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IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21/12/2022

Before:

MRS JUSTICE KNOWLES

Re G (Inherent Jurisdiction Return: Allegations of Domestic Abuse: Fact Finding)

Mr Richard Harrison KC and Miss Samantha Ridley for the father
Mr Teertha Gupta KC and Miss Fitzrene Headley for the mother
Ms Dorothea Gartland for the child by his children's Guardian

Hearing dates: 28-30 November; 1-2 December and 6-7 December 2022

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This judgment was handed down remotely at 10.30am on Wednesday 21 December 2022 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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

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It is likely that this judgment will be published at some suitable point in the litigation, albeit in an anonymised form. I have therefore made limited reference to features of the parties' lives which might otherwise tend to identify them.

Introduction

1. I am concerned with a little boy who I shall refer to by the initial "G"; this is not the first letter of his name. He is 11 years old and presently lives with his mother in this jurisdiction. He is the only child of the Applicant ("the father") and the Respondent ("the mother"). G is represented in these proceedings by his children's guardian. Both G and his parents are nationals of country X. The father lives in country X and was granted a visa to enter this jurisdiction in order to participate in the hearing. G has not seen or spoken to his father or paternal family since October 2020.
2. The application before the court made by the father is for G's summary return to country X under the inherent jurisdiction. It is opposed by the mother. The position of the children's guardian is dependent on the findings of fact which I make in this judgment. Those findings of fact will inform my assessment at a welfare hearing of the risks to G should he be summarily returned to country X if this is in accordance with his best interests.
3. It is important to note that, although this court is entitled to make an order for G's summary return to country X, it is not permitted to implement such an order as, in March 2022, both the mother and G were granted asylum in this jurisdiction. However, the prohibition on implementation in these circumstances neither prevents the court from making a return order nor prohibits the court from investigating matters which were germane to the mother's asylum claim. I observe that, although concerned with an application pursuant to the 1980 Hague Convention, neither the Supreme Court in G v G (Secretary of State for the Home Department and Others intervening) [2021] UKSC 9 at [164] nor the Court of Appeal in Re R (Asylum and 1980 Hague Convention Application) [2022] EWCA Civ 188 at [97]-[99] criticised a party to proceedings who, on the basis of a reasoned judgment in the family court, sought to obtain reconsideration by the Secretary of State for the Home Department of a grant of asylum. By analogy, that course is also available to a parent in proceedings for the return of a child pursuant to the inherent jurisdiction.
4. This case stems from a profound dispute between G's parents about the nature of their relationship and the circumstances in which both G travelled to this jurisdiction with his mother in October 2020 and came to remain here. On the father's case, this was a pre-planned and clandestine abduction by the mother in an attempt to excise him from G's life. On the mother's case, this was a flight from life-threatening persecution and/or discrimination by elements of the authorities in country X. Additionally, she alleged serious physical and sexual abuse of G by his father and paternal uncle as well as serious domestic abuse of her by the father.
5. On 11 August 2022, I handed down a judgment granting the father's application for the disclosure of suitably redacted parts of the mother's asylum file into these

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proceedings (Re G (Inherent Jurisdiction Return: Disclosure of Asylum Documents) [2022] EWHC 2134 (Fam)).

6. I have read all the material in the court bundles and listened to evidence from the father, the mother, the paternal uncle, the paternal grandmother and the jointly instructed expert, Mr Spencer. I am grateful to the advocates for their assistance and co-operation with each other.
7. I reserved judgment to reflect on all the evidence. This judgment is lengthy and would have been even longer had I listed all the evidence and submissions I heard. I have, of course, taken all the evidence and submissions into account in reaching my decision. A schedule of the findings I have made is attached to this judgment.
8. In summary, I have rejected the mother's case that she was a victim of domestic abuse by the father and that G was a victim of serious physical and sexual abuse by the father and/or the paternal uncle. I have found that the mother and G left country X on 9 October by aeroplane, travelling on passports which did not belong to them, and arrived in this jurisdiction on or about 10 October 2020. It thus follows that I have rejected, as constituting a fabrication, the mother's account about how she travelled to this jurisdiction which was given to the Secretary of State for the Home Department in November 2020 and maintained by her to date. I have also found facts which are incompatible with the mother's account of summary arrest and detention by state agents in September 2020. That account was an integral part of her asylum claim.

Preliminary Case Management

9. The father issued proceedings for G's return on 5 November 2021, over 13 months after G arrived in this jurisdiction. His somewhat delayed application was attributable to (a) the father not being informed by the authorities in country X of the outcome of the investigation into G's disappearance until April 2021; (b) the father being advised to contact Reunite which he did on 20 April 2021; (c) the apparent failure by a firm of solicitors to make a timely application for public funding; and (d) the need to instruct an alternative firm of solicitors experienced in the international movement of children. The first hearing after the mother and G were located took place on 20 December 2021 when it became apparent that the mother had made a claim for asylum for herself and G. Preliminary directions for statements from each parent were given and G was joined as a party to the proceedings. The proceedings were allocated to me as one of the small number of judges in the Family Division who hear 1980 Hague Convention/inherent jurisdiction cases associated with a claim for asylum/humanitarian protection.
10. On 21 February 2022, I gave directions (a) to obtain information from the Secretary of State for the Home Department and invited her to participate in the proceedings as an intervener and (b) for both parents to provide further evidence. I note that, at that early stage of the proceedings, it was apparent that the authenticity of video recordings exhibited to the father's first statement purporting to show the mother and G at the airport on the point of leaving country X was likely to be in dispute. Additionally and wholly unsurprisingly, the father raised the question of interim indirect contact with G. The mother was not prepared to facilitate this and indicated through counsel that G would be unwilling to engage. I directed that a "*wishes and feelings*" report from the children's guardian on the issue of contact should be filed

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and served by 28 March 2022 and stated that I would consider the arrangements for contact at the next hearing on 8 April 2022.

11. On 8 April 2022, I gave detailed directions for a hearing to consider disclosure of the mother's asylum file into these proceedings and, having determined that a fact-finding hearing was necessary, I gave further case management directions and listed a fact finding hearing in November/December 2022. At that hearing, I considered the wishes and feelings report of the children's guardian which recommended that contact progress by way of cards and letters from the father which could be shared with G at a later date. G had told the children's guardian that he did not wish to have any indirect contact with his father and, on 14 March 2022, the mother had reported to the police complaints that G had been physically abused by his father and sexually abused by the paternal uncle and the father. In those circumstances, the children's guardian felt unable to recommend the resumption of any indirect contact. The father did not pursue his application for interim indirect contact, having accepted the advice of the children's guardian.
12. Having decided that the mother's asylum file should be disclosed into these proceedings, my directions order dated 1 August 2022 permitted the joint instruction of an expert to provide an opinion on (a) the authenticity of the CCTV material relied on by the father; (b) whether this material had been manipulated, edited or tampered with; (c) whether an opinion could be given as to whether the individuals shown in the CCTV footage were G and his mother; and (d) whether it was possible to glean information about the passport shown by one of the women in part of the footage. To facilitate that instruction, I directed that the mother should provide photographs of herself and G in the format required by the expert. The father was also directed to file a statement, setting out in detail how he came to be in possession of the CCTV footage allegedly showing the mother and G at the airport on 9 October 2022. Finally, I indicated that it would be desirable if the father were able to travel to this jurisdiction in order to attend the fact-finding hearing in November 2022.
13. I allowed the parties a little extra time to consider the contents of the redacted asylum file disclosed into the proceedings and gave further directions in the light of that disclosure at a hearing on 16 August 2022. By the time of that hearing, it was plain that a critical dispute had arisen as to how the mother and G had travelled to this jurisdiction. The father believed that the mother and G, together with another female relative, had travelled from country X to country Y on 9 October 2020 and from there to country Z, arriving there on 10 October 2020. He asserted that they had used passports held in the names of different persons and had then travelled to this jurisdiction by some other means. Conversely, the mother asserted that she and G left country X on 1 October 2020 and travelled to this jurisdiction by sea and lorry, arriving on 20 October 2020. In an attempt to shed light on the method of travel, I requested the UK Border Agency provide me with information as to whether individuals using the passports of other named individuals had arrived at any port or airport in this jurisdiction between 10 and 20 October 2020. I also invited the Border Management Unit at the airport in country Z to provide similar information to the court. On 23 September 2022, I renewed my request to the National Border Tasking Command as neither the Status Verification, Enquiries and Checking department (SVEC) nor the Immigration Checking and Enquiry Services department (ICES) of the Home Office had access to travel information. On 19 October 2022, the National

