The photographic evidence is entirely of M in western fashion and with her body (appropriately) on show. On occasions when the MPS attended the property M was not in conservative attire. The only evidence of such a feature is in the evidence of CS of M wearing a 'hijab' and it is not lost on me that M denies this being the case. I draw a distinction with the allegation that M was made to 'cover up' around S. M stated the photograph of her screenshot on FaceTime (in her underwear) represented how she liked to dress at home. It is perhaps unsurprising and not a ground for complaint if F objected to M dressing like this around S. As I understand it F asked M to cover herself with a dressing gown at such times. One might disagree about the stance suggested by

---

<sup>28</sup> C104  
<sup>29</sup> P1035

this viewpoint but it certainly is not a viewpoint that deserves the opprobrium of the Court.

- iii) I felt the evidence as to M being contained within the property to be less clear. It is important to note the evidence in this regard has moved somewhat with the initial complaints including internal restriction. It is clear the MPS on attendance were effected by the presence of locks on the internal doors. However having heard the evidence I accept these locks existed but they were not being deployed at the time in question. I accept there was the potential to be locked into the property but on balance I have not been persuaded by this allegation. My assessment is that F's evidence of 'guiding' M fairly represents the reality of what was happening. Whilst there were plainly many occasions on which the parents left the property together during this period - as F showed M the landmarks of London (see the photographic evidence which I accept) - and whilst this period was followed by a period when M was unwell, I do accept there were occasions on which M promoted the idea of going out alone and that F's response was to advise against the same at that time. I have criticised this attitude above but I find M, perhaps reluctantly, accepted this position and chose not to rock the boat. But I can find no real evidence of this leading to an actual conflict other than in close proximity to the occasions on which the MPS attended the property. I note M<sup>30</sup> contends this position changed '7/8 months' after arriving in the UK. If this is right then this aspect of the case was no longer in play post-Wales in any event (save as alleged on the moments of crisis around October/December 2020).
- iv) The evidence of financial manipulation was limited and does not permit a finding of controlling behaviour. F appears to have opened an account for M but in real terms M was supported on a daily basis by F. I do not recall meaningful evidence suggesting financial coercion.
- v) Turning to the suggestion of control of M's phone I found there to be evidence of occasions on which the phone was a source of disagreement and I have little doubt there were occasions when F took the phone from M. However, this was not a case in which the phone was kept from M for any sustained period and there is good evidence of her having access to it. Indeed it is the very access to the phone which then appears to generate the consequential dispute. As with aspects above I view this part of the relationship as having controlling elements but not being indicative itself of a controlling relationship. It is a part of a complex picture but is not the picture itself.
- vi) Finally I do accept there is evidence of F acting in manner that might be perceived as exploiting his better understanding of the local norms and further exploiting the precariousness of M's immigration status. The difficulty I have though is in delinking this from the underlying allegations and the truth of the same. I consider there to be a material distinction between (a) F furthering his abuse of M by exploiting these imbalances to his advantage, and; (b) F drawing on these points in the

---

<sup>30</sup> C78 §47

context of defending himself against false allegations. In this regard context is everything and the relevance of this point will turn on my assessment of the specific allegations.

53. I am bound to consider the question of the July 2019 text messaging when reaching my conclusions in respect of this period. If M is correct these messages are obviously threatening and capable of coercing her into behaviour patterns which were not self-protective. But is F the author of the messaging and if he is not can I form a view as to who is the author? Having considered the evidence I am not persuaded F sent the messages. In contrast I consider it likely M has had some involvement in the messages being sent. In reaching this conclusion I make the following points:

