



Neutral Citation Number: [2020] EWHC 1216 (Fam)

Case No: ZW18C00371

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26/02/2020

Before :

MRS JUSTICE LIEVEN

Between :

THE LOCAL AUTHORITY

Applicant

and

MOTHER

First Respondent

and

FATHER

Second Respondent

and

LUCY

(By her Children's Guardian)

Third Respondent

and

CHARLES

Intervener

Mr Mark Twomey QC and Mr Christopher Archer (instructed by **the local authority**) for
the **Applicant**

Mr John Vater QC and Mr Christopher Poole (instructed by **Nicholls Christie & Crocker**)
for the **First Respondent**

Ms Alison Ball QC and Ms Louise MacLynn (instructed by **MTG Solicitors**) for the **Second**
Respondent

Ms Pashi Rayat (instructed by **Rayat & Co**) for the **Third Respondent**

**Mr Andrew Bagchi QC and Ms Rebekah Wilson (instructed by Miles & Partners LLP) for
the Intervener**

Hearing dates: **8, 11, 14-18, 21 and 25 October 2019 and 10-16 February 2020**

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MRS JUSTICE LIEVEN

Mrs Justice Lieven DBE :

1. This case concerns care proceedings in respect of Lucy, an 11 year old girl. This judgment relates to a 16 day fact-finding hearing I conducted into the circumstances surrounding the death of Lucy's elder brother William who was aged 13 when he died.
2. William died on 23 June 2017 in hospital, having been taken by ambulance from the family home. The Local Authority seek findings that William died at the hands of either his Mother, Father or older brother (Charles) and places all three in the pool of perpetrators. The parents and Charles say that William committed suicide by hanging. There is no suggestion of there being any possibility of accidental death (other than in a game) or any other person being involved.
3. The Local Authority was represented before me by Mr Twomey QC and Mr Archer, the Mother by Mr Vater QC and Mr Poole, the Father by Ms Ball QC and Ms MacLynn, and Charles by Mr Bagchi QC and Ms Wilson. I will refer to these, as appropriate, collectively as counsel for the Respondents. The Guardian was represented by Ms Rayat. I am very grateful to all of them for their assistance during what has at times been a difficult hearing.
4. The fact-finding hearing was split into two parts. I heard six days of evidence in October 2019 but then had to adjourn because the Police disclosed, part way through the second week, that they had been exercising covert surveillance on the family at various dates whilst they were under investigation. No PII application had been made at the appropriate time, and the fact of the surveillance only came to light after repeated requests and then orders for disclosure. I heard the PII application in private and with only the Police representatives present and refused the application and held that the material should be disclosed. The material (some 367 pages) was disclosed on the Friday of the second week and unsurprisingly the parties applied for an adjournment, which I granted. Because of the need to digest the information, take instructions and then find other dates which all concerned could do, the adjournment has been unfortunately long. The second part of the hearing commenced on 10 February 2020. In this second part I heard all the family members and Mr Lee the forensic architect expert. All the other witnesses were heard in the first part. I will deal with the late disclosure material below.
5. I heard evidence from all the family members, save Lucy, and a number of members of the police, ambulance service, and William's teachers. I also heard evidence from two forensic pathologists, Dr Cary and Dr Marnerides, and Mr Lee who gave expert evidence on forensic architecture.

The facts

Family history

6. William was one of five children and I will give their ages at the date of William's death. Charles is a boy and is the oldest (20); Belinda is a girl, then aged 17; Tina is a girl and was 16; and Lucy was 9. It is now 2 ½ years after William's death so they are all that much older. The Father is now aged 56 and the Mother 50. Both parents are of [Non-UK] heritage but have lived in the UK for many years. The children are all British.

7. The background of the family and events that occurred some time before William's death are relevant to the issues that I have to decide. I will therefore set these out in some detail and refer to the evidence that I have heard of those events through the account of the factual background.
8. William was born in the UK, but went to live in [the parents' country of origin] in 2005 with his maternal grandmother. The Mother explained that the family went on holiday to [the parents' country of origin] twice a year and therefore he saw them all frequently. He returned to the UK in 2008 when he was four years old.
9. The first relevant date in the chronology is an incident on 6 July 2006 when Charles was in primary school. There was an incident when Charles allegedly kicked another child at school and the Father attended the school. He is reported to have repeatedly kicked Charles and pushed him down stairs and into a door. The school would not allow Charles home and there was a referral to social services. Charles, Tina and Belinda were taken into protective custody with the girls returning home the next day and Charles a few days later. The Mother is recorded as later denying the incident occurred. The Father was convicted of assault on a minor in respect of this incident in December 2006 and given a conditional discharge of 6 months.
10. At the time of that incident Charles told the doctor that he was worried that he would be hit if he went home and said that he had seen his Father hit his sister with his hands and a broomstick. I note that Charles did not want to give an ABE interview, he said for fear it might get out. I note that Charles was only 9 years old at this point.
11. The family moved to larger accommodation in [the Local Authority] in May 2007 and it was in 2008 that William returned to live with his family in [the Local Authority]. Lucy was born on 19 February 2008.
12. William started at [The Primary School] in 2008. I have seen the records from the primary school and it is clear that William had significant issues with anger whilst at [The Primary School].
13. The next relevant incident was in 2012 when the Mother is recorded as having hit one of the children in a healthcare waiting room and then becoming verbally aggressive when challenged. The incident in the waiting room led to a hospital referral at which the Father refused permission to speak to the children or the Mother. There is an incident in March 2012 when Charles is recorded as having been abusive to another child and was not allowed to attend lessons.
14. In October 2013 William was reported as being aggressive at school to another pupil and himself and a social worker contacted the parents about a CAMHS referral. The social worker records the Mother being highly aggressive at the school and having to be removed by her daughters. When the Mother was asked about this incident in cross examination she suggested that it was the school's fault and that William had been unfairly treated. She initially suggested that she had no recollection of it, but then did accept it had happened but denied being aggressive. It was a consistent theme of her evidence that William's well documented problems at school, particularly at [The Primary School], were the fault of the school. In January 2014 the case was closed on the basis that the school was addressing concerns for William.

15. William moved to [The Secondary School] in September 2015. It seems from the evidence that this was not his first choice of secondary school as many of the other children from [The Primary School] went to a different secondary school. Mr Wright who at the time William was there was a senior teacher at [The Secondary School] and is now deputy head, gave evidence. He is a highly experienced teacher who had been at the school for 11 years. He gave evidence of an incident on 28 September 2016 when William was reported as being out of control at school and started kicking and punching the wall. Mr Wright had been urgently called by another teacher because William was out of control. He said that he tried to reason with William but he was so concerned about the other pupils that the police were called to the school and ultimately two officers had to restrain William, including handcuffing him. William was excluded from [The Secondary School]. Mr Wright was very clear about the extreme nature of William's behaviour and said that during the incident he was impossible to talk to or reason with. He said that he had never come across behaviour like that from a child of that age (at that point 12 years old). It is recorded that there were numerous failed attempts to engage the family and that they felt the school had unnecessarily escalated the incident.
16. Mr Wright was asked about William being capable of hurting himself. It was clear from his evidence that William might have hurt himself by kicking walls etc, but he said that he was not aware of any reports at [The Secondary School] of William self-harming. He said he was not aware of any reports of William being bullied or intimidated by other pupils.
17. William was permanently excluded from [The Secondary School]. There is again evidence in the records that repeated attempts were made to engage with the family, but these failed. Again, the Mother, when asked, although accepting that the incident took place, blamed the school for its handling of it.
18. William started at [The Pupil Referral Unit] in September 2016. I heard evidence from Ms Marshall the head teacher, and Mr Brown, the assistant head teacher at the time. Both of them were again very experienced teachers, and Ms Marshall had been head teacher since 2001.
19. Ms Marshall had little or no direct contact with William but had knowledge of his behaviour at the school in her role as head teacher. She said that the first admission meeting had been very difficult and that he had come across as a very aggressive child whose Mother was unable to change his behaviour. After this first meeting it was intended that William be given bespoke provision as he would find the groups on site too challenging. However, he was allowed to take the interview again and his behaviour was very different and he was put into a class group.
20. She said that during his time at [The Pupil Referral Unit] there was a persistent issue with what she described as "red mist", being out of control with extreme anger if he felt slighted. She said that there was, to her knowledge, no evidence of depression. Ms Marshall records in her statement that Charles also had attended [The Pupil Referral Unit] and she was aware of the family history.
21. On 16 June 2017 William was overheard having a conversation about box cutters and either stealing high value goods, or using them. One of the staff searched William's bag and found a box cutter knife in it. One of the staff contacted the Mother and told her

about the high-end goods, and apparently she did not seem to be surprised. On 19 June he was excluded from [The Pupil Referral Unit] for three days. When William was asked about his behaviour he became very angry and had to be restrained. There was some suggestion in cross examination that this incident might have been what led to the bruises on William's body, but this was not ultimately pursued as firstly, the evidence did not suggest that he would have been bruised by the restraining and secondly, the incident was too long before the death for any bruises to be at all likely to be those that were noted at the post mortem.

22. Ms Marshall referred to the meeting of 23 June, but as Mr Brown was present and Ms Marshall was not I have simply referred to Mr Brown's evidence.

23 June 2017

23. The events of 23 June are of course critical and I need to set them out in considerable detail. I make clear at the outset that it is extremely difficult to pin down the sequence of events and movements from the evidence given by the family members. There are considerable, and important, inconsistencies, both between them and within the accounts that have been given to the police at different times, and in witness statements and oral evidence. I will attempt to highlight below the most important inconsistencies, but I will not set them all out. I will highlight those which either seem to me to be critical in terms of trying to determine what happened, or those where the inconsistency is so clear as to cast real doubt on the credibility of the account given.
24. The Mother dropped Lucy at her primary school at 8.30. She then attended a meeting at the [The Pupil Referral Unit] with William and Mr Brown. Mr Brown said that the meeting began badly with William being very aggressive (in [the family's first language]) with his Mother, to a degree that he described as shocking. He said the Mother seemed to be quite timid and almost scared of William. William was defensive and angry and was rude. However, as the meeting progressed he became more co-operative and conversational. William wanted to return to mainstream education and he would like to go to the secondary school he had originally wanted. Although it was made clear in the meeting that this was a considerable way off, the sense I have of the meeting was that William was given at least the possibility of a return to mainstream school if his behaviour improved. By the end of the meeting, William was in a more positive frame of mind and was recorded as then attending all his lessons for the rest of the day and having had a good day.
25. William's tutor Mr McIntosh gave evidence. He had known William well and came across as genuinely fond of him. Notably, much later in the hearing when Charles gave evidence, he spoke fondly of Mr McIntosh and said that he had got on well both with Charles and William. Mr McIntosh was not in the meeting but spent much of the rest of the school day with William. He said that William had had a good day, did much better in his lessons in the morning and then when they went to the park in the afternoon he said that William had enjoyed himself. He spoke of having seen William smile during the afternoon.
26. The Mother's account of this meeting was very different. She said that William had been told that this was his last chance or he would be removed from [The Pupil Referral Unit]. She denied that William was aggressive to her and said that he had told her in [the family's first language] that he wanted to go home.