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Border Tasking Command responded and confirmed that it had no trace on its databases of the relevant passports being used to travel from country Z to this jurisdiction within the requested timeframe. I note that the Border Management Unit in country Z were unable to assist me.

14. On 21 October 2022, I conducted a pre-hearing review. Given the importance of the means whereby the mother and G travelled to this jurisdiction, the father invited me to make one further request for disclosure directed at the airline which was said to have transported the mother and G to country Z. I granted that request. However, on 9 November 2022, I varied the order for disclosure at the request of the father's legal representatives by making slight amendments to the names of the three individuals so that the airline might conduct a comprehensive search. I note that this request was opposed by the mother's legal representatives.
15. During the hearing on 21 October 2022, I was told that the father had applied for a visa to enter this jurisdiction to attend the fact-finding hearing. He had been interviewed in respect of that application but no decision to issue him with a visa had been made. I was very surprised to be told by Mr Gupta KC that, despite my firm view about the desirability of the father's attendance at the fact-finding hearing and without informing her legal representatives in this jurisdiction, the mother had instructed lawyers in country X to make representations to the British Embassy that the father should not be granted a visa for the purpose of attending these proceedings. I expressed my displeasure and I was assured by Mr Gupta KC that the mother would no longer pursue her attempts to influence the grant of an appropriate visa to the father. For the avoidance of doubt, I made an order respectfully requesting the Home Office to grant a visa to the father so that he might attend the fact-finding hearing in person and gave the father permission to disclose that order to the Home Office. My order made crystal clear that the representations made by the mother to the British Embassy in country X were contrary to my previously expressed view that the father ought to be present in person at the fact-finding hearing commencing on 28 November 2022.
16. Regrettably, that was not the end of the matter. On 4 November 2022, the father's legal representatives made an urgent application to me on paper, requesting permission to disclose the order directed at the Home Office to the Foreign, Commonwealth and Development Office in country X to assist the father in obtaining the relevant visa for travel to this jurisdiction. They had believed it was the Home Office which was responsible for deciding whether the father should travel here, but learned after the hearing on 21 October 2022 that the Foreign, Commonwealth and Development Office were responsible for the decision to issue the father with any visa for travel. This was explained fully in the application submitted to me. That application was supported by the children's guardian, but seemingly opposed by the mother's legal representatives who said this and asked for the same to be drawn to my attention: *"There is no evidence to support your client's application for the order that you seek. There is also no evidence or explanation to show why your client, who was applying for a visa, did not know on 21st October 2022 that the FCDO in [country X] was dealing with your client's application for a visa"*. Even if everything said by the mother's legal representatives had been correct, the aim of the father's application was to facilitate the issue of a visa for travel in accordance with my expressed wishes. I regarded the submission made by the mother's legal representatives as a further

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attempt by the mother to inhibit the grant of a visa for travel to the father and, without further ado, I approved the order sought by the father's legal representatives.

17. Finally, I should record here that the mother's compliance with my order dated 1 August 2022, directing her to provide the expert with suitable photographs which he might use to assist the court in determining whether either the mother or G could be identified on the CCTV footage produced by the father, was grudging and less than adequate. On 22 September 2022, Mr Spencer, the jointly instructed expert, confirmed that he wished to see more photographs of the mother so that he could compare her natural eyebrows with those of one of the women seen on the CCTV footage whose eyebrows were "*distinctive*". The father's legal representatives proposed sending some photographs of the mother exhibited to one of his statements, this being agreed by the children's guardian. The mother objected because those photographs were taken in 2010 and, on 28 September 2022, sent further photographs of herself to Mr Spencer but refused to send these to the father's solicitors. A dispute then ensued which was eventually resolved when these photographs were sent to the father's solicitors on the basis that they would not be disclosed to the father. Given the serious allegations made by the mother against the father, that precaution was sensible. However, Mr Spencer reiterated the need for photographs showing the mother's natural eyebrows and her figure to allow a proper comparison to be made with the CCTV images. The father's solicitors proposed once more that the exhibit pictures should be sent to Mr Spencer and, on 4 October 2022, the mother's solicitors objected, this time alleging that the father might have doctored these images as her skin appeared lighter in the exhibit photographs. That same day, the mother's solicitors supplied two further photographs on the basis they would not be disclosed to the father and the father's solicitors sent these to Mr Spencer. On 11 October 2022, Mr Spencer repeated his request for adequate photographs as the ones sent to him revealed some of the mother's characteristics but not all those he had asked for. He pointed out that material about those characteristics could include or exclude the mother from being the woman in the CCTV footage. On 13 October 2022, the mother's solicitors stated that she was becoming upset with "*the continuous request for more photos*" and advanced yet another reason why the father's solicitors should not be permitted to send the exhibit photographs, namely that clothing which might show the mother's figure would offend her religious beliefs. To resolve this wholly unnecessary impasse, my order dated 21 October 2022 directed the father should send Mr Spencer the exhibit photographs and that, by 4 November 2022, the mother's solicitors should send Mr Spencer further photographs in accordance with his requirements. This was done on 31 October 2022 though I note that the photographs sent by the mother's solicitors had significant limitations.

Summary of Background

18. In this section of my judgment I have summarised the background to the proceedings, much of which is in dispute between the parties. I have identified where there is a conflict on the written/oral evidence and, if I have made findings, I have done so in accordance with the legal framework set out later in this judgment.
19. The father is 39 years old and works as an engineer. He has lived all his life in country X. The mother is 34 years old and is a qualified pharmacist. I observe that the mother disputed her date of birth when giving oral evidence and told me that she was a member of a minority group widely discriminated against in country X. I will return

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to these issues later in my judgment. Prior to October 2020, the mother too had lived all her life in country X.