- i) It is striking that there is in fact no actual evidence of when the messages were sent. The provided screenshots do not bear this information but the content of the messaging would date the messages to pre August 2019;
- ii) It is puzzling this information was not shared with anyone until May 2020 when the MPS were called to the mother and baby placement. Why this was retained by M but not shared until this point is an unresolved question;
- iii) The messaging has certain idiosyncrasies in drafting. As was demonstrated by counsel for C<sup>31</sup> a number of these unusual drafting errors can be similarly found in messaging now known to derive from M (for example spelling 'never' as 'niver' and 'prison' as 'preson'). These are not obvious auto-correct errors;
- iv) In contrast F's messaging can be seen to be drafted generally in a far more grammatical style. The same idiosyncratic errors are not found in his drafting and F is seen to spell many of the same words consistently and correctly;
- v) It should be noted none of the messages feature on the download from F's phone;
- vi) The obvious answer is that M was involved in the drafting of the messages and effectively sent messages to herself giving the sending number the F's name. Although it was suggested this would in some way be a technical feat beyond M it required no more than for to have access to two phones or SIM cards (which she appears to have had in South Wales) and to label one number with F's name on the other phone. In this way a message from the first phone would appear to come from F on the second phone;
- vii) An explanation proffered is that DL has sent these messages. I consider the evidence does not permit me to reach this conclusion. Alternatively it is suggested F has sent the messages but consciously mimicked M's style to give himself a counter argument should the need arise. This explanation simply does not hold water and particularly so as it was not

---

<sup>31</sup> See schedule of 'Instances of certain misspellings in messages' provided with submissions



F (but counsel for C) who provided the analysis which supported this point;

- viii) A final point relates to the timing of these threatening messages and M's evidence that she met with F in South Wales because he had apologised and promised not to repeat his behaviour. I simply struggle to see how M could realistically reconcile an apology at this time with contemporaneous messaging in which F threatened to kill her and her baby or alternatively permanently disable her. My conclusion as to responsibility for the messaging squares this conundrum.
54. It is plainly a matter of real concern and substance that this has happened. I will have to weigh it appropriately into my balance. But at this time I reject the notion that these messages effectively support the argument as to meetings being based on coercive threats.
55. I summarise my assessment at this point as follows. Whatever the truth of the conduct of F when the parties were together I am not persuaded there was in operation a controlling and coercive relationship as alleged within the evidence. I reach this conclusion having regard to the broad canvas of evidence both during and following separation which does not fit with such an analysis. I accept F demonstrated some controlling aspects in his behaviour when the parties were together. The rationale behind the parents re-establishing contact following the move to Wales must be found other than in the allegations of controlling and coercive behaviour. I have been specifically considering the period through to the Mother's return to F in December 2019. On the evidence received by this time M had established her own right to remain in the jurisdiction separate to her relationship to F. This may have played a part in the timing of her return which followed shortly thereafter. This factor to some extent reset the balance between the parties.
56. I can find little if any reason for reaching a different conclusion as to the period culminating on 7 October or 12 December 2020. Whatever the facts of those specific events I do not find evidence of the same originating out of coercion on the part of F. As previously noted I am bound to reflect on my findings above when I consider these later periods. However in each case there are further factors which support this conclusion.
57. In the case of the build up to the October events I note following:
- i) There is good evidence of the parents illicitly meeting during the period between January and May 2020. Examples of this can be found in the Post Office meeting in Ealing. The *WhatsApp* download sheds further light on M's co-operation in respect of this meeting. But there is also the evidence of F, which I found both plausible and true, of additional meetings when M would message F as to her location (supported again in the *WhatsApp* download) and he would be in the area unknown to the foster carer.
  - ii) It is plain there was some form of breach between the parents by May 2020. The exact reasons for this are unclear to me but it is likely some of the following features were in play:

- a) At some point prior to this time M claims to have started a relationship with another man. This has the real potential to have distanced the parties (whether F was aware of the reasoning for the same);
- b) I accept the evidence of M of receiving messages from DL in which that individual claimed F was threatening to hurt M and take C. I accept these messages were received by M and it seems likely they would have had an effect upon her. But I cannot conclude the content of the messages is true. They are denied as such by F and there is no supporting evidence from DL on which I can rely. Further there is evidence of DL expressing antagonism to the Father. I understood both parents to recognise she might have been seeking to cause trouble with her messaging. But this does not diminish the likely impact on M.
- c) At this point in time there was a developing sense of seriousness surrounding the risk of C being removed whilst at the same time the Applicant was being increasingly supportive of the Mother 'going it alone'. It is plausible that this reality cut through for a period and impacted on M's decision making.