27. Ms Hughes, who is the pastoral leader at [The Pupil Referral Unit], also gave evidence. She had had some personal contact with William and she said that she had got to know him more from May onwards. She said that she had had concerns about William's behaviour, particularly outside school and the group he was in. She said that efforts had been made to talk to William and to offer him counselling, but he was very "closed" and he was reluctant to engage in counselling or anger management work.
28. In relation to the meeting of 23 June she said that William wanted to be reintegrated into mainstream school and she thought that emotion was genuine. She said that the Mother had remained for about 10 minutes after William left the meeting. The Mother was concerned about who William was spending time outside school with and where they were going. Ms Hughes said that she had advised the Mother to keep William close over the weekend. The Mother agreed with this. Ms Hughes said that she had checked on William before the lunch break and had seen his record card for that lesson, which gave him a good score, and that he had appeared settled.
29. Ms Hughes, like both Mr Brown and Ms Marshall, said that she was very surprised when she was told that William had committed suicide later that day. All the witnesses from the two schools were in my view entirely truthful and appeared to be highly committed teachers.
30. Ms Hughes said that she was aware of the "pass out" game, but not aware of it happening in [The Pupil Referral Unit].
31. In terms of the events of the afternoon, the only fixed points that I have are that William finished school at about 14.50 and Lucy at 15.30. The first phone call to the ambulance service (LAS) was at 17.57. There are phone mast records that show Charles's phone in the vicinity of the home at 17.08 and being near West Kensington at 17.50. What happened between the times set out is entirely within the knowledge of the family members, and I have no external means of verification.
32. The Mother said that after the meeting she went shopping and it seems she may have gone home and then gone out shopping. There is a reference in one of her police interviews to her going to work, but I accept that this may have been a misunderstanding between her and the police.
33. At 14.50 William finished school. The evidence is that he met his Father on the way home and they went to a local shop to buy a watermelon for the evening meal. It may be of some importance that 23 June fell within Ramadan and the parents were fasting.
34. The Mother initially said that she had collected Lucy from school and brought her home some time between 15.30 and 16.00. However, in her oral evidence she said that she had met Lucy at U_____ Road, about half way home, and brought her home from there. She says that she and Lucy got home before 16.00. She said in oral evidence that Charles was not at home when she got home. There was a considerable lack of clarity in her evidence as to whether Charles was home or not. But when I asked her a very straightforward question, she said that she had not seen Charles at home after she got home with Lucy.
35. The Father and Tina had gone to Wickes to buy some building supplies at some point in the early afternoon. Tina said that when she got home she went to her room and only

came out briefly to go into her Mother's room to get something. She said she did not hear Charles going out.

36. The Mother said that when she got home from meeting Lucy, the Father and Tina were out at Wickes. She said the only person who was at home was William.
37. Charles on the other hand says that he got up at about midday. He had a very close friend who had been in Grenfell Tower the night of the fire (14 June). I note here that before 2007 the family had lived in North Kensington and Charles had gone to school with children who had lived at Grenfell. He said he had spent much of the previous week looking for that friend and their immediate family. He said in oral evidence that when he had woken he had been phoned and told that the friend and his family had definitely died in the fire. He said he got up and after a while had had a shower. At this point William and the Father had come in, William had come up to the bedroom, which they shared. He had asked William to leave the room whilst Charles got changed. Charles had then gone downstairs and seen William in the front room. Charles said he had left the house shortly before 17.00.
38. At 17.57 the first call from Tina was made to the London Ambulance Service (LAS). At 17.58 there is a second call from Tina to LAS in which she says that William is not breathing and they are taking him to hospital. The operator told her to leave William where he was and get him flat on his back.
39. There is one potentially important point here about the truthfulness of the Father, Mother and Tina's account. They all said absolutely firmly and with no equivocation that Lucy was out in the street playing with friends from when she returned from school and that she did not see William's body and did not come back into the house. However, I have listened to the recordings of Tina's phone calls to the LAS. She quite clearly on that phone call tells Lucy to sit down, and then later twice tells her to be quiet. There is no doubt that Lucy was with Tina when the calls were made.
40. The sequence of events thereafter appears to be as follows. The first responders to arrive were the LAS; Mark Reeve, (an emergency medical technician), arrived first and entered the house at 18.04. He went into the front room and found William on the floor in cardiac arrest. He was told that William had last been seen alive 30 minutes before. He was entirely focused on treating William and had very little interchange with any of the family members.
41. At 18.07 Alistair MacPhee and Mr Forster of the LAS arrived at the house. Initially Mr MacPhee went into the front room and was assisting performing CPR on William. He said he was distracted by a loud crash and call for help. He went into the kitchen and found the Father leaning with his forearm on the Mother's throat, Mr MacPhee said he had to pull the Father off the Mother.
42. Mr MacPhee was asked a number of questions in cross examination about this part of his evidence. His general recollection of events at the house was not particularly clear, and the impression I had was that much of his evidence was prompted by his statement. However, he was absolutely clear about what he had seen in the kitchen. It was put to him (by Mr Vater) that the Mother was very upset, indeed hysterical, and was splashing her face with water at the sink with the Father holding her. Mr MacPhee was totally

clear that was not what had happened, and that if that is the Mother's case she was not telling the truth.

43. The Mother and Father's evidence of this incident was completely different. They said the Mother was hysterical, screaming and splashing her face. The Father went into the kitchen to comfort her, he went behind her to hug her and then slipped on the wet floor and fell over. They both suggested that must have been the crash that Mr McPhee heard.
44. William was taken to hospital in an ambulance and was pronounced dead at 19.32.

Subsequent events

45. On 30 June 2017 Dr Marnerides conducted a routine post mortem. He stopped the post mortem because he was concerned that there were indicators that William had not been hanged. On 6 July 2017 a special post mortem was conducted and I will refer to the conclusions of this below.
46. There are a number of subsequent events that may have some relevance to what had occurred on 23 June 2017.
47. On 9 August 2017 DC Booth advised the family that the enquiry was now into a suspicious death/murder. On 23 August the Father attempted to hang himself. A police officer removed the noose and an ambulance was called.
48. On 3 June 2018 Belinda alleged that Charles assaulted her at home. Belinda called the police, but when they attended the Mother denied that there was any incident or that anyone had called the police. Charles became abusive to the police and the Mother refused to provide any details. Belinda made her allegations from the wall outside the house. Charles was arrested for criminal damage and assault. Belinda made a statement to the police on the day. The Father made a statement to the police on 5 June about Charles's violence and assaults on Belinda. Charles was arrested on 6 June after Belinda called the police and said that Charles was in breach of his bail conditions.
49. On 13 July Belinda and the Father failed to give evidence at the Magistrates Court; the trial was adjourned with witness summonses. On 20 August charges were dismissed against Charles as the Father and Belinda failed to give evidence.
50. The parents were interviewed by the police in July 2017. On 17 August 2018 the parents were arrested and interviewed again by the police. These are the interviews in August 2018 referred to below.

The family's case

51. Much of the family's case is set out in the account I have given above, and in the evidence I set out below. However, in summary, the case being advanced by Mother, Father and Charles is that this was a happy normal family with no unusual levels of aggression or violence within the family. All five members of the family, including Tina and Belinda, were adamant that the Father was never violent. They all said William was normal at home, although this slightly changed in Charles's evidence towards the end, as I refer to below.

52. In terms of the day, there were very considerable inconsistencies in the accounts given, particularly by the Mother and Father, as I refer to when I recount their evidence. However, in summary, the Mother says she brought Lucy home and was then home for the rest of the afternoon. The Father says that he came home with William and then stayed home until after Charles went out, at which point he and Tina went to buy tiles at Wickes. Charles says he was at home till just before 17.00 when he went out. He says that William was alive when he went out.
53. The parents say that when the Father got back from Wickes, he and the Mother sat in the back room and watched the TV. At some point, for reasons which varied (see below) the Father became concerned and then found that he could not open the door to the front room, which was locked from the inside, and decided to drill the lock. He drilled the lock but the Mother went past him into the front room first. She, and then the Father, saw William hanging from the curtain rail with the duvet around his neck. The Father lifted him down and Tina, who had been upstairs, ran down and called an ambulance. The Father, Mother and Tina say that they got frustrated with how long the ambulance was taking to come, so the Father carried William into the car to drive him to hospital. However, the LAS emergency phone handler told them to lay him flat on the floor so the Father reversed the car back into the drive and carried William back into the front room, which is where the first responder to arrive, Mr Reeve, found him.
54. The Father, Mother and Charles all strongly deny having hurt William.

The Law

55. The legal principles applicable in this case are not in dispute. They were usefully summarised by Jonathan Baker J in *Re JS* [2012] EWHC 1370 at [36] onwards;

36. In determining the issues at this fact finding hearing I apply the following principles. First, the burden of proof lies with the local authority. It is the local authority that brings these proceedings and identifies the findings they invite the court to make. Therefore the burden of proving the allegations rests with them.

37. Secondly, the standard of proof is the balance of probabilities (Re B [2008] UKHL 35). If the local authority proves on the balance of probabilities that J has sustained non-accidental injuries inflicted by one of his parents, this court will treat that fact as established and all future decisions concerning his future will be based on that finding. Equally, if the local authority fails to prove that J was injured by one of his parents, the court will disregard the allegation completely. As Lord Hoffmann observed in Re B:

"If a legal rule requires the facts to be proved (a 'fact in issue') a judge must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are 0 and 1."

38. Third, findings of fact in these cases must be based on evidence. As Munby LJ, as he then was, observed in Re A (A Child) (Fact-finding hearing: Speculation) [2011] EWCA Civ 12:

"It is an elementary proposition that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation."

39. *Fourthly, when considering cases of suspected child abuse the court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. As Dame Elizabeth Butler-Sloss P observed in Re T [2004] EWCA Civ 558, [2004] 2 FLR 838 at 33:*

"Evidence cannot be evaluated and assessed in separate compartments. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof."

40. *Fifthly, amongst the evidence received in this case, as is invariably the case in proceedings involving allegations of non-accidental head injury, is expert medical evidence from a variety of specialists. Whilst appropriate attention must be paid to the opinion of medical experts, those opinions need to be considered in the context of all the other evidence. The roles of the court and the expert are distinct. It is the court that is in the position to weigh up expert evidence against the other evidence (see A County Council & K, D, & L [2005] EWHC 144 (Fam); [2005] 1 FLR 851 per Charles J). Thus there may be cases, if the medical opinion evidence is that there is nothing diagnostic of non-accidental injury, where a judge, having considered all the evidence, reaches the conclusion that is at variance from that reached by the medical experts.*

41. *Sixth, in assessing the expert evidence I bear in mind that cases involving an allegation of shaking involve a multi-disciplinary analysis of the medical information conducted by a group of specialists, each bringing their own expertise to bear on the problem. The court must be careful to ensure that each expert keeps within the bounds of their own expertise and defers, where appropriate, to the expertise of others (see observations of King J in Re S [2009] EWHC 2115 Fam).*

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

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

44. Ninth, as observed by Hedley J in *Re R (Care Proceedings: Causation)* [2011] EWHC 1715 Fam:

"There has to be factored into every case which concerns a disputed aetiology giving rise to significant harm a consideration as to whether the cause is unknown. That affects neither the burden nor the standard of proof. It is simply a factor to be taken into account in deciding whether the causation advanced by the one shouldering the burden of proof is established on the balance of probabilities."

*The court must resist the temptation identified by the Court of Appeal in *R v Henderson and Others* [2010] EWCA Crim 1219 to believe that it is always possible to identify the cause of injury to the child.*

45. Finally, when seeking to identify the perpetrators of non-accidental injuries the test of whether a particular person is in the pool of possible perpetrators is whether there is a likelihood or a real possibility that he or she was the perpetrator (see *North Yorkshire County Council v SA* [2003] 2 FLR 849. In order to make a finding that a particular person was the perpetrator of non-accidental injury the court must be satisfied on a balance of probabilities. It is always desirable, where possible, for the perpetrator of non-accidental injury to be identified both in the public interest and in the interest of the child, although where it is impossible for a judge to find on the balance of probabilities, for example that Parent A rather than Parent B caused the injury, then neither can be excluded from the pool and the judge should not strain to do so (see *Re D (Children)* [2009] 2 FLR 668, *Re SB (Children)* [2010] 1 FLR 1161).