20. The mother and father married in 2009 and G was born in 2011. The mother worked until G's birth and then resumed work after the couple's separation. The father told me that, on marriage, the couple began living together, initially with the mother's family and then in a self-contained property which formed part of the mother's family home. The father's account was consistent with the evidence of his mother who told me that the couple had never lived in the father's family home. In contrast, the mother gave a variety of accounts about where the couple lived. Prior to the hearing, the mother told the Home Office in November 2020 that she lived in the father's family home yet, in her first statement in these proceedings dated January 2022, she confirmed the father's account that they lived with her family on marriage. However, in her fifth statement dated 12 October 2022, the mother now said the couple had moved between her family home and that of the father. Additionally and for the first time, she suggested that, in accordance with a "*contract of marriage*" entered into in 2009, the couple did not cohabit for the first year of marriage and only lived together from 2010 onwards. In her oral evidence, the mother's account varied once more. She first said that she and the father had lived with her family but visited the father's family at weekends. When challenged, she changed her account and told me that she and the father stayed with his family for "*months*" at a time. I observe that would have been an unusual arrangement for a couple with their own flat situated only a short distance from the father's family home. I preferred the evidence of the father on this issue and found the mother's fluctuating accounts about what seemed to be a relatively minor matter troubling.
21. The marriage broke down in 2012 and, at the mother's request, the parties had an Islamic divorce later that year. Their legal divorce occurred in 2014. In January 2013, the father moved out of the matrimonial home, leaving G in his mother's care. Initially the father had contact for one day each week. When G was about 2 ½, he spent Thursday to Friday each week with his father. The father also had breakfast with G at his nursery. When G was about 5 ½, he spent Thursday to Saturday each week with his father.
22. When G reached the age of 7 and in accordance with local law and custom, G began to live with his father. He spent time with his mother every Thursday to Saturday. The father told me that this arrangement had been agreed with the mother and, whilst G settled into the new arrangement, there was a flexible contact regime. Following the onset of the Covid pandemic in March 2020, G spent more time with his mother but, by summer 2020, contact had reverted to the previous pattern.
23. From 2017-2018, G attended an infant school. A letter from his teacher described G as a hard working pupil and noted that the father visited him "*continuously to follow up and ask about his academic level as he was accompanying him and [G] showed great love and joy to meet him*". The mother accepted the description of G's relationship with his father and explained that this was because she had actively promoted the same. I observe that the mother was very happy with G's education at this school and made no criticism of it in any of her written or oral evidence.
24. In 2018, G moved to B school which followed the national curriculum. His headteacher stated that G's relationship with the father was good and that the father

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attended all school events with G. However, both the mother and the father became unhappy with B school because the pupils were physically chastised there and, in September 2019, G began to attend C school, which again followed the national curriculum. A letter from the school testified to G's excellent academic progress and involvement in school activities and he was observed to have a good relationship with his father. The letter from the school noted that both parents had visited the school with G prior to him starting there. The mother was said to have visited the school several times thereafter and to have praised it and G's progress there. In her oral evidence the mother accepted visiting C school on several occasions and accepted that the father had made clear to the school that G was not to be physically chastised during his time there. Nevertheless, the mother maintained that G was beaten in school C because the father's instructions would have been ignored. I note that, when the children's guardian interviewed G in March 2022, G complained of being beaten and unhappy at school in country X. It was unclear whether G was referring to his experiences at school B or at school C.

25. In addition, G attended a religious centre where he received instruction in the Quran and also took part in sporting and other activities. His mother maintained that it was abusive for G to have to learn large parts of the Quran by heart and alleged that he was beaten by the father for not doing so. She also claimed that G had to attend the religious centre very early in the morning. The father denied the mother's allegations about beating G in this context and I note that, according to the father's first statement, he began taking G to classes to learn the Quran early in the day one summer. I have seen photographs of G attending activities run by the religious centre in the company of boys of varying ages and he appeared to be happy and relaxed.
26. In Spring 2020, the parents considered reconciling: both accepted this was on the cards for about a month or so. Nothing came of it, according to the mother, because she said the father was controlling, wanted her to cover her face and to give up her employment. The father denied wishing to do so. In early May 2020, the mother and father rowed, following the mother's refusal to return G to his father at the agreed time. There was an argument at the mother's home during which the father was insulted by the maternal grandmother and the mother's sister, L. The following day, the mother sent the father a text apologising for what had happened the day before and for her attitude. It was plain from the message that the couple seemed to still be undecided whether or not to reconcile.
27. The father said that he last saw G on Friday 9 October 2020 when he returned him to the mother's care after they had attended Friday prayers as usual. On Saturday 10 October 2020, the father attended the mother's home to collect G in accordance with the parents' usual arrangement but found no one at home. Later that day, he received a text message from the mother telling him that she and G were in a "*safe place far from home*" and that "*the solicitor will file a case tomorrow and I will only see you at court*". The following day, the father was told by the mother's brother, J, that the mother was on an aeroplane and would be arriving in London. The father did not believe this as, to his knowledge, G did not have a passport. On 12 October 2020, the father issued proceedings in the relevant family court of country X for an order that the mother return G to his care. On 3 January 2021, the family court made an order requiring the mother to hand G to the father. I note that, contrary to the text message sent by the mother, she initiated no legal proceedings relating to G in country X.

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28. Following G's disappearance, security officers at the airport told the father that the mother had travelled to country W on 4 October 2020 and that there was no official record of her having returned to country X. The father thus believed that she and G might be in country W and travelled there on 15 October 2020 where he attempted to trace G's whereabouts with the help of local police. The local police eventually told him that the mother had returned to country X on 7 October 2020. The father returned to country X after several days and made complaints to the authorities that the mother had abducted G. An investigation was commenced by the authorities in country X which concluded in April 2021.
29. According to the father, it later transpired that, on 9 October 2020, the mother and G had travelled from an airport in country X, using passports which did not belong to them but belonged to the mother's sister, K, and her nephew M, the son of the mother's other sister, L. All three travelled to country Y and then to country Z. The father learned this information from the authorities in country X in April 2021. The father was also provided with CCTV footage from the airport in country X showing that, at about 10pm on 9 October 2020, the mother and G travelled from the airport with the mother's sister, K. He also produced documentary evidence recording that the passports of the mother's other sister, L and her son, M, were used to depart the airport on 9 October 2020. There was no record of the mother having left on that date using her own passport.
30. Conversely, the mother denied the father's account and maintained that she and G left country X on 1 October 2020 and travelled via boat and lorry for several weeks until they found themselves in this jurisdiction on 20 October 2020. The mother claimed asylum for herself and G on 20 October 2020.
31. Following being informed of the outcome of the investigation by the authorities in country X, the father contacted the British Embassy on 18 April 2021 and then contacted Reunite on 22 April 2021 who referred him to solicitors. I have already referred to the delay in issuing these proceedings which I am satisfied was not attributable to any want of prosecution or urgency by the father.
32. On 19 May 2021, the father's new fiancée exchanged Facebook messages with the mother. The father did not know about this at the time and only learned about this from his fiancée in June 2021. At the time his fiancée messaged the mother, their relationship was under some strain and his fiancée sought out the mother for her views about the father as a man and partner. In her exchanges with the father's fiancée, the mother said that the father may have been psychologically affected because G was away from him and the father was very attached to G. Whilst acknowledging that the father's "*personality*" was not easy, the mother stated "*but at the level of living together and respect, he is an excellent person. But again it is impossible to get back together because there are big things that have been broken and the matter has been closed for both sides...*". She added: "*There is no reason to talk about him in a bad way, in the end he is my son's father, and he is holding his name. Even if we disagree, these things happen and it does not mean he is bad or I am bad, but we could not agree with each other...*". I note that the father and his fiancée did not marry and are now separated.
33. G and his mother live in this jurisdiction at an address which is not known to the father. G attends school and is said to be settled and happy there. He now has a good

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command of English. G's case is open to the early help unit of the local authority following a referral from a domestic abuse charity which has been supporting the mother. The local authority has no concerns about the care provided to G by his mother.