58. However as with the Wales separation this did not last. By mid-September the parties were back in contact. In this regard I have reached the following additional conclusions:

- i) I am confident the first meeting post-move to L[...] likely took place in London at Ealing Market. However, I find M's case as to an accidental meeting implausible. It is in the first instance puzzling she would have met with or travelled to this area with a friend if she did not want to run the risk of seeing F who lives in the same area. In contrast I find the evidence of F, that this was a planned meeting plausible and wholly in line with other decisions taken by the couple (both before and subsequent). Such conclusion is also consistent with the account given by M to the MPS when interviewed on 12 December 2020<sup>32</sup>.
- ii) Thereafter it is clear the parents continued to meet with F picking M up from L[...] and her spending time at the family home. The evidence once again supports the contention that M revealed her location to F to enable him to collect her. As with the Wales events M neither informed the SW it would appear her own solicitors as to what was happening. This was despite the accommodation having been sourced with the assistance of the Applicant to provide a safe and confidential home for M and C;
- iii) F gave evidence of the parents resuming a sexual relationship during this period. I accept this evidence. In the build up to 4 October 2020 there is no allegation of sexual abuse.
- iv) M makes two allegations which on balance I reject:
  - a) First she alleges F attending her home in Luton and threatening that he would harm her with acid ('*throw acid in her face*') if she

---

<sup>32</sup> J412 @line17

did not go with him. On her case she did not go with him. This allegation has variously been described as happening on one or two occasions in this period. It was not reported to anyone until some time later and sits uncomfortably with M then journeying with F on later occasions proximate to the same threats. I was provided no plausible explanation for these inconsistencies other than the broad allegation of coercive control. There is also the inconsistency of the statement evidence which suggests two such threats whilst in the L[...] stage of the relationship and the live evidence of the Mother where she retimed the second occasion to the December incident. I am struggling to see on what basis M fell into confusion when providing her pre-hearing evidence. I am simply not satisfied on balance this took place;

- b) M alleges a specific incident during this period when F drove her to Portsmouth but on route threatened to kill her and deliberately drove his car into a third vehicle whilst travelling at speed on the motorway. The emergency services were called but there is no evidence of any such report being made to them. I understand it is accepted there was an accident but the detail is disputed. I struggle to understand how, if this happened, there is not some supporting evidence for the allegation. I am not willing to accept it on M's evidence alone or on the very limited account she gives<sup>33</sup>.

59. I cannot help but draw on the close parallels with the resumption of relationship in the summer of 2019. As in that case the objective evidence is of the parents meeting and spending time together covertly and with the connivance of M. Further and additionally the meetings were kept from those available to protect M were the same felt necessary. As with the earlier period M contends the meetings followed from coercion but as before there is little evidence to support this proposition and much to gainsay it.
60. The build up to the December incident differs in that M accepts the parents *rekindled* their relationship following her separation from C. Prior to the eventual breakdown on 12 December 2020 there is limited additional information on which to assess this period.

### ***The Allegations of physical and sexual abuse***

61. Having addressed the wider canvas of the relationship I now focus in on the specific allegations informed by my overarching assessment. On three occasions the Police have been summonsed by M to the former matrimonial home. On arrival she has reported (either immediately or in the period thereafter) serious physical and sexual abuse at a high and sustained level in the preceding period. In the case of the May incident these reports were referable to the entire period from arrival in March 2019. In the October case the period was one of the three days prior to Police attendance. In the case of the December incident particular focus had been placed on the 48 hour period prior to the Police being called. It is less clear evidentially as to the period in the preceding month or so prior to this date.