56. In terms of the identification of a pool of perpetrators, I have had regard to the Supreme Court in *Re S-B* [2009] UKSC 17. In *B (Children: Uncertain Perpetrator)* [2019] EWCA Civ 575 Peter Jackson LJ said;

46. *Drawing matters together, it can be seen that the concept of a pool of perpetrators seeks to strike a fair balance between the rights of the individual, including those of the child, and the importance of child protection. It is a means of satisfying the attributable threshold condition that only arises where the court is satisfied that there has been significant harm arising from (in shorthand) ill-treatment and where the only 'unknown' is which of a number of persons is responsible. So, to state the obvious, the concept of the pool does not arise at all in the normal run of cases where the relevant allegation can be proved to the civil standard against an individual or individuals in the normal way. Nor does it arise where only one person could possibly be responsible. In that event, the allegation is either proved or it is not. There is no room for a finding of fact on the basis of 'real possibility', still less on the basis of suspicion. There is no such thing as a pool of one.*

47. *It should also be emphasised that a decision to place a person within the pool of perpetrators is not a finding of fact in the conventional sense. As is made clear in *Lancashire* at [19], *O and N* at [27-28] and *S-B* at [43], the person is not a proven perpetrator but a possible perpetrator.*

That conclusion is then carried forward to the welfare stage, when the court will, as was said in S-B, "consider the strength of the possibility" that the person was involved as part of the overall circumstances of the case. At the same time it will, as Lord Nicholls put it in Lancashire, "keep firmly in mind that the parents have not been shown to be responsible for the child's injuries." In saying this, he recognised that a conclusion of this kind presents the court with a particularly difficult problem. Experience bears this out, particularly where a child has suffered very grave harm from someone within a pool of perpetrators.

48. *The concept of the pool of perpetrators should therefore, as was said in Lancashire, encroach only to the minimum extent necessary upon the general principles underpinning s.31(2). Centrally, it does not alter the general rule on the burden of proof. Where there are a number of people who might have caused the harm, it is for the local authority to show that in relation to each of them there is a real possibility that they did. No one can be placed into the pool unless that has been shown. This is why it is always misleading to refer to 'exclusion from the pool': see Re S-B at [43]. Approaching matters in that way risks, as Baroness Hale said, reversing the burden of proof.*

49. *To guard against that risk, I would suggest that a change of language may be helpful. The court should first consider whether there is a 'list' of people who had the opportunity to cause the injury. It should then consider whether it can identify the actual perpetrator on the balance of probability and should seek, but not strain, to do so: Re D (Children) [2009] EWCA Civ 472 at [12]. Only if it cannot identify the perpetrator to the civil standard of proof should it go on to ask in respect of those on the list: "Is there a likelihood or real possibility that A or B or C was the perpetrator or a perpetrator of the inflicted injuries?" Only if there is should A or B or C be placed into the 'pool'.*

50. *Likewise, it can be seen that the concept of a pool of perpetrators as a permissible means of satisfying the threshold was forged in cases concerning individuals who were 'carers'. In Lancashire, the condition was interpreted to include non-parent carers. It was somewhat widened in North Yorkshire at [26] to include 'people with access to the child' who might have caused injury. If that was an extension, it was a principled one. But at all events, the extension does not stretch to "anyone who had even a fleeting contact with the child in circumstances where there was the opportunity to cause injuries": North Yorkshire at [25]. Nor does it extend to harm caused by someone outside the home or family unless it would have been reasonable to expect a parent to have prevented it: S-B at [40].*

51. *It should also be noted that in the leading cases there were two, three or four known individuals from whom any risk to the child must have come. The position of each individual was then investigated and compared. That is as it should be. To assess the likelihood of harm having been caused by A or B or C, one needs as much information as possible about each of them in order to make the decision about which if any of them should be placed in the pool. So, where there is an imbalance of*

information about some individuals in comparison to others, particular care may need to be taken to ensure that the imbalance does not distort the assessment of the possibilities. The same may be said where the list of individuals has been whittled down to a pool of one named individual alongside others who are not similarly identified. This may be unlikely, but the present case shows that it is not impossible. Here it must be shown that there genuinely is a pool of perpetrators and not just a pool of one by default.

52. Lastly, as part of the court's normal case-management responsibilities it should at the outset of proceedings of this kind ensure (i) that a list of possible perpetrators is created, and (ii) that directions are given for the local authority to gather (either itself or through other agencies) all relevant information about and from those individuals, and (iii) that those against whom allegations are made are given the opportunity to be heard. By these means some of the complications that can arise in these difficult cases may be avoided.

57. Counsel for the Respondents referred me to the decision of Leggatt J in *Gestmin v Credit Suisse UK* [2013] EWHC 3560 (Comm) about the unreliability of oral testimony. At [15] onwards the Judge said as follows;

Evidence based on recollection

15. An obvious difficulty which affects allegations and oral evidence based on recollection of events which occurred several years ago is the unreliability of human memory.

16. While everyone knows that memory is fallible, I do not believe that the legal system has sufficiently absorbed the lessons of a century of psychological research into the nature of memory and the unreliability of eyewitness testimony. One of the most important lessons of such research is that in everyday life we are not aware of the extent to which our own and other people's memories are unreliable and believe our memories to be more faithful than they are. Two common (and related) errors are to suppose: (1) that the stronger and more vivid is our feeling or experience of recollection, the more likely the recollection is to be accurate; and (2) that the more confident another person is in their recollection, the more likely their recollection is to be accurate.

17. Underlying both these errors is a faulty model of memory as a mental record which is fixed at the time of experience of an event and then fades (more or less slowly) over time. In fact, psychological research has demonstrated that memories are fluid and malleable, being constantly rewritten whenever they are retrieved. This is true even of so-called 'flashbulb' memories, that is memories of experiencing or learning of a particularly shocking or traumatic event. (The very description 'flashbulb' memory is in fact misleading, reflecting as it does the misconception that memory operates like a camera or other device that makes a fixed record of an experience.) External information can intrude into a witness's memory, as can his or her own thoughts and beliefs, and both can cause

dramatic changes in recollection. Events can come to be recalled as memories which did not happen at all or which happened to someone else (referred to in the literature as a failure of source memory).

18. Memory is especially unreliable when it comes to recalling past beliefs. Our memories of past beliefs are revised to make them more consistent with our present beliefs. Studies have also shown that memory is particularly vulnerable to interference and alteration when a person is presented with new information or suggestions about an event in circumstances where his or her memory of it is already weak due to the passage of time.

19. The process of civil litigation itself subjects the memories of witnesses to powerful biases. The nature of litigation is such that witnesses often have a stake in a particular version of events. This is obvious where the witness is a party or has a tie of loyalty (such as an employment relationship) to a party to the proceedings. Other, more subtle influences include allegiances created by the process of preparing a witness statement and of coming to court to give evidence for one side in the dispute. A desire to assist, or at least not to prejudice, the party who has called the witness or that party's lawyers, as well as a natural desire to give a good impression in a public forum, can be significant motivating forces.

20. Considerable interference with memory is also introduced in civil litigation by the procedure of preparing for trial. A witness is asked to make a statement, often (as in the present case) when a long time has already elapsed since the relevant events. The statement is usually drafted for the witness by a lawyer who is inevitably conscious of the significance for the issues in the case of what the witness does nor does not say. The statement is made after the witness's memory has been "refreshed" by reading documents. The documents considered often include statements of case and other argumentative material as well as documents which the witness did not see at the time or which came into existence after the events which he or she is being asked to recall. The statement may go through several iterations before it is finalised. Then, usually months later, the witness will be asked to re-read his or her statement and review documents again before giving evidence in court. The effect of this process is to establish in the mind of the witness the matters recorded in his or her own statement and other written material, whether they be true or false, and to cause the witness's memory of events to be based increasingly on this material and later interpretations of it rather than on the original experience of the events.

21. It is not uncommon (and the present case was no exception) for witnesses to be asked in cross-examination if they understand the difference between recollection and reconstruction or whether their evidence is a genuine recollection or a reconstruction of events. Such questions are misguided in at least two ways. First, they erroneously presuppose that there is a clear distinction between recollection and reconstruction, when all remembering of distant events involves

reconstructive processes. Second, such questions disregard the fact that such processes are largely unconscious and that the strength, vividness and apparent authenticity of memories is not a reliable measure of their truth.

22. *In the light of these considerations, the best approach for a judge to adopt in the trial of a commercial case is, in my view, to place little if any reliance at all on witnesses' recollections of what was said in meetings and conversations, and to base factual findings on inferences drawn from the documentary evidence and known or probable facts. This does not mean that oral testimony serves no useful purpose – though its utility is often disproportionate to its length. But its value lies largely, as I see it, in the opportunity which cross-examination affords to subject the documentary record to critical scrutiny and to gauge the personality, motivations and working practices of a witness, rather than in testimony of what the witness recalls of particular conversations and events. Above all, it is important to avoid the fallacy of supposing that, because a witness has confidence in his or her recollection and is honest, evidence based on that recollection provides any reliable guide to the truth.*

58. Very similar views were expressed by Peter Jackson J in *Lancashire County Council v C, M & F (Children -Fact-finding)* [2014] EWFC 3 (Fam) at [9];

9. *To these matters, I would only add that in cases where repeated accounts are given of events surrounding injury and death, the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at times of stress or when the importance of accuracy is not fully appreciated, or there may be inaccuracy or mistake in the record-keeping or recollection of the person hearing and relaying the account. The possible effects of delay and repeated questioning upon memory should also be considered, as should the effect on one person of hearing accounts given by others. As memory fades, a desire to iron out wrinkles may not be unnatural – a process that might inelegantly be described as "story-creep" may occur without any necessary inference of bad faith.*

59. Leggatt J's comments in *Gestmin* were made in the context of commercial litigation where there were a large number of contemporaneous documents. In terms of the difficulties with oral testimony, particularly some years later, much compounded in this case by the trauma of what happened that afternoon, I entirely accept and agree with what Leggatt J said. However, the difficulty in a case such as the present is that there are no contemporaneous documents that assist me on what happened on the afternoon of 23 June 2017. There is some evidence of what Leggatt J might describe as known facts, e.g. the record of the incidents in 2006 and 2013, and the professional evidence of William's behaviour and of the meeting at [The Pupil Referral Unit] in the morning of 23 June. None of this goes directly to the afternoon of 23 June. However, some of that evidence of known or probable facts does show, beyond any doubt, that family members have told lies in their evidence as I explain below. I then have to take into

account the *Lucas* principle, that the fact they may have undoubtedly lied about one thing does not mean that they have lied about all the evidence.

60. In terms of the afternoon of 23 June, I have certain fixed time points, i.e. when Lucy and William left school, when Charles's phone was tracked near the house and at Kensington High Street, and I have the record of the phone call to the Ambulance Service. Beyond this I have to try to pick through the various accounts given to decide whether the Local Authority case is proved on the balance of probabilities.