Legal Framework*The Inherent Jurisdiction*

34. The leading authority remains the decision of the House of Lords in Re J (A Child) (Custody Rights: Jurisdiction) [2006] 1 AC 80. The following principles can be gleaned from the judgment of Baroness Hale:
- a. The court has a statutory duty to regard the welfare of the child as its paramount consideration; the focus has to be on the individual child in the particular circumstances of the case there should be no assumptions about what is best for an individual child; and reference should be made to the welfare checklist in s1(3) of the Children Act 1989;
 - b. There is no warrant to extend the principles of the Hague Convention 1980;
 - c. *“Thirdly, however the court does have power, in accordance with the welfare principle to order the immediate return of the child to a foreign jurisdiction without conducting a full investigation of the merits”* [paragraph 26];
 - d. *“The most one can say, in my view, is that the judge may find it convenient to start from the proposition that it is likely to be better for a child to return to his home country for any dispute about his future to be decided there. A case against his doing so has to be made”* [paragraph 32];
 - e. Rather than focusing on the technical concept of habitual residence, the court should ask itself: what is the child's home country? Factors such as his nationality, where he has lived for most of his life, his first language, his race or ethnicity, his religion, his culture and his education so far will all come into this evaluation; and
 - f. The period of time spent in each country is also a relevant factor.
35. In In the Matter of NY (A Child) [2019] UKSC 49 at paragraph 49, Lord Wilson commended the use of the welfare checklist, although it is not expressly applicable to making orders under the inherent jurisdiction:

“...their utility in any analysis of a child welfare has been recognised for nearly 30 years. In its determination of an application under the inherent jurisdiction governed by consideration of a child's welfare, the court is likely to find it appropriate to consider the first six aspects of welfare specified in section 1(3) ... and, if it is considering whether to make a summary order, it will initially examine whether, in order to sufficiently identify what the child's welfare requires, it should conduct an inquiry and, if so, how extensive that enquiry should be”.

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36. In paragraphs 56-63 of In the Matter of NY (A Child), Lord Wilson set out a number of matters which the court should consider before exercising its inherent jurisdiction to return a child to a foreign state. The relevant matters are as follows:
- a) Whether the evidence before the court was sufficiently up-to-date to enable the court to make a summary order;
 - b) Whether the court could make findings sufficient to justify the summary order;
 - c) Whether, in order to sufficiently identify what the child's welfare required for the purposes of a summary order, an enquiry should be conducted into any or all of the aspects of welfare specified in section 1(3) of the 1989 Act and, if so, how extensive that enquiry should be;
 - d) Whether, in the light of Practice Direction 12J, an enquiry should be conducted into the disputed allegations made by the mother of domestic abuse and, if so, how extensive that enquiry should be;
 - e) Whether, without identification in evidence of any arrangements for the child in the country to which return was proposed, in particular of where the child and the mother should live, it would be appropriate to conclude that the child's welfare required a return to that country;
 - f) Whether, in the light of the matters identified above, the court should hear oral evidence and, if so, upon what aspects and to what extent;
 - g) Whether a Cafcass officer should be directed to prepare a report and, if so, upon what aspects and to what extent; and
 - h) Whether a comparison between the powers of the court and the powers of the court in the country to which return was proposed was necessary to reach a speedy resolution of the substantive issues between the parents in relation to the child and for the court to satisfy itself that the court in the country of return had the power to authorise the mother to relocate back to the country of return.

This hearing concerned itself with an enquiry into the allegations made by each parent against each other as these will be relevant to any welfare determination the court may make.

Fact Finding Hearings

37. What follows is, in large part, taken from my analysis at [38]-[41] in Re P (Inherent Jurisdiction Return: Allegations of Female Genital Mutilation and Domestic Abuse: Fact Finding) [2022] EWHC 1722 (Fam).
38. I have considered the allegations of domestic abuse in this case by reference to the definitions contained in paragraphs 2A and 3 of Practice Direction 12J of the Family Procedure Rules 2010, recently amended in consequence of the enactment of the Domestic Abuse Act 2021. Of particular importance in the context of this case are the definitions of coercive behaviour and controlling behaviour contained in paragraph 3.

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Coercive behaviour “means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim” and controlling behaviour “means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour”.

39. In paragraph 26 of Re B-B (Domestic Abuse: Fact-Finding) [2022] EWHC 108 (Fam), Cobb J admirably distilled the principles governing the court’s determination in a fact-finding exercise. I have applied those principles in coming to my decision and set them out as follows:

“i) The burden of proof lies, throughout, with the person making the allegation. In this case, both the mother and the father make allegations (in some respects overlapping) against each other on which they seek adjudications;

ii) In private law cases, the court needs to be vigilant to the possibility that one or other parent may be seeking to gain an advantage in the battle against the other. This does not mean that allegations are false, but it does increase the risk of misinterpretation, exaggeration, or fabrication;

iii) It is not for either parent to prove a negative; there is no ‘pseudo-burden’ on either to establish the probability of explanations for matters which raise suspicion;

iv) The standard of proof is the civil standard – the balance of probabilities. The law operates a binary system, so if a fact is shown to be more likely than not to have happened, then it happened, and if it is shown not to cross that threshold, then it is treated as not having happened; this principle must be applied, it is reasonably said, with ‘common sense’;

v) Sometimes the burden of proof will come to the judge's rescue: the party with the burden of showing that something took place will not have satisfied him that it did. But, generally speaking, a judge ought to be able to make up his/her mind where the truth lies without needing to rely upon the burden of proof;

vi) The court can have regard to the inherent probabilities of events or occurrences; the more serious or improbable the allegation the greater the need for evidential ‘cogency’;

vii) Findings of fact in these cases must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation; it is for the party seeking to prove the allegation to “adduce proper evidence of what it seeks to prove”;

viii) The court must consider and take into account all the evidence available. My role here is to survey the evidence on a wide canvas, considering each piece of evidence in the context of all the other evidence. I 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

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whether the case put forward by the person making the allegation has been made out to the appropriate standard of proof;

ix) The evidence of the parties themselves is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability;

*x) It is, of course, not uncommon for witnesses to tell lies in the course of a fact-finding investigation and a court 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. I am conscious that 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); I have borne firmly in mind what Lord Lane CJ said in *Lucas*, namely that:*

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

*xi) That my function in resolving disputes of fact in the family court is fundamentally different from the role of the judge and jury in the Crown Court. As the Court of Appeal made clear in *Re R* [2018] EWCA Civ 198:*

*“The primary purpose of the family process is to determine, as best that may be done, what has gone on in the past, so that that knowledge may inform the ultimate welfare evaluation where the court will choose which option is best for a child with the court's eyes open to such risks as the factual determination may have established” ([62] *Re R*).*

*A point which I myself considered in *F v M* [2019] EWHC 3177, in a judgment which was referenced with approval in *Re H-N* (see §69/70).*

xii) At all times, I must follow the principles and guidance at PD 12J of the Family Procedure Rules 2010.”

40. When assessing the allegations of domestic abuse, I have endeavoured not to make stereotypical assumptions about how alleged victims of domestic abuse tell their story and present to others and, indeed, in a courtroom. My focus was on listening very carefully to the contents of the mother's evidence and cross-checking her evidence against that from other sources rather than allowing myself to be influenced by generalised assumptions about her behaviour. That approach is not novel and accords with the Court of Appeal decision in *SS (Sri Lanka), R (On the Application Of) v The Secretary of State for the Home Department* [2018] EWCA Civ 1391. In paragraph 41, the Court of Appeal stated as follows:

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“Rather than attempting to assess whether testimony is truthful from the manner in which it is given, the only objective and reliable approach is to focus on the content of the testimony and to consider whether it is consistent with other evidence (including evidence of what the witness has said on other occasions) and with known or probable facts.”

41. I have also reminded myself of the comments of Peter Jackson LJ in paragraph 61 of Re L (Relocation: Second Appeal) [2019] EWCA Civ 2121, cited with approval in Re H-N [2021] EWCA Civ 448, to the general effect that:

“... not all directive, assertive, stubborn, or selfish behaviour, will be ‘abuse’ in the context of proceedings concerning the welfare of a child; much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour.”