---

<sup>33</sup> C74 §22

62. In assessing these allegations I note they are generally put in broad rather than specific terms. This makes investigation of the events the more difficult. There are however within these time frames more detailed accounts which have permitted closer analysis. I have reached the following conclusions.
63. First, there are complaints which are simply not made out or are no longer maintained at any meaningful level.
- i) The allegation F in some way attempted to procure the abortion of M's pregnancy. In her live evidence M moved away from this allegation but I consider it is quite clear this is an allegation made by M within her evidence. As was pointed out by counsel for F in submissions the substance of the complaint was such as to leave no doubt as to what was being suggested<sup>34</sup> and removes any suggestion of confusion arising out of language difficulties. By her live evidence I was being told that the Father had likely purchased paracetamol for M and her fears as to his intentions were based on supposition surrounding his perceived opposition to her having a baby. This was plainly a very serious allegation to make and yet it had all but disappeared by the time the evidence was heard.
  - ii) The allegations of 'voyeurism' against S. I appreciate this label was not one used by M but as with the abortion allegation it was quite clear what M was reporting when she spoke to the MPS. Her account was of S entering the shower (room) when she was showering and looking at her on a number of occasions. But her live evidence barely supported a complaint at all in complaining that S did three things: (a) knocking on the door when she was in the room; (b) being outside the room when she left, and; (c) entering the room on one occasions to brush his teeth when she was present. These were serious allegations which were entirely baseless.
  - iii) As with my findings as to the 'acid', the 'car crash' and the 'threatening messages' I am left with the conclusion that M has not been honest in her reporting and allegations. She has shown a willingness to exaggerate and fabricate in making serious allegations and to maintain the same points over a sustained period of time. It is noteworthy the abortion allegation remained before me for fact finding. I also note that these exaggerations were not corrected voluntarily by the Mother but only extracted under examination. In part S was arrested as a result of what was said in this regard. At no point did M appear to show awareness as to the seriousness of such allegations being maintained wrongly. There are no contextual circumstances that allow me to rationalise these lies. The credibility of each parent goes to the heart of this case and cannot be overlooked in the assessment of other allegations. To compartmentalise such points would be to work an injustice on the case and would amount to a failure on my part to apply the 'broad canvas' of evidence.
64. Unfortunately, M's credibility is not dented by just these matters. Elsewhere in this analysis I have noted M's ability to mislead those around her. Examples have been given with respect to the visit to 'her sister' and more generally on leaving the refuge with F. I have also noted the concerns I have as to M's refusal to accept

---

<sup>34</sup> See §9 of closing submission

the messaging as coming from her and in respect of details of her case (including the requirement to wear islamic clothing). I am though conscious that F has through much of the same period engaged in clandestine meetings in breach of a written agreement. However, in contrast to M he has not been caught out in an obvious lie. The reality is that much of my criticism of him flows from his description of his behaviours and there is good evidence of him having been more open in what was happening with both the SW and other professionals.

65. As I have pointed out on many occasions in this judgment I am compelled to weigh each parties conflicting account against that of the other and without much in the way of extraneous supporting evidence. My overarching assesment ('the broad canvas') is bound to supply me with strong pointers in reaching my conclusions as to each of the May/October and December events, to which I now turn. I propose to deal with these events out of Order as the evidence available differs between the events.

***The October Incident (4-7 October 2020)***

66. I have already dealt with the lead up to this incident and reached conclusions as to whether M was consenting to the extensive contact that was occurring. Having reached these conclusions I am left in real doubt as to M's contention that this incident started with her being coerced into F's car. It is far more likely that this incident began voluntarily in the same manner as the preceding visits than requiring coercion. No real explanation exists as to why the process would have differed in contrast to the earlier visits to London. My acceptance of M's case is further effected by her inconsistent account as the presence (or not) of S when she was taken. In initial reports she alleges S was present and in the car but later corrects that he was not. I have struggled to understand how such confusion might have arisen were M recollecting with clarity an event that took place as described.
67. I have reached the conclusion that this period of time in the family home should be viewed as being similar to the visits which preceded it and which are detailed above. I do not accept M's case that she was in some way kept captive during this period against her will. This simply does not fit with known evidence for this period which includes travelling with F to his acupuncture appointment and being free to have then left him (she told me she remained outside the 'clinic') should she have wished. I cannot accept this was a period of captivity or anything approaching the same. I judge this explains the uncertainty on the part of M as to the exact period she in fact spent with F. On initial report the MPS understood M had been held for 1 day. In her evidence she had to be taken through her written evidence to come to the understanding that this was a claimed period of 3 nights. If this had been a period of captivity then the period would be very much in focus. However, as part of a pattern of voluntary attendance over the last few weeks the specific visit is likely to have taken on less relevance and the detail has not been retained. I consider it is striking that when I read the M's account of the period<sup>35</sup> it seems all but inconceivable that the same period could have included a joint visit to an acupuncture clinic as described by the M in live evidence. My assessment is that it would have been very difficult to maintain a consistent narrative and work the visit into the statement evidence. I consider it is likely that is why the visit was not included.