Expert Evidence

61. The first post-mortem was carried out by Dr Marnerides who produced written reports and gave oral evidence to the Court. He recorded that there were marks on the neck not typical of hanging, though could be of an atypical hanging. There was a bruise to the left side and further bruising on the upper left arm. The post mortem was stopped by Dr Marnerides and a special post mortem ordered.
62. Dr Cary, together with Dr Marnerides, conducted the special post-mortem. Dr Cary gave oral evidence to the Court, he had produced a report for the Court but also referred to his preliminary post mortem report and the final post mortem report dated 6 January 2018. Dr Cary is a Home Office registered consultant forensic pathologist, and has been a forensic pathologist for 27 years. He said he had quite frequently been involved in cases of strangulation and was particularly familiar with cases of atypical hanging and low level hanging.
63. Dr Marnerides is a consultant neuropathologist with a specialism in paediatric pathology. There was some debate in cross examination to seek to establish that Dr Marnerides' evidence on the pathology would defer to Dr Cary's. Dr Marnerides confirmed in evidence that on forensic pathology he would defer to Dr Cary. As I explain below, there was no real difference in their evidence although Dr Cary was marginally more equivocal in his evidence than Dr Marnerides. Both plainly have great experience, both gave their evidence very carefully, and I had no sense of experts pursuing some particular theory. I give both of their evidence full weight.
64. Both doctors agreed that this was an unusual and challenging case. Fundamentally, both agreed that there were a number of features of the pathology that indicated William did not die from hanging, but that the pathology was not determinative and it was necessary for the Court to have close regard to all the features of the case before coming to a conclusion.
65. It is not disputed that William died of asphyxia due to compression of the neck; there was no evidence of natural disease and no toxicology to explain death; that there were marks on both sides of the neck; and no typical hanging mark. The relevant terminology was explained in Dr Marnerides's evidence as follows; "typical hanging" is used when the ligature knot is situated to the nape of the neck and the ligature runs anteriorly. "Atypical hanging" is the term used for other positions of the knot. "Complete" or fully suspensory hanging is where the body is completely suspended with the feet not touching the ground or any other surface. "Partial" hanging is when the body is partially suspended, for example the toes could be touching the ground. The marks on the neck tend to be horizontal rather than diagonal and may resemble marks seen in ligature strangulation.

66. Dr Cary did on occasion go somewhat beyond the area of his expertise. This is not a criticism as he is obviously enormously experienced in considering deaths of this nature, and has thus gained knowledge and experience that might be said to be outside his expertise. However, I have been careful to limit the weight I give to his evidence as an expert to those areas (forensic pathology) that do lie within his expertise rather than his views on the curtain rail or the likelihood of suicide. Although in respect of the likelihood of suicide in a 13 year old boy, what he said is no more than common knowledge so I take it into account as such.
67. In his post mortem report Dr Cary said as follows;
3. *There are prominent signs of asphyxia in the facial skin, particularly in relation to the eyelids and the conjunctivae. These findings are typical of compression of the neck and in relation to this there are abrasions on both sides of the neck.*
 4. *There are two scenarios that need to be considered from a pathological point of view. Firstly, that this was an act of self-harm through self-suspension, as suggested, or secondly that this was in fact an act of compression of the neck by some means involving a third party. In either case there is no evidence of a clear-cut ligature mark and in relation to a scenario of hanging (suspension) there is no evidence of a mark rising on either side. Whilst in some cases of so-called atypical hanging a rising mark may not be seen, particularly if hanging is at low level, what is proposed here is a relatively high level suspension even if the feet remained in contact with the ground. Although there is no evidence of a clear-cut ligature mark this does not exclude third party ligature compression of the neck by a soft broad ligature. Other third party methods of compression of the neck would include an arm-lock where the neck is compressed in the crook of an assailant's elbow, compression of the neck using a forearm or one-handed compression of the neck in the crook of a hand.*
 5. *In trying to discriminate between an act of self-harm and third party compression of the neck the following features need to be taken account of:-*
 - 5.1 *There are small bruises on the left upper arm and one on the right upper arm which would be consistent with grip marks, such as might occur if compression of the neck was being initiated by a third party.*
 - 5.2 *The curtain rail from which it is proposed suspension took place is flimsy and showed no apparent signs of damage. On the other hand the deceased weighed 56kg and even if only half of his body weight was suspended some signs in terms of damage to the curtain rail would be anticipated considering that the rail in question specifies a maximum load of 5kg in the data sheet provided.*
 - 5.3 *'Suicide' at this young age is very unusual. However, it is suggested by Charles (statement of DC Bignell) that there was a 'suicide challenge'*

going round the deceased's school. The veracity of this clearly needs further exploration.

68. In his oral evidence Dr Cary referred again to the fact that the abrasions on William's neck were close to horizontal whereas in a case of hanging it would be expected that the abrasions would rise as the ligature goes upwards and backwards. Dr Cary was unequivocal that the marks he saw on William's neck were inconsistent with a full suspensory hanging, as were the signs of asphyxia (petechial haemorrhages found in the eyes).
69. He was asked about the possibility that this was a partial hanging with William's feet resting either on the window sill or on some bags on the floor. He said that in those circumstances one would still expect a rising mark as long as the point of suspension was above the head, but it would impact on the petechial haemorrhage. The issue of partial hanging, which was explored in cross examination, became largely irrelevant after the factual evidence as both parents were clear that they found William fully suspended with his feet not touching the ground or anything else.
70. He was asked about whether there were ligature marks and said that if there was a broad soft material it might leave no marks, whether it was a full or partial suspension, or a compression injury. He also accepted that with a soft ligature there would be less clear ligature marks.
71. In Closing both Mr Vater and Mr Bagchi placed their cases very strongly on the following passage in Mr Bagchi's cross-examination of Dr Cary;

Q Is it – is it possible that the duration of the hanging and the softness of the fabric and the broadness of the fabric combine in such a way as to contraindicate the presence of rising marks?

A I can't absolutely exclude that, I think. I think that's fair. I mean, obviously, as I said before, this is a very challenging case so all – all the things that you might expect to see may not be there for – for reasons you suggest. All I can say is that this seems to be a compression of the neck which has occurred and caused signs of asphyxia and so there would be nothing against this being an assault of the kind I have described of either an armlock or the hand, but I – I can agree that there may be ways in which a soft ligature could do this either through suspension or through just being applied by a third party or by himself.

72. In relation to the bruising on the left shoulder and below, Dr Cary indicated that they looked fresh and contemporaneous with the abrasions on the neck. He was asked in cross examination (by Mr Vater) whether the bruises could be several days old, and replied that that was less likely but could not be ruled out. It was also put to him that in a case of manual strangulation the ambulance responders would have noticed congestion of the face. Dr Cary said that they would have been more concerned with the treatment and it was often the case that matters which are relevant forensically are not recorded by those treating at the time.
73. It was put to him that with manual strangulation one would expect a 1-2cm discoid mark, whereas here they were larger. Dr Cary said that there were no marks for two

handed manual strangulation but there was the possibility of a strangulation in the crook of an elbow, or the crook of one hand.

74. Dr Cary also referred to the fact that suicide is very unusual in a child of this age. I did not have any statistics on the number of teenage suicides, and they would not ultimately have helped me very much. However, there was no challenge to Dr Cary's evidence on the point. As I set out below, I am faced in this case with two obviously unusual, and to some extent improbable, scenarios.
75. Dr Marnerides conducted the first post mortem, which he halted because he did not regard the marks on the neck as typical of hanging and noted some possible bruising on the left upper arm. He then conducted the special post mortem with Dr Cary. In his Addendum Report dated 28 July 2019 he said that the pattern of marks on the neck would not be in keeping with the account that William was found hanging from a curtain rail. The pattern of marks identified was not indicative of any point of suspension, i.e. from a curtain rail.
76. He explained that there was no hanging mark on the neck, which would be there in a "typical" hanging. In an "atypical" hanging he would have expected to see a mark from the knot, the lack of such a mark would have made this a very atypical hanging. He was asked by Mr Vater what the position would be if the ligature (i.e. the duvet cover) had been wrapped round William's neck more than once. Dr Marnerides pointed out that there was no ligature mark.
77. I note here, again, that although Dr Marnerides was somewhat clearer on his view on this not being a fully suspensory hanging, his evidence did not differ on the point from that of Dr Cary.
78. In relation to the bruising, like Dr Cary, he explained the difference between "true bruises" and hypostasis which is movement of the blood within the body after death. A true bruise will have frank haemorrhage into the tissue. He said that this was not an exact science but there were a number of ways to try to establish whether the mark was a true bruise rather than a result of hypostasis and when the bruising occurred. One is the Perls iron test, which was negative. It was his view that the bruises were fresh.
79. Dr Marnerides' view was that the bruises on the upper arms and the left flank supported a view that William had been restrained
80. Mr Lee gave expert "architectural" (for the lack of a better word) evidence. Mr Lee is a qualified architect who is now employed by the Building Research Establishment (BRE). His particular expertise is in component failure, including structural failures of wall fixtures. He was very clear that he was not an expert in knots.
81. Mr Lee was originally instructed by the police through BRE to investigate the load carrying properties of a curtain rail and associated fixings at [the family home]. He produced a report for the police dated 8 August 2018. He was subsequently instructed by the Local Authority to answer a series of questions relating to that report. He gave oral evidence and was cross examined.
82. Mr Lee explained that he had carried out a series of tests at the premises on the basis of information given to him by the police. He was given photographs of the duvet cover

whilst still suspended from the curtain rail at the premises. He also had a photograph of the label on the duvet cover. A duvet cover was purchased with the same fabric composition (cotton/polyester), but necessarily not the same environmental history, including how often it had been washed and handled. Therefore, the duvet cover was similar to that by which William is said to have been found hanging, but there are plain differences. Mr Lee started by making a mock-up of the conditions where William was found so that he could ensure he had the correct equipment when he went to the premises.

83. Once he got to the premises he carried out two sets of tests, a static test and a dynamic test. The purpose of the static test was to test the ability of the curtain rail and knot to hold William's weight if he committed suicide from a leaning position; the dynamic test was if he had committed a full suspensory hanging. In both tests he started by seeking to reproduce the knot at the curtain end as seen in the police photos. This was described as a simple overhand knot. In the first static test Mr Lee created the knot to approximate the size of the knot in the photos. The test was undertaken at 30 degrees so as to replicate the position a person would need to be in to hang themselves from a static position. The test was terminated at 15 kg because the knot unravelled at this weight. For the second static test the knot was pulled as tightly as possible by an adult 30 year old man. The second test was terminated at 50 kg because the curtain rail hooks holding the end of the wires to the transducers began to move along the rail and suggested the knot was unravelling. For the third static load test the knot was again tightened and the transducer wires were fixed. That test was taken to a maximum load of 65 kg, which showed a permanent deformation of the rail by 1 and 1.5mm.
84. Mr Lee then carried out two dynamic load tests. The tests were carried out with a 30kg bag and it had to reach a certain velocity in order to replicate William's weight of 56 kg. The test was done this way because of the difficulties of trying to use a 56kg weight. The first dynamic load test resulted in the load hitting the crash pad underneath, so never reached the velocity required to mimic 56kg. The second dynamic load test did result in the knot unravelling. There was some displacement of the curtain rail.
85. There were a number of potential question marks that could be placed over the tests. Counsel for the Respondents emphasised that Mr Lee was not a forensic knot expert. This is true, but what Mr Lee was doing was conducting an experiment with a knot that resembled that in the police photos. As such, I do not consider his lack of "expertise" as a knot expert to be critical as long as I can be satisfied that he did the experiment in an appropriate manner.
86. The first point raised, or argument about Mr Lee's "assumptions", is that the fabric of the testing duvet cover was not identical in all respects to that of the original duvet cover. It is not possible to know what material differences that might make, but it is at least possible that the original fabric slipped less. The second, raised by Mr Vater, was that the original duvet cover could have had fastenings which would have impacted on its unravelling. This seems to me unlikely given that the fastenings (as shown in the police photos) were small plastic poppers, and although they might have had some impact I cannot see how it would have been much. The third is that the police photo only shows the knot as it ended up. As Mr Vater put it, the knot could have originally have had a longer tail and then partially slipped through. I find this very difficult to follow. If the end of the duvet cover had slipped through, then it seems likely that it would have unravelled and William hit the floor given that it was holding 56kg.