However, I observe that much behaviour may still be relevant in welfare terms even if it does not fall within the definitions of “domestic abuse” contained in PD12J because the family court looks at the behaviour and its effect on the child or other parent in order to best formulate the ultimate welfare decision. Thus, behaviour may meet the definition of coercive and controlling behaviour in PD12J because it was behaviour intended to have the effects required by the definition. Equally, behaviour may be unintentional but still amount to abusive behaviour or may be behaviour - which when seen in a holistic context – amounts to selfishness or stubbornness rather than abuse, as identified by Jackson LJ.

Image Analysis

42. The Court of Appeal in Re A (Children) [2010] EWCA Civ 344 considered the use of expert evidence involving CCTV to assist in identifying a mother in care proceedings. The judgment of Baron J made clear at [40] that the expert CCTV analysis in that case was unable to provide a detailed analysis given the poor quality of the images provided. Endorsed by Ward LJ at [82], Baron J went on to observe in [41] that the court should remind itself of the guidance on identification in R v Turnbull [1977] QB 224 to the effect that there was a need for caution when the case against a person depended wholly or substantially on identification evidence. Mistaken witnesses can be convincing, hence the need for caution. Further, there was a need to have regard to the specific circumstances in which the identification came to be made. Recognition may be more reliable than identification of a stranger but, even when a witness is purporting to recognise someone he/she knows, the court should remind itself that mistakes in the recognition of close relatives and friends are sometimes made.

The Allegations

43. Both parents prepared lists of the findings they sought. What follows, summarises the case advanced by the mother and the father at the conclusion of the oral evidence.
44. The father’s case was stark and uncompromising: he alleged that the mother abducted G from country X without his knowledge and consent and thereafter, effectively excised him from G’s life. She had, moreover, concocted an entirely false narrative of persecution in country X to gain asylum in this jurisdiction

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and, once the father had instituted proceedings for G's return, had made false allegations of serious abuse to bolster not only her case for asylum but also her case opposing G's return to country X. Mr Harrison KC submitted that G's abduction was aggravated by three features which made it stand out from more typical abduction cases. First, the elaborate nature of what the mother did required significant pre-planning and that G must have been recruited to the mother's cause in order to prevent the mother's deception being uncovered. Thus, G must have been told what to say on leaving country X; when he attended at the Home Office in Croydon on 20 October 2020 to claim asylum with his mother; and when speaking to the children's guardian in March 2022. Second, G's abduction caused the abrupt guillotining of his relationship with the father, his paternal family, his friends, and his home country. That reality had been cruelly aggravated by the complete denial of any contact between G and his father. Third, this was not a "*coming home*" case in which a parent and child return to the country of the parent's or child's birth and/or upbringing. G had been taken to a country totally unfamiliar to him and was forced to lead a life in which he believed that country X was a danger to his life and that of his mother.

45. The mother asserted that all her allegations of abuse were true. Mr Gupta KC painted a picture of an abusive marriage from its very start, characterised by coercion and control stemming from the father's ultra-conservative religious beliefs. The mother had been beaten and raped on an almost daily basis and, even after separation, had been controlled by the father who used G as his instrument. G himself had also fallen victim to the father's unyielding religious conservatism and was beaten when he failed to meet the father's expectations. Finally, G had been brutalised through sexual abuse by the paternal uncle and, possibly, the father as well. Mr Gupta KC asked me to reflect on the motivation which might explain the mother's behaviour in removing G so abruptly from country X and suggested it had only one source, namely an urgent need to protect herself and G from persecution both by state agents and by the father.
46. On behalf of the children's guardian, Ms Gartland remained neutral. In her closing written submissions, Ms Gartland noted the "*strong evidence*" supportive of (a) the father's account of how the mother and G left country X and (b) G's positive relationship with his father and paternal family prior to leaving country X. Ms Gartland also emphasised the losses which G had experienced as a result of his mother's actions and the significance of my decision, not only in respect of the application for G to return to country X but also with respect to the asylum status of G and his mother.

The Hearing

47. The lay witnesses, with the exception of the mother and the father gave evidence by video link because they were abroad.
48. Having made allegations of domestic abuse, the mother was a vulnerable witness within the meaning of Rule 3A.2A of the Family Procedure Rules 2010 and I made a number of participation directions to assist her to give her best oral evidence and to limit any anxiety she might experience during the hearing. The directions I made in advance of the hearing were as follows:

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- a. The mother was permitted to attend via video link on the days when she was not required to give oral evidence. When doing so, she was permitted to turn off the camera so that she could not be seen by those in the courtroom;
- b. When the mother gave her oral evidence, the father was not present in the courtroom. He attended from the premises of his legal representatives with his camera turned off so that the mother could not see him and he could only see the back of her.

Those arrangements worked well. Both parents were afforded breaks in their evidence to pray. When they became distressed, as both did, I offered them a break to compose themselves.

Expert Evidence

49. **Mr Spencer** is an independent forensic scientist, specialising in imagery analysis including facial mapping (facial comparisons). He has performed that role since 1995 and has provided many hundreds of reports involving the examination and analysis of video and other images for the purpose of identifying the people, objects or events recorded therein. Mr Spencer was jointly instructed to provide an expert opinion on a number of issues, namely:
 - a) whether the six CCTV recordings were authentic;
 - b) whether the date and time stamp of the CCTV recordings were authentic
 - c) whether the CCTV recordings had been manipulated, tampered with or edited in any way;
 - d) whether the individuals seen in the CCTV recordings were the mother and G;
 - e) and whether it was possible to discern anything about the document held by one of the women in the CCTV recordings.
50. Mr Spencer provided a lengthy report and was cross-examined on its contents. After his evidence had ended, he provided two further short documents to assist the court, one concerning the identification of siblings by their ears and an email confirming that, in accordance with his testing of the electronic watermark contained within all six recordings, the CCTV recordings were authentic.
51. Mr Spencer confirmed in his report that all six CCTV files were authentic as were the time and date stamps attached to each recording. None of the CCTV files had been tampered with, edited or otherwise manipulated. He was unable to discern anything of use about the document produced by one of the women in the video recordings though it appeared to him to be a passport. I note that, following Mr Spencer's oral evidence, the mother conceded that the CCTV footage had not been fabricated or manipulated in any way.
52. Following an exhaustive analysis of both the recordings and the photographs provided of the mother and G, Mr Spencer concluded that, whilst he could not exclude the possibility that they were different people, there was a very strong

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facial resemblance with no discernible differences between G and the child seen in the CCTV footage. In his opinion, the imagery provided strong support for the proposition that G and the child in the CCTV footage were the same person. Mr Spencer's conclusions about the mother and one of the women in the CCTV footage were a little more nuanced. The difference in body shape between these two individuals provided "*moderate support*" for the proposition that they were different people. However, the combined facial similarities provided moderate to strong support for the proposition that the woman in the CCTV footage and the mother were the same person. Once more, Mr Spencer said that he could not exclude the possibility that they were different people. It was clear that, despite the request for better quality images he had made in October 2022, Mr Spencer had been provided with poor quality images of the mother.