---

<sup>35</sup> C75 §25-28

68. It is though clear the period ended with the parties in a high state of emotion and with the MPS being called and it would be helpful indeed to have an explanation for this change in behaviour. Having analysed the evidence it seems clear to me the emotional discord seen by the MPS derived from a dispute between the parents as to care of C. In this regard I found F's evidence contradictory but containing a kernel of truth. He was clear he was not in agreement with C returning to L[...] with M. However, his rationale appeared to vary between concern as to his daughter travelling by train and his fear M was planning to leave the country with C (and in doing so leave before the listed final hearing). I find the train account implausible and reject it without difficulty. In contrast the removal point is credible and has been consistently reported by F. Indeed the BWF shows the F giving this clear explanation for his conduct in withholding C from M. I judge the dispute surrounded a belief on the part of F that M was planning to remove C from the jurisdiction. Whether this was in fact possible is immaterial but I am of the opinion it was a fear operating in F's mind. It is difficult to balance out what part of this related to losing M and/or losing C but I find this was the motivation behind the dispute and this fits with the actions of F on the attendance of the MPS in being unwilling to hand over C. It also fits with what appears to have been his stance at the time which was a willingness to inform the SW despite the fact this would inform the SW the parties had been meeting with obvious implications for C.
69. I consider there are features which in contrast undermine M's account. M gives an account of her phone being entirely controlled during this period but is then able to access it and call the MPS. She gives an account of being held captive but then explains how whilst F was in the garden she was able to leave the property through the open front door. I find it impossible to reconcile these contradictory accounts. Elsewhere when first speaking to the Police she recounted having been taken from L[...] the previous night which is impossible to reconcile with the later account of being sexually abused for the previous 2-3 days. I have also considered the available audio of the 999 call and the BWF. The 999 call initially relates simply to the Father refusing to give C back and retaining her in the property. It is not until the 999 call handler probes that an account of wider abuse is given. A similar pattern is found in the BWF. On both occasions M appears calm. The impression is not of M being an individual who has just escaped captivity. Indeed this is not the verbal account given on first attendance.
70. I have considered all the evidence and on balance reject the allegations of sustained sexual physical violence between 4-7 October 2020. I have reached the conclusion that the explanation of what took place is far simpler. It is clear to me M was at the property on a consensual basis but that the parents fell into dispute when M wished to leave. F had formed a concern as to M's intentions and refused to give C to M. He told her she could leave but not take C. I am in little doubt that this led to likely physicality between the parents with some pushing and physical contact over control of C. The presentation of F when the MPS arrives is demonstrative of his likely response when M sought to take C. I consider it likely that as part of this process F indicated it would be better for C to be cared for by the Applicant and I find it likely M was effectively removed from the property leading to her calling the police. I consider it likely M then found herself in the difficult position of having to explain her presence at the property when she was aware she should not be there. The solution she has reached is that based on her being taken against her will and held captive in the ensuing period. I have

reached the conclusion this account is more a response to the predicament M found herself in that a truthful account of the surrounding events.

71. Frankly neither parent comes out of this episode with any credit. By their deceptive planning and decision making behind the backs of the Court and Applicant they created exactly the situation that the rules in place were set to prevent. They have in their own way each prioritised their own needs over that of C and this has led to a troubling and emotional standoff around C. I am in no doubt both parties have made an equivalent contribution to this damaging event. F's decision making was impulsive and not child focused. M in contrast had been given substantial support to distance herself from F but, as previously, chose to prioritise her own needs.