87. I emphasise at this point that I am obviously not a knot expert, and it would be impossible to precisely replicate what William is alleged to have done because it is not possible to know. However, it is important to bear closely in mind that I am not deciding this case beyond reasonable doubt but only on the balance of probabilities, and when I come to assess the outcomes of Mr Lee's tests I do so against that standard.
88. The fourth point raised is that the curtain rail and the brackets may not have been in the same condition as at the date of William's death. The brackets had been removed at least once by the police and it is impossible to be certain that when they were replaced they had the same strength. Equally, the rail may have suffered some deformation or metal fatigue by the fact that, on the parents' case, William had hung himself from the rail and the Father had tried to hang himself from it. The earlier tests could have caused fatigue to the rail.
89. Another point relating to the curtain rail and layout of the room, although not strictly within Mr Lee's evidence, are the dimensions involved. The curtain rail was 2.7m above the floor. The window sill/ledge was 1.88m below the curtain rail, and 18cm wide. William was 1.54m high. Therefore, he would have had to loop the duvet over the rail 34cm above his head and tie a knot tight enough to hold his weight, again well above his head. These dimensions are all agreed. He would have had to do this whilst balancing/standing on a ledge 18cm wide. He might have stood on something else, there was a bookcase/table in the photos to one side, but the photos and the parents' evidence shows he would have had to get down from the table and move it, and then climb on the sill before hanging himself.

The family witnesses

90. When considering the evidence of all of the family witnesses there are a number of factors I bear closely in mind, and to some degree echoing the points made by Leggatt J in Gestmin. Firstly, William died in June 2017, well over two years ago. The mere passage of time will have dimmed memory and may have led to certain memories being distorted. Secondly, the events of the day he died and the surrounding events will inevitably be highly traumatic to all members of the family, whatever the truth of what happened. That may well lead people to positively try not to remember distressing events, or to have subconsciously blanked parts of their memory. It is therefore important that I am cautious about making assumptions when witnesses say that they cannot recall something. Allied to this is that they have given a number of interviews and statements and it is hardly surprising that there will be variation in accounts. Thirdly, it is clear that the family feel a great sense of grievance at the Local Authority and the police. This is hardly surprising given the considerable length of time that has passed and the prolonged investigation, and perhaps particularly for [the Mother] the physical impacts of the post mortem, which must have been incredibly distressing. Also, the fact that a decision was made not to charge but Lucy remains in foster care is unsurprisingly something the family find hard to accept. The fact that the family are highly antagonistic to the Local Authority is therefore in itself not surprising. When considering the Local Authority's arguments about the tendency of some members of the family to exhibit aggressive behaviour I have to take this into account.
91. Fourthly, as is clear below, each member of the family sought to portray the family as a happy one, with no more than the usual arguments and no particular issue with aggressive behaviour. In my view, for the reasons that I explain later, this portrayal of

the family is plainly untrue. However, I accept that this is a family which is hostile to outside agencies, and each member is very unwilling to give a true account of family dynamics. Although this is most unfortunate and makes my task more difficult, it does not mean that the family is lying about what happened to William. Their refusal to accept the well documented issues with aggression by Father, Mother, Charles and William may be a desire to keep these matters private.

92. Fifthly, whatever happened to William, it is hardly surprising that none of the family want to talk about it, and perhaps feel a sense of hurt, but also familial shame. Suicide is unacceptable in Islam, and is something that will give rise to great unhappiness in any family. It is important that I am careful not to ascribe undue weight to the multiple inconsistencies in the evidence, and the rather consistent answers of “I can’t recall” or “I don’t remember” that were given to many of Mr Twomey’s questions.
93. However, I do also take into account the fact that when a witness has told lies it is difficult to maintain the consistency of the lie over a series of statements or interviews, particularly where the lies need to align with evidence from other witnesses. Therefore, the multiple inconsistencies in the evidence are important in their impact on the witnesses’ credibility generally, as well as whether I can believe them on the specific piece of evidence.
94. I also take into account that on my analysis all the family witnesses have been prepared to lie to the Court on matters which can be verified against third party evidence. Importantly, without that third party evidence, such as the records of the incidents of 2006 and 2013, it would not have been obvious listening to the evidence that the family witnesses were lying. In other words, each of the family witness could quite convincingly lie in the witness box under oath. This necessarily makes it difficult for me to judge the evidence they gave on the crucial events of the afternoon of 23 June.
95. Having taken all these factors, some of which pull in different directions, into account, I have to try to decide whether the Local Authority’s case is proved on the balance of probabilities. I have full regard to the principle in *Rheas Shipping v Edmonds (The Popi M)* [1985] UKHL 15 that I am not bound to make findings when faced with competing hypotheses.

Tina

96. The first of the witnesses from the family to give evidence was Tina, William’s sister who was aged 16 at the time of his death, and is now 18. Tina’s evidence was that she was in the house the day that William died. She had gone with her Father to the bank in the morning, and then in the afternoon she went to Wickes to buy tiles for the downstairs toilet with her Father. When asked by Mr Twomey how long they were at Wickes or what time they got back she said she could not recall.
97. She said that she had not spoken to William. When she came back from Wickes she had gone to her room and had briefly seen William when he came to her room, but she hadn’t spoken to him. She said that she had heard a commotion downstairs, and had gone to the top of the stairs and seen her Father drilling into the lock to the front room. She had then gone briefly back into her room to get her phone and had then run into the front room. She had seen William lying on the floor with her parents beside him.

98. When asked about relations between the different family members she was adamant that it was a happy family and they all got on with each other. Mr Twomey then asked her about the incident in 2018 when Belinda reported that Charles attacked her, and the Father had to intervene. She denied knowing anything about this incident and repeatedly said that she did not recall being told about it. She did then accept that Charles and William could sometimes get angry, but refused to answer questions about how often.
99. I asked her whether she had seen anything in William's behaviour in the days before his death that suggested he was very depressed or considering taking his own life and she said she had seen nothing that indicated this, and he had said nothing to her.
100. It was plain throughout her evidence that Tina was very hostile to the Local Authority and very unwilling to answer questions particularly from Mr Twomey. To some extent this is understandable. The family feel themselves to have been under investigation for an extremely long time and blame the Local Authority for the fact that Lucy has been taken away and that their ordeal has continued. Equally, I fully accept that for Tina her brother's death was intensely traumatic, whatever the circumstances and she may very well have limited recall about the day of William's death. She was only 16 at the time, and thus herself a child. I also bear very closely in mind the principles in Lucas that the fact someone lies about one thing does not mean all their evidence is untrue.
101. However, bearing all of this in mind, Tina was not a satisfactory witness. I do not think she was telling the truth about knowing nothing about the incident in 2018 when Charles attacked Belinda. She was living at home and the incident involved the police and then a court hearing. It is possible that she wanted to avoid answering questions given the embarrassment to the family. However, my overwhelming sense was that she, like the rest of the family, were not prepared to speak about what went on in the family home and between family members.
102. Equally, her evidence that she did not ask her parents what had happened to William when she found them in the front room, or in the ambulance is extremely difficult to accept. She was the one speaking to the LAS, and the obvious and indeed necessary thing to do was to ask her parents what happened so she could tell the LAS. This could have been a panicking reaction, but I do not think so. Her evidence about the circumstances of her call to the ambulance service is difficult to accept. I can see that she would have been incredibly upset, and that could have manifested itself as anger and aggression. But it is much less clear why she would not have told the ambulance service over the phone that William had tried to hang himself. She was in my view not telling the truth about Lucy as the evidence plainly shows that Lucy was in the room during the phone conversations.
103. Further, taking all the factors set out above, I do not believe that Tina did not know more about what happened that afternoon. I think she was deliberately evasive about the timings of the afternoon, how long and when they went to Wickes and Charles and William's movements.

Belinda

104. Belinda is the oldest girl in the family, and was 17 (nearly 18) at the time of his death. She was not in the house between going to school at about 11.20 and coming back home after Tina called her at 18.20.
105. She absolutely denied that there was any issue with aggressive behaviour in the family. She said, in answer to questions from Ms Ball, that her Father was an amazing Dad and that he was kind, loving and caring and would do everything he can to make sure the family is happy. She said he had never been violent to any of her siblings and that he did not have a short fuse.
106. She was asked about the incident in October 2013, see paragraph 14 above, where the records from the school say that the Mother went very aggressively into the room with both girls and was extremely hostile to the teacher. The girls had to remove her from the room. Belinda said she had no recollection of this incident. When it was put to her that the content of the report was extremely worrying, William being only 9 years old at the time, she said it was worrying for the teachers but her attitude appeared to be that it was not worrying for the family.
107. I find it very difficult to accept that Belinda did not remember this incident. She was 13 years old and, on her case her family was not aggressive and this must have been a very unusual (and extremely embarrassing) incident. I do not think that Belinda was telling me the truth about this incident. I also find it very surprising that she said that she did not find it worrying that her 9 year old brother was so aggressive that other children were scared of him. Again, I take into account the family's desire to keep knowledge to itself. However, Belinda struck me as an intelligent woman, and she and Tina are both law students. She must have realised how extremely damaging to their position it was if they were perceived to be lying to the Court. However, she persisted in what I can only consider to be a deliberate lie about the 2013 incident. For the avoidance of doubt, I am fully conscious that 2013 is 7 years ago, but this would have been a highly memorable incident.
108. Belinda was asked at length about the incident in June 2018 when she called the police because Charles assaulted her. She tried very hard to minimise the episode suggesting that she was partly to blame by winding Charles up and that the pan had not hurt her, and that when he came back into the room they were both out of control. This is inconsistent with not just her original statement to the police, but also with the Father's statement to police where he refers to Charles trying to get a knife and the Father having to physically restrain him.
109. Belinda said that she did not know what had happened to William and that she had not asked. She said the only thing that she was told by Tina was that he had passed away in the hospital. It is hard to believe that she did not ask at that time what had happened. What did ring true is when she said that she "tried her best not to ask" family members any questions about what had happened.

The Mother

110. The Mother is of [non-UK] descent. She obviously understood a good deal of English and spoke it reasonably well, but she had the assistance of an interpreter whilst giving

her evidence. On a number of occasions inconsistencies were put to her between her various accounts, and it may be the case that some of these followed from her not understanding the questions put to her by the police. In both her police interviews she did have an interpreter, but the transcripts suggest that they said little, and there may be some points when there were misunderstandings by the Mother as to precisely what she was being asked. I gave her time at the start of her evidence to go through all of her written statements with the interpreter in order for her to be certain they were true. She confirmed that the content of those statements was true.