53. Mr Gupta KC explored with Mr Spencer that the similarities he identified between G and the boy in the footage could be explained if the boy was a relative of G. Mr Spencer had drawn attention to the shape of the boy's left ear as bearing a "*very strong*" resemblance with no discernible differences to G's left ear. Mr Spencer explained that the similarity in the left ear would not be seen either in two random strangers from the same part of the world or in two people who happened to be related to each other. To reinforce that opinion, he sent a short report on sibling ears, including the ears of genetically identical twin brothers, which demonstrated that the shapes of their ears were entirely different.
54. Mr Spencer's evidence was measured and straightforward. He had clearly engaged in a thorough and careful evaluative process in order to reach his conclusions. His report set out this process with admirable clarity and I found it extremely helpful in coming to my views on his evidence. He quite properly emphasised that, consistent with the guidance of the Court of Appeal by reference to the criminal court, his evidence should only be viewed as a subjective opinion, which might assist me to determine the facts in issue.

Assessment of the Parties and the Lay Witnesses

55. **The mother.** She gave her evidence relatively calmly to me over three days on 1 December, 2 December and 6 December 2022 at all times with the benefit of the participation directions I had made. She was assisted by an interpreter throughout and I note that the interpreter who assisted her on 6 December was different to the one who had helped her during the first two days of her oral evidence. That change was regrettable though I observe that both interpreters struggled from time to time to understand what the mother was saying, in part, I suspect because they spoke a different dialect of the language spoken in Country X. However, I was satisfied that I was able to receive the mother's evidence by interpretation without significant inaccuracy or distortion. No complaint otherwise was made by Mr Gupta KC.
56. The mother's love for G was obvious and I formed the clear view that she regarded him as wholly integral to her wellbeing. The need to be with him and her distress when, during the father's contact in country X, she was not struck me as significant. This feature of her evidence was consistent with her complete lack of insight into the impact on G of his removal from country X. Her evidence was wholly focussed on herself, ignoring any consideration of G's perspective. He was almost an extension of

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the mother rather than a little boy with his own needs and identity. At no stage, even when presented with photographs showing G happy and relaxed in his father's presence or enjoying himself on school trips or at paternal family celebrations, could the mother acknowledge that there was anything of value to G in his relationship with the father or the paternal family. To be blunt, she had not a good word to say about the father as a parent.

57. I found it necessary to have at the forefront of my mind at all times when assessing the mother's evidence that a witness may tell lies for a variety of reasons and be untruthful about some matters but truthful about others. However, the mother was not a witness who told one or two lies which could be explained and which did not undermine the balance of her evidence. Her lies were so extensive and elaborate that I found it very hard to attach any weight to her evidence at all. I have thus only attached weight to the mother's evidence when it was corroborated by the evidence of others. I found much of the mother's evidence simply divorced from reality and permeated with lies, so much so that it was sometimes difficult for me to discern where one lie ended and another began. Thus, the mother lied with premeditation to address areas of her evidence which she thought would be problematic such as how she had managed to message the father on 10 October 2020 when travelling in the bowels of a ship courtesy of a people trafficker. She also lied spontaneously but implausibly such as telling me that, when allegedly asking a stranger in the street for directions to the Home Office reception centre in Croydon, this person had given her his own telephone because he saw she needed help. Even when confronted with the clearest possible evidence that she had given a false account, the mother maintained her lies and resorted to alleging that the documents to which she was taken must have been fabricated by the father or by others. For example, her text message apology to the father sent on 20 May 2020 made reference to her speaking with "*her brother [J]*" but when challenged, she asserted that the father must have falsified the last third of her message. Even when the entire text message was produced to her in the language in which it had been written, the mother maintained her stance that it was a forgery.
58. There were other times in the mother's evidence when I had the strong sense that she was withholding information from the court either because it might disadvantage others or because it might fatally undermine her account to the Home Office of how she had come to leave country X and arrive in the UK.
59. These broad observations about the mother's evidence will be supplemented by more detailed analysis later in this judgment.
60. **The father.** The father gave evidence to me over two days on 29 and 30 November 2022. He also required assistance from an interpreter and, occasionally, there were similar difficulties with the interpretation as I identified in my impressions of the mother's evidence. However, I was likewise satisfied that I was able to receive his interpreted evidence without significant distortion or inaccuracy.
61. The father doted on G – I am quite satisfied that G has been the lodestar of his father's life since his birth. The father's distress when looking at the loving messages G had written him during the time they lived together in country X was all too clear. Yet, just like the mother, the father had no difficulty in being highly critical of the mother's parenting, accusing her of using excessive physical chastisement on G. He too had nothing positive to say about G's relationship with his mother. I found him

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slow to admit fault in himself or to reflect on the nature of his relationship with the mother after their separation.

62. However, the father was straightforward in explaining his conservative views on appropriate dress for women though he emphasised that a woman had the right to choose whether to wear the niqab. His evidence in that regard was supported by photographic evidence from 2010 that, during their marriage, the mother had not worn the niqab when outside the family home. The father was likewise candid in explaining his method of disciplining G by either talking to him or, if his behaviour was poor enough to warrant a more serious reaction, by making him hold his hands up against a wall for a few minutes whilst the father observed him.
63. Overall, however, I found the father's oral and written evidence consistent. I observe, that, until August 2022, the father had no knowledge of the case advanced by the mother to the Home Office. At the start of the proceedings, the evidence about the mother's mode of travel to England was relevant only to show that the proceedings had been issued appropriately in this jurisdiction. It acquired crucial significance only after it transpired that the mother had said something totally different to the Home Office.
64. **The paternal uncle.** He gave evidence briefly. Despite the mother being clear in her evidence that she believed the paternal uncle had sexually abused G, he was asked if he had "*possibly*" done so and asked to comment. He denied it. He also confirmed his absence in another country from December 2014 to the end of May 2016. The uncle also explained that G was given even more love and affection within the paternal family because of his parents' separation.
65. **The paternal grandmother.** She gave brief evidence. She denied treating the mother and G as second-class citizens because of the mother's tribe and, wholly unprompted, confirmed that the mother and father had not lived with the paternal family after their marriage as the mother had asserted. She was clear that G was treated exactly the same as her other grandchildren.

Analysis: Generally

66. I make it clear that, in coming to my conclusions about factual matters, I have surveyed the wide canvas of evidence rather than adopting a compartmentalised approach and I have come to a view about the totality of the evidence before deciding the facts in issue.
67. This was a complex and highly emotive case in which the stakes for each parent could not have been higher. The father faced the prospect of being found to have seriously abused the mother and G. Were those findings made, a court would be likely to need much persuasion that G's welfare would be served by a return to country X (assuming that G was not a child who had been granted asylum). His future contact with G was likely, at best, to be indirect via video if G was prepared to have any contact at all. If the mother was found to have been untruthful about the alleged abuse in country X and to have lied about how she entered this jurisdiction, her future here as an asylum seeker was likely to be called into question. That process might lead ultimately to the rescinding of the grant of asylum to both her and G and their forced return to country X irrespective of any order that this court might make.

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68. As I observed in Re P, the high stakes for each party impacted on the evidence before the court in an unsatisfactory manner. That was entirely unsurprising. Few fact-finding exercises are capable of constructing a coherent narrative which can explain all the evidence before the court when so much is, as in this case, hidden or obscure and when witness evidence is tainted by lies and evasion. Thus, though I may have determined the factual matters in issue, there may be evidence which is at odds with that factual determination. If there is, I have identified it and explained its place in my thinking.
69. First, I have considered the evidence which relates to G's upbringing in country X as he was my primary concern. I then consider the father's allegations about how G and his mother came to leave country X and travel to this jurisdiction. Finally, I make some observations about the implications of all my findings for G himself.
70. Mr Harrison KC submitted that the parents' conduct towards each other and the defects in their parenting were of limited relevance in this case. This was because they had been separated for a decade and, thereafter, had shared G's care for nearly 8 years. I disagree. The fact that an adult relationship has ended does not mean that its fundamental nature is of little, if any, significance for the future. That is particularly so where a child is involved. I have tried to discern something of the parental relationship in order to understand how G was parented following the parents' separation and, if at all possible, to answer Mr Gupta KC's question about the mother's motivation in leaving country X in the manner she did.