### ***The December Incident***

72. Following the October incident the court was asked to separate C and M. This was sanctioned on 20 November 2020. Following C being placed into foster care M returned to live with F again. In her statement she used the phrase that they '*rekindled* their relationship. I find this an odd turn of phrase given the history she otherwise records. But what is clear is that this process was entirely consensual in its character. It is striking that M should at this point decide to return to F having just lost C in circumstances relating to the very fact of being found in the company of F. There could not have been a starker indicator of the significance to the court of a resumption of relationship. Nonetheless this decision was taken. As with much in this case this feeds into the conclusions elsewhere drawn within this judgment. This readiness to re-establish the relationship is difficult to reconcile with the allegations raised.
73. In this context what do I make of the December allegations. Frankly I have struggled to reach a different conclusion to that reached with respect to the earlier October incident. I cannot but apply my conclusions elsewhere and these have a material impact on the credibility of M.
74. As with the October incident I am not persuaded as to the allegations of physical/sexual abuse. I do though accept that for some reason the parents disagreed on this occasion and that some physicality likely accompanied this disagreement. The nature of the force is unclear but I consider it likely M's limited bruising identified at the Haven arose out of the same incident. On balance this probably involved some pushing and grappling, including over M's phone. The exact detail of the incident cannot be safely determined and I am unable to attribute sole responsibility to either party given my doubts as to the transparency of both parents. However there is evidence of M's phone ending up broken and of the toilet cistern top coming to be displaced.
75. I am not persuaded as to the allegation of rape. This was the only allegation of rape subjected to any detailed analysis within the evidence. I am persuaded the account given by M, even allowing for full understanding as to the sensitivity of the alleged event, is less than likely. I note the following:
- i) I found it hard to reconcile the evidence of F's penis being flaccid but at the same time capable of being placed within a condom successfully. M was clear F struggled to gain an erection and this was his rationale in placing his penis into her mouth. However, at the same time she is clear

that he inserted his penis into a condom prior to placing his penis in her mouth. I appreciate this may appear to be a detail but on the facts of this case I am obliged to carefully scrutinise the allegation. I consider this a feature which tends to undermine the allegation. It strikes me as unlikely the Father would have been capable of inserting a flaccid penis successfully into a condom and more besides during the events described by M.

- ii) I found the evidence of the positioning of the parties, with F kneeling on M's chest to be inconsistent with the suggestion of then proceeding directing to forcing M to engage in oral sex. The evidence does not explain how these two steps were joined up. As described F would have his upper thighs perpendicular to M's body. For the avoidance of doubt the evidence was plainly of kneeling on M, not lying upon her. If his thighs were as described then it is difficult to understand how he could at the same time force his penis into M's mouth (flaccid or otherwise) given the obvious distance between the top of his thighs and M's head which was forced close to the bed due to his positioning on her upper body. To achieve this suggestion he would have had to take his weight off M and lift her head or drop his mid-body and reposition himself so as to bring his penis proximate to M's head. Yet no explanation was given as to how this took place and I was left with the sense that no explanation could be given.
- iii) In any event this account sits uncomfortably with the fact that the parents attended contact together on the next day and that following contact M asked F to give her a lift to the bus stop. This detail does not make sense in the context of a violent assault in the preceding days. It also sits rather uncomfortably with the evidence of F, which I accept, supported by photographic evidence of the parents travelling to Brighton together in early 2021.

76. I am left to guess as to what led to the MPS call-out. It can only be based on speculation but I suspect the tension arose out of the continuing difficulties surrounding the proceedings and general unhappiness in the relationship. There is evidence that F has been resistant to accepting the relationship may be at an end and it is possible this fed into the dispute. However in reality absent a truthful account it is difficult to form any clearer view. But this event led to heightened emotions with M screaming and the neighbour calling the Police. However, given my findings elsewhere this does not help me untangle the reality of the events in the home. What should be noted is that it is not claimed the screaming was part and parcel of the alleged sexual assault. These two events are separated by several hours of time.

### ***The 'May' Incident***

77. I have now set out a range of findings and my broad assessment of much that was taking place over this period and within this relationship. Stepping back I simply cannot find on balance the allegations for this period made out. To a significant extent this reflects my conclusions elsewhere as is inevitable. I have considered whether there are any additional features surrounding these events which raise the allegations to an evidentially higher standard but have not found such evidence. Rather I am left, as elsewhere, with the stark disagreement between the parties as to what took place. Having formed the views I have on the other



incidents I have found myself irresistably pushed to the same conclusion in this regard.