111. The Mother was first interviewed by the police on 13 July 2017. She was then interviewed again in July 2018 with an interpreter present. She then gave a statement in these proceedings on 11 September 2018 and 18 September 2019.
112. The Mother was asked a number of questions about the family history and the various incidents before 23 June 2017 which I have referred to above. The Mother was adamant that William was a happy and well behaved child at home who got on with all his siblings. She was consistent in saying that whatever problems he had at school he did not show at home. She said he was not aggressive at home and did not fight with Charles, or any other family member. She said repeatedly that the problems he had at school, [The Primary School], [The Secondary School] and [The Pupil Referral Unit], were the schools' fault. In her view, William's difficulties at school were the result of him not being fairly treated or the schools not handling the situation properly.
113. I note that the answers that she gave about William at home, in the period before he died, are not consistent with the evidence Charles gave at the end of his oral evidence, about William having recently got in with bad kids at [The Pupil Referral Unit] and wanting to go out with them, against the family's wishes. If William had committed suicide, in part because of a sense of despair at [The Pupil Referral Unit], then I cannot see why the Mother would not have told me about these recent problems. However shameful the act of suicide, this would have been evidence relevant to and potentially supportive of the parents' case.
114. The Mother was also asked about the incident in 2006 when the Father assaulted Charles (aged 9) at school and was convicted of assault. She denied he had assaulted Charles, despite the criminal conviction.
115. The Mother's account of her movements and other family members on 23 June was highly confusing and also highly inconsistent in material respects with what she had told the police in the two interviews. As I have said above, I am fully cognisant of the need to be careful not to over emphasise lapses of memory and inconsistencies. However, there are some points which I do not think are explicable by those factors and which very strongly indicate that the Mother was not telling the truth in material respects.
116. The Mother's story about when she got home, and whether she collected Lucy from school has changed. Her statements about collecting Lucy varied from – she collected her from school and stayed at the school till 16.00 (interview 13 July 2017); she collected her on the way home from work (interview 17 July 2018); she met Lucy at U_____ Road (cross examination for the first time). She was adamant in cross examination she did not go to work (a part time job in a kitchen/restaurant). I note that

in the two interviews she did not say she did not remember, she asserted different versions.

117. The Mother started by saying that she could not remember whether the Father and Tina had left for Wickes before she got home. She later said that when she got home with Lucy, only William was at home. She said she “did not see” Charles and she did not suggest that she knew he was in the house but did not see him. But on the Father’s evidence he and Tina went to Wickes after Charles had left home (at or just before 17.00).
118. Her evidence about trying to find William was also confusing, and ultimately impossible to believe. In her interview on 13 July 2017 she said that she thought William had gone into the front room to rest on the sofa. In evidence she said when she got home he was in his room, she said that later she went upstairs to look for William because the teacher in the morning (Ms Hughes) had told her to keep William close and not to let him go out with his friends over the weekend. The Mother said Ms Hughes had told her that William and his friends were planning to fight in [the local town centre]. She said when she went upstairs his bedroom door was open. She said she did not look in the other rooms because Tina’s room was open, and Tina was in the Mother’s room. She did not ask Tina where William was. This is surprising given that she claimed to be worried that William had gone out.
119. She said that she went downstairs and that she and the Father knocked on the sitting room door, there was no answer and the door was locked. The Father then opened the door with the drill. She said that neither she nor the Father went outside to try to get into the room through the window because there was a car parked in front of the window. She did not try looking through the window because of the curtains. She said she did not remember whether she went outside.
120. This is a very different account from that given by the Father in his oral evidence (the following day), that he wasn’t worried about William, he was looking for Lucy and then worried a third party was in the front room; and saying that he did go outside and look through the window. I thought the Father was suggesting that there might have been a neighbour’s child in the room, but this was not very clear.
121. It is extremely difficult to understand why the parents would resort to drilling the lock before going outside, moving the car and trying to climb through the window. If she was genuinely concerned that one of Lucy’s friends might have locked themselves in the room then the obvious thing was to try the window, not drill the lock. The Father’s position on this changed when he gave evidence the following day having heard the Mother’s cross-examination.
122. The Mother then described what she saw when she went into the front room. She said that she saw William hanging from the curtain rail. She said that she saw him hanging “straight” and she indicated with her hands a distance of 20/30 cms from the floor. I asked her whether she was sure his feet were off the ground and she said “I saw them off the ground – not touching the ground – but not too far from the ground”. I note at this point that Mr Vater in Closing suggested the Court would be “cherry-picking” the Mother’s oral evidence that William’s feet were suspended. But that is not correct, the Mother was totally clear on this point, and I asked her twice.

123. The Mother was then asked whether she saw the Father untying the knot. She said in oral evidence that she could not remember, she saw the Father going towards William but then she hurried to find her mobile phone and to call for Tina. However, in her first interview she said that she had seen the Father untying the knot. In the second interview she had said that she and the Father had untied the knot together. She briefly in oral evidence seemed to be saying that the police record of the interview was not correct and the interpreter was not there, but this is plainly incorrect from the transcript.
124. Whatever the appalling strain of the situation, and the peculiarities of memory, in my view this is something that the Mother is highly likely to remember.

The Father

125. The Father has given two statements to the police. The Father has lived here for many years and speaks perfectly good English. I have no reason to believe that he did not understand all the questions being put to him, at the various stages.
126. In terms of the background facts, the Father absolutely denied being aggressive or violent with his children. I note that he has worked for many years for a bus company, and I have no record of any inappropriate behaviour. He denied that he had assaulted Charles in 2006 saying that Charles had slipped down the stairs. This is despite the fact that he was convicted of assault and the incident was witnessed by teachers, although I note that I only have a summary of the incident, not whatever statements were taken at the time.
127. As with all the family witnesses, the Father said that he did not see William being violent or aggressive at home and the behaviour that is clearly recorded at school did not happen at home. The Father said he was a completely different child at home. The Father, like the Mother and Charles, blamed all William's problems on the school and in particular him having been excluded from [The Secondary School].
128. I note that the Father said little or nothing in his oral evidence about the problems that William had been in over the previous few weeks and the discussions that the Father, Mother and Charles had had with William which Charles gave oral evidence about. In his statement (undated but I think September 2019) he said that in the days leading up to his death William had "presented as normal", but the Father did go on to refer to a concern that William had been going out at night with his friends. He said that he and Charles had spoken to William about his behaviour. However, there was no reference to this conversation or conversations in oral evidence, and nothing to suggest that there was the level of concern that Charles gave evidence of. The Father's oral evidence was wholly focused on William behaving normal and not being problematic in the period before he died. In my view this was absolutely clear evidence of the Father not being truthful with the Court about what was happening at home shortly before William's death. I highlight this point because if William did commit suicide then there would have been no reason for the parents not to tell the Court about these problems and any discussions they had had with William.
129. The Father's account of the afternoon of 23 June is that he went to the mosque, though he could not remember at what time, and then went to the bus stop to meet William. He was not very clear about precisely what time he went to the bus stop, or how he knew what time William would be there. But that was perhaps understandable. He said that

he and William sat on the bus to the shops but said they hardly spoke. They then went and bought the watermelon and went home. I note that Tanya (a close friend of William's) in her written statement to the police said that she had seen William getting on the bus alone. But she did not give oral evidence, and she might not have seen or recognised the Father.

130. The Father said much later in the evidence that the Mother had called him in the morning to tell him something about the meeting. It is very odd that the Father says he had no discussion with William about the meeting, his future at [The Pupil Referral Unit], getting into trouble with his friends, or the issue of him going out with his friends.
131. He said a number of times that he could not recall what time he got home. He also said that he could not recall speaking to William about the new TV or whether he had seen it. The new TV has some importance in the events of the afternoon. According to Charles, the Mother gave him money to buy it for William. Charles said, only in oral evidence when pressed, that they had bought it to try to persuade William to stay at home and play his games, rather than go out with the friends who the family knew were getting him into trouble. The family's reluctance to talk about the TV and their failure to remember where it was or what William's reaction was may have some relevance to what actually happened that afternoon.
132. The Father said that when he got home with William he did not think the Mother was at home, but he was not sure. He could not recall when the Mother got home, but then said she had just come in when he and Tina left for Wickes; "we met at the door". He said he saw Charles, but Charles had left before the Father and Tina went to Wickes. This is important because there is a phone mast record that Charles was near home just after 17.00 and Charles said he left home just before 17.00. The Father said that just as he was leaving for Wickes the Mother and Lucy arrived home. This simply does not make sense. The Mother said she and Lucy came straight home from school. That cannot have been at or around 17.00 given that Lucy's school ended at 15.30 and, on any analysis, she left the school premises by 16.00.
133. The Father was unclear as to how long they were in Wickes, but accepted that it must have taken at least 45 minutes in all (5/7 minute drive each way, 20/30 minutes in shop).
134. He said in his oral evidence that when he and Tina got home, Tina went upstairs to her room. William was upstairs. He said in oral evidence that he could not recall if he went upstairs to speak to William, but then said he had spoken to William about Charles getting clothes for Eid for him and that he was happy about this. The Father and Mother sat in the back room (behind the kitchen) and watched the TV. He said that at some point he realised he could not hear Lucy, who had been playing in the street. He went to the front door and noticed the front room door was shut and, when he tried it, it was locked from the inside. The Father had said in his interview on 13 July 2017 that he had been worried about William.
135. I note at this point that the Father has never stated previously, in statements to the police or to this court, that he went to the front door because he was concerned to find out where Lucy was. This was an entirely new suggestion. He also suggested that he was concerned that someone else might have been in the front room. Again, this was an entirely new suggestion.

136. He said in oral evidence that he went outside and tried looking through the window. But the windows were closed and locked and he could not see through the curtains. Again, he had never previously said he went outside to look through the windows and I note that the Mother had been cross examined on this point when the Father was in the courtroom the previous day.
137. The Father said he drilled the door of the front room because he was concerned to find out who was in there. In his oral evidence he did not suggest that he was concerned about William at this stage. In my judgment this was because he was being cross examined about why, if he was worried about William he did not go upstairs to look for him rather than resorting directly to the extreme measure of drilling the lock. I note at this stage there is no doubt that the lock was drilled because I have seen a photo of the lock. That of course does not tell me when or in what circumstances the lock was drilled. Mr Twomey asked a number of questions about what happened to the drill and why none of the ambulance staff saw it. The Father said he could not remember, and I accept that in the panic of events it could have been moved with no one remembering. Though its absence is another small piece of relevant evidence.
138. The Father said that when he got into the room he saw William hanging from the curtain rail with his feet off the ground. He said he was “positive” his feet were off the ground and were not resting on anything. The Father said he lifted William from around his hips and removed the knot. He said he did not have to move any of the bags to get to William and that the bags were moved around later by the paramedics.
139. He said that he shouted for Tina to call the ambulance but he did not tell her anything about what had happened to William. She made the call straight away after the Father and Mother discovered William. He accepted that it was only 5/6 minutes between the first call and Mr Reeve arriving. However, according to the Father, the family became frustrated with the ambulance not arriving and they took William out to the car and laid him on the back seat. They started to drive off, he said only as far as pulling off the drive when the emergency line told Tina to lay him flat on floor, so they reversed back into the space and took William back into the house.
140. Both the Father and Tina referred to there being a long gap, 20-30 minutes, before help arrived and that being why they took William out to the car to drive him to hospital. I find this part of the story difficult to believe. The evidence shows it was only 5/6 minutes between first call and Mr Reeve arriving. The lady on the emergency call was consistently saying to lie William on the floor and to keep him flat. Of course, time feels differently in a crisis situation, but on the true timeline there would not have been time to get frustrated by the delay, put William in the car, drive out, and then reverse back and take William out of the car and back into the house where Mr Reeve found him.
141. There is also the issue of Lucy plainly being in the room. This is proved beyond doubt by the recording of the LAS conversation. I have to ask myself why the family told me she was not there. I cannot accept that it is a fault of memory that took Lucy from being in the room to being outside. It is far more likely the family lied on this point because they wanted to keep Lucy out of the scene, probably because they were worried about what she might say. In my view, I am not being told the truth on what happened in this period by the Father (or the Mother and Tina).