G's Care in Country X***The Parents***

71. First of all, there are a number of factual matters about the parents themselves which I need to determine. The mother told me that she was a member of a minority group in country X which was the target of discrimination and persecution by the authorities. Members of that group were also exposed to and suffered from discrimination by individuals belonging to the majority group in country X. The mother asserted that her membership of that group caused the father's family to treat both her and G as slaves. The paternal family also influenced the father and encouraged him to beat the mother, in part because of her origins. The mother alleged that, within a month of their marriage, the father could not cope with that pressure and started to physically abuse her. However, the father told me that, as far as he knew, the mother was not a member of that minority group.
72. I found the mother's account about her origins difficult to accept. This was, according to the mother, an arranged marriage brokered by the parents' respective families. It is difficult to see on the mother's account how the marriage could have taken place at all if the father's family held such violently discriminatory views about the mother's background. Additionally, the mother's account of her origins was not enhanced by inconsistencies between her oral and written evidence. In her statement of November 2020 prepared in connection with her asylum claim, she asserted that she and G had been treated like slaves and beaten due to her background. In her oral evidence, when asked how G as a baby could be treated as a slave, the mother then asserted that he had been treated as a second-class citizen. She did continue to assert in her oral evidence that G had been beaten by the paternal family but provided no telling detail.

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Furthermore, the mother's allegation that the father was influenced by his family to beat her and mistreat G sat very uneasily with her case that the father was a highly influential man in his family and in the wider community and thus the sort of man who I was asked to assume would take instruction from no one. I also found the mother's assertion about G's treatment by the paternal family difficult to reconcile with the photographs in the bundle showing G dressed up smartly at a relative's wedding alongside his little cousins and looking happy with his paternal family on other occasions. When I asked the mother to explain those photographs to me, she told me that these photographs did not reflect the reality where G was beaten, insulted and demoralised by everyone in the paternal family. Whilst I accept that photographs may be misleading because they show only one moment in time, I found the mother's evidence unpersuasive.

73. Further, it was an integral part of this allegation of discrimination that the mother moved into the father's family home on marriage, as indeed the mother asserted to the Home Office in November 2020. However, the mother's initial statement in these proceedings stated that she and the father had lived in her family home. In her oral evidence, the mother asserted that, in the first year of marriage, the couple had not cohabited at all and, thereafter, had visited the father's family for either weekends or for months. Her evidence was contradicted not only by that of the father but also the paternal grandmother who told me that, on marriage, the couple lived in the mother's family home.
74. A significant aspect of the mother's case was that the father was an influential man who could sway the courts in country X, the police, airport security, and a foreign airline. Yet, in her evidence to the Home Office, the mother suggested that her knowledge of the father's influence came only from the children proceedings. The mother had no evidence at all to support her contention that the father was a man of influence and, in her oral evidence, she admitted that her belief related only to the influence he wielded within his own family and religious group. She confirmed that she had no knowledge as to whether the father had influence with the police in country X.
75. Finally and most curiously, the mother struggled to provide me with her accurate date of birth. At the start of her oral evidence, the mother was asked how old she was. She hesitated and initially said 33 before saying she was 32 years old. Despite being taken both to her birth certificate and a copy of her passport which showed her birth in 1988, the mother asserted she was born in 1990 and gave a convoluted explanation about identity documents in country X being inaccurate. I note that the mother gave a birth date of 1990 to the Home Office.
76. I concluded that the mother was being untruthful about her date of birth and her background. It follows that I was not persuaded that G was treated as a second-class citizen by the paternal family because of the mother's alleged membership of a minority group. The mother had also exaggerated her belief that the father was a man of influence who could use it to suborn the authorities and other organisations. There was no evidence of that at all apart from her assertions.

Coercion and Control of the Mother

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77. In her first statement within these proceedings, the mother asserted that, during the relationship, she was prevented from working, forced to cover her hands and face, and prevented from playing a proper part in G's life. She alleged that, on average, the father would beat her twice each week and that he was "*violent and strange*" during sex with her. I note that, by contrast, in her statement to the Home Office dated November 2020, the mother claimed that the father beat her but did not allege any form of sexual abuse. However, on 14 March 2022, some 5 months after being served with the father's application and some 18 months after arriving in this jurisdiction, the mother made allegations about the father to the British police. She told the police that the father had forcefully raped her on an almost daily basis throughout their marriage. Very surprisingly, this allegation was not repeated in her statement within these proceedings which was filed a few days later on 21 March 2022. It has not been repeated in any statement within these proceedings nor in the mother's asylum claim. The mother's case on coercion and control also extended to her life following separation when she alleged that the father controlled her via contact with G.
78. For his part, the father denied controlling the mother either during their relationship or indeed thereafter. He also vehemently denied the allegations of violence and rape. Whilst the father accepted having conservative religious beliefs that women should cover themselves when outside the family home, he was clear that this was essentially a matter of choice for the individual woman. The father asserted that, prior to separation, the mother had been violent to him by punching him on his back and arm and would assault him during rows, on average, about twice a year.
79. The evidence available does not support the mother's case about coercion and control during the marriage. First, photographs of the mother and father taken in 2010 showed them on trips outside the family home with the mother's face and hands clearly uncovered. Second, the mother told the Home Office that, in 2009, she graduated from university and began work as a pharmacist, employed by two separate pharmacies in turn. At the time of her divorce, the mother said she was still working as a pharmacist. The contrast between the account given by the mother to the Home Office and what she asserted in these proceedings was stark and effectively unanswered by her oral evidence to me. There was also no evidence that, prior to the couple's separation, the mother had been unable to play a full role in caring for G.
80. I reject the mother's allegation that the father raped her on an almost daily basis during their marriage. Though Mr Gupta KC relied on the fact that the mother had reported being raped to her GP in December 2021, her account did not specify rape by the father. It was a report which chimed with the mother's allegation to the Home Office that she had been raped by security agents shortly before her departure from country X. I note that the mother had also reported rape by the father to Women's Aid with whom she had been involved since November 2020. The letter from Women's Aid was unclear about when the mother had made that specific allegation. Though Mr Gupta KC suggested that there may have been cultural or other barriers to the mother reporting marital rape until a relatively late stage of these proceedings, I found it astonishing that her statement dated 21 March 2022 made no reference whatsoever to her account of abusive sexual conduct within her marriage, an account which she had given to the police a week earlier. The mother told me she had not mentioned marital rape in her statements because she was only responding to specifics about the case put by the father. She said she had not mentioned it to the Home Office because she

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thought family issues had nothing to do with her claim for asylum. I found these explanations unconvincing, particularly given the mother's own admission that she had considered reconciling with the father in May 2020 and the Facebook posts to the father's new partner made by her in May 2021 in which she described him as an "excellent person". When asked about those posts, the mother told me she had exaggerated and should have said that the father was "ok". It was simply implausible in my view that the mother, following her departure from country X, would have described a man who treated her as she alleged as being "excellent" or even "ok" to another woman who was considering a marriage to him. The mother's oral evidence about not mentioning family matters such as marital rape in her claim for asylum did not tally with the many family matters about which she did indeed make allegations to the Home Office, such as physical abuse of G and herself by the father and his family and the father's conservative religious beliefs which required her to cover her face.