78. I have in any event struggled to accept M's account of an entirely abusive period as fitting with the other available evidence. Whilst approaching the photographic evidence with caution I have found it impossible to reconcile this with the extreme controlling environment suggested by M. I acknowledge the physical marks identified at the point of removal. But it is fair to observe that these are very limited in nature and it is far from clear that they are evidence of physical abuse. What is perhaps more pertinent is the absence of more significant marking given the allegations made of kicking and punching. The photographic evidence of M dressed with her arms and legs on show sits somewhat uncomfortably with any notion of her having suffered significant violent attacks (no marking can be seen). Elsewhere in her evidence I do not understand M to claim she in fact suffered any observable injuries. On an occasion prior to removal she attended the hospital and no injuries were noted.
79. I turn to the allegation that the Father assaulted the Mother so as to cause her to lose one of the twins she was carrying. Reflecting on all the evidence I do not find this established. There is clear medical evidence<sup>36</sup> of the twin appearing non-viable at an earlier medical appointment and it is more likely than not that the bleeding complained of by the Mother was a natural process under which the foetus miscarried. My conclusions as to M's evidence with respect to the F coercing her to 'abort' the pregnancy cannot but weigh against the account given by M. I have considered the allegation that the Father refused to take the Mother to hospital. On balance I accept the evidence that he perceived her issues to relate to early pregnancy nausea and that there was little benefit in attending hospital. As such this allegation might be said to be established but I consider nothing in reality turns on it. M had visited the hospital in the preceding days in any event and had the opportunity to make a report if she had wished to do so.

### *The March contact sighting*

80. Having considered the evidence of CS and the parents I am satisfied CS is correct in her evidence of seeing the parents together on this occasion. I have reminded myself of the caution that needs to be applied when considering identification evidence (*R v Turnbull [1977] QB 224*) but I consider this identification evidence is both reliable and correct. In reaching this conclusion I note the following:
- i) CS was sufficiently familiar with both parents having supervised their contact on a number of occasions and for extended periods of 90 minutes
  - ii) One hour prior to the sighting she had spent 90 minutes in the company M and therefore had a close sense of her presentation at that time
  - iii) The identification was supported by detailed characteristics including the Mother's head dress and the Father's car. I accept CS's account of M wearing a head covering although I form no view as to whether it was a 'hijab' as suggested. The suggestion CS retrospectively modified the contact note to add this detail is implausible and is in any event

---

<sup>36</sup> F6

undermined by prior contact notes prepared by other supervisors who make a similar note of M having a head covering.

- iv) Most importantly the identification was supported by a close and unimpeded sight of the Mother's face and later of the Father. It was in circumstances in which there were no environmental obstructions or factors in play and in which CS first recognised M but then over a sustained period had her in sight, and latterly at close quarters. In this regard this can be seen less as an identification issue as a recognition issue.
  - v) The confidence CS had at the time is shown by her intention to make a call to report her sighting.
  - vi) The actions of the individuals viewed is suggestive of an attempt to disguise their presence.
81. M said she was elsewhere shopping with a friend. F claimed not to be present. Neither provided any corroborative evidence beyond this simple denial. It is a puzzling aspect of this allegation that both parents deny such a meeting. For them to be in accord is relatively rare. However, of itself this does not diminish my confidence in the evidence of CS. There is undoubtedly a reason why the parents are both choosing to mislead the Court in respect of this incident. That I do not know the exact reason does not undermine the conclusion. I have considered whether this was a case of CS 'putting two and two together and coming up with five'. I have considered whether she allowed sight of a familiar car and a woman in a head covering similar to that worn by the Mother earlier to confuse her. I reject this proposition and particularly because the circumstances of the identification allowed CS to confirm her initial view. As noted this was not a fleeting glance in which gaps have been filled. This was a relatively sustained period of observation.
82. I have not referred in any detail within this judgment to the audio recordings provided by the parents. I have to say they did not assist me either way in my ultimate analysis. As with all such recordings they have the potential to be contrived by the recording party and this robs the audio of much of its probative value. I have borne them in mind but do not consider they shift my analysis.

## Conclusions

83. I have not found proven the allegations against F of physical and sexual abuse and of maintaining a controlling and coercive relationship. In doing so I have specifically rejected a number of identified allegations including the May, October and December incidents. I have also dealt with allegations of abuse not referred to in the schedule. My conclusion is that the evidence does not prove the abusive relationship alleged by the Mother.
84. I have specifically found the allegation of the March sighting proven.
85. I have not found proven the allegations of reconciliation as pleaded given they are premised on M returning despite prior abuse. However, I do separately to the schedule find that the parents management of their relationship over this period was such as to cause and/or likely cause significant harm to C at an emotional and/or physical level. The components of this finding are as follows:

- i) The relationship between the parents is such and was known by them to be such as to include toxic features under which despite any reconciliation they would inevitably return to dispute and at a high level with claims and allegations being made and the MPS called
  - ii) It was entirely predictable that further breakdowns would arise if the parents resumed their relationship and at such points the level of acrimony would be uncontained and damaging for any child present
  - iii) Despite this knowledge and despite the support offered by the Applicant and the rules and expectation set by the Court the parents chose to prioritise their own needs notwithstanding this high risk
  - iv) When as expected breakdown occurred the features included the parties in a high level of conflict; serious allegations would be made; the parents came into or would likely come into physical conflict and any child present would likely suffer emotional harm in experiencing such a breakdown or indeed physical harm in being caught up in a scenario where the parents could not act maturely and in a child focused manner
  - v) The breakdowns were inevitably followed by periods of instability and insecurity leading to further significant emotional harm.
  - vi) At the heart of this finding are two parents who have shown an inability to focus during these proceedings on the needs of their child and have allowed their own priorities to take priority despite there being clear evidence this would ultimately lead to a harmful environment for their child.
  - vii) The March sighting is in reality a further feature of this finding. Whilst no allegations arise it is an indicator of the continuing inability of the parents to recognise that contact between them is inevitably likely to be harmful for their much loved child.
86. I have informed the parties this judgment will be formally handed down at 9.30am on 16 July 2021. I will send this judgment to the parties and it can be shared with their lay and professional clients. I would welcome any requests for clarification or suggestions as to correction by 4pm on 13 July 2021. This will allow me to deal with the same in time for the handing down. It would be helpful for the parties to discuss a proposed way forward in the case and I endorse an advocates meeting. Plainly I have found threshold crossed on the basis of the preceding paragraph and this case will now need to proceed to a welfare hearing.

His Honour Judge Willans

**ANNEX TO JUDGMENT****CLARIFICATION RESPONSE<sup>37</sup>**

87. Pursuant to §86 I have received typographical corrections from counsel for C. I have accepted each of these and the judgment now reflects the same.
88. I have also received more substantial requests for clarification/correction from counsel for M. I bear in mind the legal principles around such requests and that this should not be taken as an opportunity to further argue the case or indeed for a Judge to improve his judgment. With this in mind I respond as follows:
1. I believe the observation in the judgment speaks for itself and does not require further clarification.
  2. I certainly had in mind cultural factors including imbalances flowing from the same. The point noted was a point of fact in circumstances of opportunity. The ability to make a report has to be seen in the light of the undoubted ability to make such a report only days later to the MPS.
  3. I dealt with this and consider this does not require further clarification – see §79.
  4. Save to clarify that initial complaints was not intended to be limited to the originating complaint but to include subsequent complaints (see §F11) no further clarification is required.
  5. For the avoidance of doubt I understood M to be continuing to raise this complaint at the fact finding hearing although there was some equivocation in her evidence.
  6. This was my understanding and assessment of the evidence. However, on reflection I accept there was some ambiguity as to the extent to which and the manner in which the Mother was approaching the previous allegations against the Son by the time of the fact finding.
  7. I consider I have provided a clear analysis of the key features in reaching my conclusions. I have made clear the judgment could not contain every point of evidence. I did though refer to F exploiting his greater knowledge of the system and it is implicit in my judgment as to F's continued wish to resume the relationship notwithstanding the allegations.
  8. The point of authorship of the messages was very much before the Court. I do not quite understand the nature of the clarification sought but if it is: Did I find the M had the capability to draft the messages then the answer is I find she has such capability.
  9. No. A fair understanding of this conclusion necessitates listening to the 999 audio in full and the BWF. I have done so.
  10. No. The surrounding circumstances are crucial. All of these things could arise in a domestically violent scenario but such is not required for the same to

---

<sup>37</sup> Reference should be had to the email from Ms may seeking clarification.

occur. For the avoidance of doubt I made clear this was an emotionally heightened incident with likely physical contact between the parties.

11. It might be but I do not have such evidence.
12. I can see I fell into error as to the resumption of the parents relationship. I had wrongly understood the parents weren't in a relationship during the time the case was before DDJ Drew and ICO was being considered. I can now see they were in a relationship at this time. This has no material impact on my overall assessment.
13. I am not sure this correction is itself correct. I agree there was some confusion as to the dating of those photographs but I understood F to clarify the pictures were taken in January 2021 and that the earlier date referred to linked photographs.

His Honour Judge Willans

14 July 2021