142. When Belinda got home a few minutes after the ambulance staff had arrived, the Father came out of the house and heard Belinda mention Charles. It was at this point that the Father hit his head against the window, smashing the glass, and ran off down the road shouting with an iron bar. I have seen the body worn camera footage of this incident. Mr Twomey put to the Father that he did this to deflect attention from Charles. I find it impossible to work out what was happening at this point. Mr Twomey could be right, but it could also be that the Father was incredibly upset about whatever had happened in the house.
143. The Father absolutely denied assaulting the Mother in the kitchen. He said that he was trying to comfort her and Mr McPhee misunderstood what he saw.
144. Mr Twomey then put two matters to the Father. Firstly, when the Mother, Father and Tina were in the police car following the ambulance to hospital they did not say a word to each other. This was despite the fact that on the Father's evidence Tina did not actually know what had happened to William. Secondly, at the Hospital when Charles arrived and William was lying dead, Charles goes over to him but does not ask what has happened. He had a conversation on the phone, but it is still highly surprising that he did not ask any questions. The Father just repeated in evidence that he had found William hanging.
145. The Father was asked a number of questions about the July 2018 incident between Belinda and Charles. The Father had made a statement to the police in which he said that he had seen Charles slapping Belinda on the head, the Father had had to protect Belinda, and then Charles had gone into the kitchen and was "going wild". The Father said he had to restrain Charles and he told Belinda to ring the police.
146. In his oral evidence he went to very considerable lengths to try to minimise the incident. He denied that Charles had been slapping Belinda and said he was just "tapping" her. He claimed that the police had only been called in order to get help for Charles's mental health problems, but there is no mention of that in the statement to the police. If that was the motivation at the time then I would have expected it to have been followed up in some way. He said that he hadn't heard the Mother denying to the police that the incident had taken place.

Charles

147. Charles gave evidence on the last day of the evidence. He is now 23 and was 20 years old at the time William died. In the first part of the trial, he attended part of the time and had considerable problems with his wisdom teeth. The week before the trial resumed, Mr Bagchi produced a letter from a psychiatrist at Kings College Hospital, Dr Chapman, outlining Charles's mental health issues. Mr Bagchi asked for certain special measures to be put in place. I did not agree for Charles to give evidence behind screens or in the video suite, but I did arrange for the video suite to be available if needed. As it turned out it was not needed. Charles gave evidence from the witness box and his evidence was, in the main clearly given, and he generally gave straight answers to questions.
148. Charles had close friends who died in the Grenfell Tower fire, and there can be no doubt that the combination of this, shortly followed by William's death has been immensely traumatic.

149. His evidence was he woke early in the morning and heard William going to school. He then went back to sleep until midday. He then had a phone call when he was told that his friend (Wayne) had definitely died at Grenfell. His father came upstairs and spoke to him, and then went out and Charles had a shower. His father and William then came back, and he remembered that William had the watermelon. William came upstairs and said he wanted to sleep. Charles said he asked his Mother for the bracket so he could put the new TV on the wall in the front room.
150. Charles said he left the house before 17.00 and he left William sitting in the front room. He then took the bus to [the local town centre] and the tube to [a nearby station]. He was in TK Maxx in [the area local to that station] when he realised he had lots of missed calls, he rang back and his Mother told him that William had tried to hang himself. He was absolutely adamant that he had never harmed his brother.
151. Charles said that William's behaviour had "spiralled out of control". He said that William had "kind of given up". The picture Charles gave was that William hated [The Pupil Referral Unit], had fallen into a bad crowd, and wanted to go back to mainstream school. He was depressed because he did not think that was possible. He said that William's pattern was that he would do something outrageous and then calm down. Charles said that William was always honest with him, and that he had been very badly treated at [The Pupil Referral Unit].
152. At the end of his evidence I asked him some questions about when had he started to worry about William and what he had done. Charles then explained that his Mother and Father both knew about William's problems, and the three of them had tried to talk to William about not going out with his friends and not getting into trouble. William would ignore them and play with his fidget spinner. He would get irritated and then just run out. Charles said that on at least one occasion he had followed William out of the house and looked for him.
153. Charles was asked a number of questions by Mr Twomey about inconsistencies in his evidence, particularly with the police interviews. It was plain that Charles was extremely hostile to the police.
154. His oral evidence was that before he left the house his Mother and Father were at home. He was entirely clear on this. He said that his Father and William got home at about 16.00 and his Mother was home at that time.
155. He said in his statement that he had found an image on William's Playstation of screen shots of a person hanging (in a Call of Duty game). He suggested that this might give a clue as to William's death.
156. He was asked about the incident in 2006 and denied that his father had assaulted him and said he had slipped. He was asked extensively about the incident in 2018 with Belinda. He denied he had assaulted her, and said he had thrown water at her, not a saucepan. He said he was screaming and shouting but this was a function of his mental health problems, not because he had a short temper.

Other evidence

157. I did not hear any evidence from William’s friends. According to his teachers he had two close friends at [The Pupil Referral Unit]; Tanya and Peter. Tanya was interviewed by the police and gave a statement. She was approached by the Local Authority to give evidence in these proceedings but indicated very strongly that she did not wish to do so. She is now 16 years old, and at the point of the October hearings had just had a young baby. I decided that the benefit I would gain from hearing her oral evidence would not outweigh the potential harm to her as a young person with a very young baby. Although she could have given evidence about William’s mental state on the day he died, she could not give evidence about what happened on the afternoon of 23 June. I do take into account her witness statement, though I give it less weight than if it had been cross examined upon.
158. I note, as Ms Ball urges me to do, that Tanya did say to the police that William had at one point engaged in a pass-out game, and had collapsed, but this did not make its way into her statement. I return to this below.
159. In her statement Tanya says that William was planning to go to [the local town centre] to steal a knife from Robert Dyas. She said that when she had last seen William he was his normal self. But she did say that the previous day he had asked what she and his friends would do if he fell down and dropped dead. She said that William had told her that his mother had said that if he didn’t behave he would be sent to [the parents’ country of origin].
160. Unfortunately, the police did not interview Peter and therefore I have no evidence from him.
161. I had a witness statement given to the police by Ms Toni Medcalf on 14 May 2018. Ms Medcalf is a child psychotherapist who saw William between the ages of 9 and 11. She was going to give oral evidence but did not as no Counsel wished to ask her questions. Her statement says that William was referred by [The Primary School] for therapeutic support because of his anger issues. There was a delay in seeing him, partly because of resources but also because his Mother was unwilling to agree to a meeting. When she did meet the Mother, Ms Medcalf said she was “incredibly defensive” and then only came to one further meeting which Ms Medcalf describes as being unusual.
162. An important passage in Ms Medcalf’s evidence is as follows;
- “William had a deep-rooted sense of shame and anger. He needed to stay in control all of the time and if he felt out of control or if he believed he were being shamed he would fly into a rage.”*
163. Ms Medcalf records William as being hugely defensive in any discussion about his family and refusing to discuss it. She says that the only time he seemed happier and more relaxed and when he did talk about his family was when they were going on holiday to [the parents’ country of origin]. Ms Medcalf said William never spoke about suicide or showed any outward sign of taking his own life. However, she says she suspected that he might be self-harming by cutting his arms. I note of course that this was two years before William died.

164. One aspect of evidence which is entirely missing is that of any electronic communications from William, which in these days is probably very unusual. However, all the family members said that William had not had a mobile phone because he had broken his, and there is no evidence of any other electronic communications on any devices. I note at this point that there is no evidence of suicidal ideation in any communication from William.

The surveillance evidence

165. The police carried out covert surveillance on the family in the car returning from the police station on 17 July 2018 and in the home between 18 – 23 July 2018 and 19 September to 21 September 2018. This surveillance (not phone tapping) gave rise to transcripts running to some 367 pages. It was this material which I ordered should be disclosed to the parties in October and led to the adjournment of the first part of the hearing. I ordered disclosure, and rejected the Metropolitan Police's application of public interest immunity, because I took the view that the material was potentially exculpatory and the probative value outweighed any public interest in non-disclosure.
166. In reality, the public interest in non-disclosure was slight because the investigation had come to an end and it is known, though how widely known is not clear, that the police do undertake such surveillance operations.
167. The main thing the material revealed was that the family members did, on a number of occasions, refer to William's suicide and there was nothing that amounted to clear evidence that they were not telling the truth about the events of 23 June 2017. However, it is difficult to know how much weight to put on this evidence because it is not possible to know whether the family suspected that they were the subject of surveillance. DI Thrower gave evidence that it is common practice for solicitors to warn their clients in homicide cases that they might be the subject of covert surveillance. If that were the case, then the material becomes virtually useless.
168. The Local Authority made some additional allegations in respect of this material, but I do not find that adds anything to the central issue I have to decide.
169. I note before turning to my findings, that the Guardian's position was to support the Local Authority. In her closing, Ms Rayat said that "the evidence before the court on the "balance of probabilities" is overwhelming."

Findings

170. This is a case where the need to take a broad overview of the evidence is particularly important. This involves considering;
- (a) The pathology evidence;
 - (b) Mr Lee's evidence;
 - (c) The evidence as to the family background;
 - (d) The evidence as to William's mental state on the day he died;
 - (e) The evidence as to the events of the afternoon of 23 June 2017.

171. I accept what Dr Cary said, that the pathology evidence is not determinative in this case. However, it does overall point away from a conclusion that William committed suicide by hanging.
172. The first factor is the lack of rising hanging marks on his neck. It would, both pathologists agreed, be extremely unusual for there to be a lack of such marks in a fully suspended hanging. The lack of petechial haemorrhages in the eyes is also a strong indicator against a fully suspended hanging. There was a great deal of cross examination about what might be the case if this had been a partially suspended hanging, with William's feet either on the sill, or on the bags or other material on the floor. However, the Mother, who says she was the first person in the room, was entirely clear that she saw William fully suspended with his feet not touching the floor. She was asked twice about that and gave a clear answer. The Father said the same thing and said he was positive that William's feet were off the floor. It therefore cannot be the parents' case that William died in partial hanging when he was found. The lack of hanging marks is therefore highly material.
173. Counsel for the Respondents argue that William could have undertaken a partial hanging, with his feet on the sill or some other item, and then his body slipped and became fully suspended. This cannot be ruled out as impossible, but it seems to me to be highly unlikely. If William was trying to kill himself by hanging then he would surely have stepped or jumped off the sill rather than partially suspending himself. It seems to me highly improbable that he was playing some kind of "game", given that he had to tie the duvet cover round the curtain rail and then tie the knots.
174. Even if the parents were confused on the suspension, the lack of rising hanging marks is also an indicator against partial hanging, though a less strong one.
175. The second factor is that the marks on William's neck are, according to both pathologists, more indicative of compression of the neck by strangulation than by hanging. Dr Marnerides was careful to say that he could not rule out these marks being from a low-level hanging, but it was clear that his view was that strangulation was more likely. There is little absolute clarity on this point because the ligature which is said to have been used is the duvet and that, being relatively soft, might not have left a ligature mark. But on the evidence as a whole, a partial hanging seems to me to be very unlikely.
176. The third factor is the bruises on the upper limbs. If William hanged himself then there is no obvious explanation for these at the time of his death. The medical evidence was that the bruises were most likely to be recent (hours) before his death and not a number of days earlier, although this could not be ruled out. There was suggestion in cross examination that they might have been caused by the teachers restraining him at school, but there was no evidence suggesting this was the case. Occasional references were made to William playing rugby but there was no evidence he had done that in the days before his death. There is no evidence that William had been in a fight or physically restrained in the time frame of the bruises. There was some suggestion in cross examination that they could have been caused by the manhandling of William into and out of the car. This is not impossible, but the form of the bruises is more in keeping with him having been gripped in a fight (looking like finger marks).
177. On the other hand, if William was strangled then the bruises on his upper arm are explicable as being part of a fight or restraint that led to his death.

178. Mr Lee's evidence again is not determinative but points away from hanging. I fully accept that Mr Lee is not a knot expert, but the crucial part of his evidence was the tests that he carried out. If this was a fully suspended hanging then Mr Lee's dynamic tests are more relevant than his static tests. William weighed 56kg. The outcome of the first dynamic test indicates very strongly that if the knot had been of the size shown in the police photos then it is likely that it would have unravelled and not taken the weight. It took a considerable level of tightening that would probably have been beyond the strength of a 13 year old boy to make it hold anything equivalent to William's weight, particularly as the knot had to be tied well above his head. This is another factor where it is not possible to be too definitive. William might have been stronger than I and Mr Lee are assuming. The knot might have been smaller and tighter and then loosened, as Mr Vater seemed to be suggesting in cross examination, though it is difficult to understand the mechanism by which this would have happened. However, overall the combination of the police photo and Mr Lee's tests cast very considerable doubt as to whether the knot would have withstood a fully suspended hanging.
179. Although the position is slightly less clear with a partially suspended hanging, Mr Lee's static tests suggest again that the knot would have unravelled unless very tightly made. I think that Mr Vater's suggestion that the knot might have partially slipped and then stopped in a way that supported William's weight 20-30cm above the floor highly unlikely, though not impossible.
180. Further, Mr Lee's dynamic test indicates that if there had been a fully suspended hanging, the curtain rail would probably have distorted. This is a factor which in my view carries some forensic weight, but not very much. This is because if William did hang himself from the curtain rail then that in itself might have led to some structural failing both in the rail and the brackets. I cannot be confident that the rail and the brackets were in the same condition as on 23 June and this means that I think it would not be safe to place any reliance on the evidence of distortion of the curtain rail.
181. Looking at the expert evidence as a whole it does in my view support a finding of manual strangulation much more strongly than it does suicide by hanging. I note the points Ms Ball makes about the problems with the police investigation. Unfortunately, because the matter was not immediately investigated as a crime scene the police investigation at the time of William's death was flawed. This has undoubtedly made my task more difficult, but it has not prevented me reaching clear conclusions on the material before me.
182. I turn to the evidence on the family background. On the evidence I have heard, this is a family where considerable levels of aggression and, on occasion, violent behaviour has occurred and seems to be normalised. The incidents where there is external verification are spread over a long period, but that does not tell me anything about what was happening in private in the family home. In 2006, the Father was witnessed assaulting Charles and I have no doubt this event occurred, despite the Father and Charles's protestations to the contrary in the witness box. Charles, then aged 9 said to the doctor that he was scared of going home, and his Father hit his sisters with a broomstick.
183. There is then the 2013 incident when the Mother was extremely aggressive in a meeting with the teachers and had to be dragged out by her daughters.

184. I also have no doubt that William was capable of exhibiting extreme aggression. The evidence of Mr Brown when he was excluded from [The Secondary School] was not minor misbehaviour but seriously violent and out of control behaviour. This is supported by the teachers at [The Pupil Referral Unit]. It is also in my view important that the parents sought to minimise this and the other incidents, invariably suggesting that the school overstated the incidents and they were always the schools' fault. The fact that the parents, and siblings, were not expressing deep concern about William's behaviour at school, both at the time and now, suggests something unusual and very worrying was happening in the family. The explanations of family shame and not wanting to discuss William's death do not explain the parental responses to William's conduct at the time he was in [The Primary School] and [The Pupil Referral Unit]. This appears to be a family where severe aggression was either accepted or normalised. It is important to be clear what I am not finding. There is no record of persistent domestic violence; there is no record of physical violence by the Mother; and the records of physical violence by the Father and Charles are limited. However, I have no doubt that this is a family capable of both violence and aggressive conduct to each other. This is highly relevant when I come to my conclusions on what I believe most likely to have happened.
185. I cannot tell the degree to which William exhibited anger and aggression at home. But I do note that Ms Hughes said she thought his Mother was afraid of him in the meeting. It seems to me to be unlikely, though not impossible, that William was capable of controlling his anger at home but not at school.
186. I also accept that Charles was capable of seriously aggressive behaviour at home as shown by the incident in 2018. The police statements from Belinda and the Father were contemporaneous, and they had not the slightest reason to lie or exaggerate. There is no suggestion at the time (as opposed to later in the Father's statement to the Court) that they made the statements to encourage the authorities to get Charles better mental health care.
187. For these reasons I accept the Local Authority's case that this was a family where aggression and at times violence occurred. A significant problem in this case is that because the family members have told so many obvious lies, it is very difficult to tell what is the truth. I can only say that on the evidence I have heard, I believe that the Father, Mother, Charles and William were all capable of losing their tempers, and becoming very aggressive, and potentially violent.
188. The next important factor is the complete absence of any evidence of William being suicidal. He had no history of mental illness which would lead to suicide. Ms Medcalf said she thought he might be self-harming, two years before, but nothing to suggest thoughts of taking his life. The teachers who gave evidence all reported on his rapid mood change into a red mist, and his aggression, but none had seen any signs of his having any form of suicidal ideation. Tanya made the reference about how would his friends react if he ended his life, but her evidence of William on 23 June does not suggest a suicidal teenager.
189. Importantly, the teachers who saw him at [The Pupil Referral Unit] on 23 June said that he had been in a positive mood after the meeting, having a good morning in the school and having enjoyed playing tennis in the afternoon. This does not mean that he could not have gone home and had a complete mood change. Unexpected suicides happen.

But if that were to have happened, then there would likely be some evidence as to what triggered that mood change. William had no phone so there is no suggestion of something happening on social media which could have triggered such a change. If something had happened at home which made him suicidal, or want to make a “cry for help”, then there would have been no reason for the family not to tell me (or the police earlier). In fact, none of the family put forward any explanation as to why he would have committed suicide. Charles suggested he was totally fed up with [The Pupil Referral Unit], but this is a very long way from being suicidal. Charles’s description fits with William being angry and feeling aggrieved, but not in my view with suicide.

190. On the evidence that I have read and heard, it is extremely unlikely that William committed suicide. There is simply nothing to indicate why he would have done so. I cannot rule out a totally spur of the moment decision, but I do find it is very unlikely. I also take into account Dr Cary’s evidence that suicide of 13 year olds is itself a very unusual occurrence. Critically, there is nothing to explain a change from an apparently reasonably happy child at 14.30 to a suicidal one at around 17.30.
191. There has been some suggestion that William’s death could be a game that went wrong, such as the Blue Whale challenge, the pass-out game, or mimic the video game that Charles referred to. However, there is no evidence that William was engaged in the Blue Whale challenge; he had undertaken none of the other Blue Whale stages; Tanya makes no mention of it, and the school had no knowledge of Blue Whale or any similar game at the time. Tanya did refer to William having made himself pass out at school a couple of months before he died. I cannot say it is impossible that he was trying to make himself pass out and it went horribly wrong, but this seems to me to be highly unlikely given the complexity of tying the duvet cover round the curtain rail and climbing onto the window sill and all the evidence about William’s state of mind that day. He might have played such a game in front of friends at school (perhaps to show off); it seems very different to do it at home in a locked room in the way suggested. In relation to the image Charles refers to, teenagers look at a lot of violent images in video games. They very rarely copy them by committing suicide in the manner suggested.
192. The final issue is the events of the afternoon of 23 June 2017. As I have already said, between William and Lucy leaving school and the call to the ambulance service at 17.57, there is no independent verification of any of the family members’ evidence. I have a number of inconsistent stories, many of which have changed between the different versions given. I note the Local Authority’s schedule of inconsistencies filed with its Closing which ran to 19 pages. I have only referred to a few of them above. Not all of them I accept, and some are explicable, but there was a huge amount of inconsistent evidence from the family.
193. It is not possible to piece together one coherent version of what happened. The Father’s evidence that the Mother only got home after Charles left and just as he and Tina were leaving for Wickes simply does not make sense on the time line. The story about why the Father drilled the door again does not make sense, and has changed. If he was worried about William, the logical thing was to go upstairs and look for him. If he was worried about Lucy, the logical thing was to go outside and look for her. There was no rational or reasonable ground to drill the door because someone else might be inside. This just made no sense.

194. Further there are critical inconsistencies which undermine the story I have been told. Charles said that he and his parents had spoken in recent days to William about not going out. The parents made no reference to this, save very briefly in the Father's statement. The parents were strangely reticent about the purchase of the TV, when this should have been a positive thing and there was no obvious reason for them not to explain about it. Tina and the parents lied about Lucy not being in the room when the ambulance service was called.
195. These are not matters which in my view might have got confused in the emotional trauma of that afternoon. In my judgement these are deliberate lies in order to prevent the Court, the police and the Local Authority knowing what actually happened.
196. In my view, much the most likely scenario is that there was an argument, probably about William going out, someone lost their temper and in the ensuing fight (or perhaps restraint) William was strangled, possibly with a soft ligature. I make clear here that I am not making findings about this being what happened, for the reasons I have explained it is not possible to know. I merely posit this scenario to show why in my view it is significantly more likely that William was killed by the Father, Mother and/or Charles, than that he committed suicide.
197. I am faced here with two inherently improbable occurrences, William committing suicide or William being killed by a family member. However, there is one version of events which fits with all the evidence taken together, namely that he was killed. It fits with the forensic evidence of the cause of death, the bruises and the likelihood of the knot unravelling. It also fits with the family's overall characteristics and would explain why they could not give a coherent and consistent narrative, and why neither Tina nor Charles asked at the obvious times as to what had happened to William. It would explain why Tina and her parents lied about whether Lucy was in the room when the ambulance service were on the phone. I have no doubt that on the balance of probability it is significantly more likely that he was killed than that he committed suicide. I have taken into account the surveillance material but ultimately determined it is of little value.
198. I turn then to whether I can exclude any of the three people from the pool. I have somewhat reluctantly concluded that I cannot. I will do the exercise referred to in Re B. Firstly, who had the opportunity. It is clear on the evidence that the Father, Mother and Charles all had the opportunity; they were all in the house at the period when William could have died. The Father was in the house throughout, is capable of violence and has lied in his evidence. The Mother was also in the house at the relevant time on her own evidence. It is much less clear that she is capable of violence, and I have no doubt that she was distraught at William's death. However, that does not mean that she did not play a key role in whatever happened. Given that I cannot reach a conclusion, on the balance of probabilities, of the circumstances of William's death other than that he was killed rather than committed suicide, I think that there is a real possibility that the Mother was directly involved in his death.
199. I have thought closely about whether I can take Charles out of the pool. The timing of the bruises and the injuries does not help me to establish whether the death happened before or after Charles left. I thought that Charles was the most truthful of the family witnesses, much of what he said seemed heartfelt and rang true. However, there is strong reason to believe that the parents were changing the timeline to try to establish that Charles was out of the house at the time William died. The Mother's approach to

the 2018 incident suggests that she will go to considerable lengths to protect Charles. Importantly, the evidence shows that Charles is capable of aggression and violence, see the June 2018 incident.

200. I therefore take the view, that Charles did (again on the balance of probabilities) have the opportunity to kill, or being directly involved in the killing of William. Looking at the evidence as a whole, I think there is a real possibility Charles was involved in the death.
201. In these circumstances I cannot determine which of the three was responsible for William's death, and I have decided that it would not be safe, on the evidence, to take any of them out of the pool.