81. Given the difficulties with the mother's evidence about sexual abuse within the couple relationship, I was equally unconvinced by the mother's account of regular beatings by the father. Likewise, I found the father's assertions that the mother had been the physical aggressor in their relationship rather unconvincing. The account of assaults by the mother twice a year in his solicitor's statement initiating these proceedings was not matched by the father's oral evidence that the mother had assaulted him on two occasions by punching him on the back with a closed fist.
82. However, I am satisfied that the marriage soured quickly after G's birth. Neither the mother nor the father provided any reliable insight into what caused this marriage to founder. Nevertheless, when the mother asked the father for a divorce, he granted her one and allowed her to retain the care of G until he was 7 in accordance with local customs and laws.
83. Following their separation, the mother told the Home Office in November 2020 that she had lived entirely independently of the father, had studied for a postgraduate qualification, and was working and engaging in political activities. The father accepted in cross examination that he did not know how the mother occupied her time on a daily basis. It was difficult to reconcile the mother's account of an active working life with continued coercion and control by the father post separation.
84. Even on the mother's account, the couple shared the care of G post separation. G lived with his mother until he was seven years old and had regular contact with his father. At age 7, the father took over the care of G in accordance with local customs and the mother had regular contact two days each week. Though I heard allegations from the mother that the father forced her to agree the arrangements for G's care, I was not persuaded that G was used as an instrument of coercion and control by the father. The couple clearly communicated with each other about G's education and I accept the evidence of the father that they agreed G should not be physically chastised at school. Nevertheless, the parental relationship was, from time to time, volatile as the events of early May 2020 demonstrated. The father asserted that the mother would often start arguments on handovers whereas the mother asserted that the father was to blame for any arguments, alleging that G did not want to have contact with his father and that the father would shout at and "beat" G. I am quite satisfied that, from time to time, there was tension if not open dispute between the adults about the arrangements for G's care. Though she acquiesced in the arrangement, I consider that the mother was unhappy that G was living with his father from the age of seven and also unhappy

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that the father appeared to be the driving force behind the choice of G's school and religious education.

Physical/Other Abuse of G by the Father

85. The mother alleged that the father regularly "beat" (smacked) G, squeezed his genitals after he wet the bed, forced him into learning large parts of the Quran and forced him to fast. She pointed to G's attendance for religious instruction at a local centre for boys where he was required to learn significant portions of the Quran by heart.
86. The father was clear and consistent that he had never physically chastised G. When asked about his disciplinary methods, the father said he would either speak to G, or if his behaviour was poor enough to warrant a more significant reaction, the father would have G hold his hands up against the wall for a few minutes whilst the father observed him. The father was clear that this was not intended to cause G harm. The father explained that G had wanted to attend for additional religious education outside of school and enjoyed being with other children, learning the Quran and going on trips organised by the centre. He denied that G was pressurised or forced to do things beyond his ability or age. He denied ever forcing G to fast for long periods of time but explained that G had wanted to fast during Ramadan and so he allowed him to do so for no more than a couple of hours at a time.
87. The evidence from G's schools was to the effect that he had an excellent and loving relationship with his father. Even the mother accepted that the letter from his first school describing the joy with which G greeted his father was genuine. The bundle also contained several drawings made by G expressing his love for his father. In his oral evidence, the father was moved to tears when taken to these drawings. Grudgingly, the mother said these drawings could have been done to please the father rather than them being a true expression of G's feelings. When pressed, she eventually conceded that the drawings could well have been done by G to show his father how much he loved him. The mother was equally dismissive in her oral evidence about the photographs of toys and games belonging to G in the father's home and said that these items could have belonged to G's cousins. However, she later acknowledged that G was the only child living in the father's home. The many photographs in the bundle showing G enjoying time with his father and his family did not, according to the mother, reflect the reality which was that G was beaten and insulted by everyone in the paternal family.
88. G's enjoyment of religious school was clear from photographs in the bundle which showed him enjoying trips with other attendees and with his teachers. At the very least, this establishment not only taught G to learn and study the Quran, but also provided a more rounded experience of physical and other activities. I did not find mother's allegation about G's religious education persuasive.
89. Likewise, the mother's allegation that G was forced to fast for lengthy periods of time was not one which I found she had established. In her oral evidence she told me that, at about 4/5pm during Ramadan, G would tell her that he had not eaten since the previous day. I found that simply implausible given that the Ramadan fast is broken for those fasting every evening at sunset.

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90. The only additional evidence supportive of the mother's allegation was the comment made by G to the children's guardian on 15 March 2022 when he said that he did not want to have contact with his father because his father hit him and made him starve. I note that G did not tell the children's guardian that the father had squeezed his genitals despite supposedly having raised the matter with the mother for the very first time just days before his interview with the children's guardian. I accept the submission made by Mr Harrison KC that the comments made by G were of very limited value in circumstances where (a) G had been denied any form of contact with his father for over two years; (b) the mother lacked insight into G's emotional needs; (c) the mother admitted in oral evidence telling G to be "*clear and frank*" with the guardian about what happened to him; (d) the mother's account that, during the journey from country X, she repeatedly told G he would not be "*beaten*" again; (e) G must have been given some explanation for his sudden removal from country X and from his father; (f) G must have been briefed to some extent about the asylum application with the mother admitting that she told G they were going to be "*kept safe*"; and (g) the mother's willingness to make unfounded allegations about the father's conduct.
91. The timing of the mother's allegation that the father had squeezed G's genitals when he wet the bed came at a point in these proceedings when the mother was to have her final interview in the asylum process and was to provide her full and complete evidence in these proceedings. It also came at a point when G was to speak to the guardian in relation to interim contact with his father. Not only did G make a brand-new allegation in relation to genital squeezing but the mother also made a complaint to the police about a brand-new allegation of marital rape. In her oral evidence, the mother was inconsistent about the timing of G's allegation. First, she said it happened the day before the police interview, but then later said she could not recall when the allegation was made or whether it had been before or after the asylum interview.
92. I am satisfied that there is no credible evidence to support a finding that the father physically abused G. If anything, the evidence pointed to a loving father-son relationship in which G was the centre of the father's world. I accept the evidence of the paternal grandmother who said that G was a little boy who was loved "*very, very, very much*". I do not regard the father's disciplinary methods as abusive, having guarded against taking too harsh a view of culturally different forms of parenting as recognised by Pauffley J in Re A (Child: Wardship: Fact Finding: Domestic Violence) [2015] EWHC 1598 (Fam).
93. I also observe that the mother's allegations about the father's care of G sat uncomfortably with her approbation of him as a partner in May 2021. At the time she was commenting positively about the father to his then fiancée, the mother was in this jurisdiction and had created a narrative of discrimination and abuse in which the father played a role. She was under no obligation to speak to his fiancée at all and it was very surprising that she spoke of him in such glowing terms.

Radicalisation of G

94. The mother asserted that the father had extremist jihadi views and sought to radicalise G. She relied on his Facebook posts which criticised other religions and said that G was woken up by the father at 5 am to pray. The father denied holding the views attributed to him by the mother. The father confirmed that he adhered to Salafi Islam

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which, according to the expert report of Ian Edge on the law of country X, is a “*limited and ultra conservative approach*” to Islam.

95. I find that the mother’s allegation was not established. There was not a shred of reliable evidence to suggest that the father adhered to extremist jihadi views or that he sought to radicalise G. The father is an observant Muslim who adheres to a traditional and extremely conservative interpretation of his faith, but that is simply a world apart from espousing violent religious extremism as the mother suggested.

G’s Schooling

96. Both parents were in agreement that G’s first school was a wholly positive experience for him. However, G’s second school was not what either parent had hoped for. Both agreed that they were unhappy with the school because G was subjected to physical chastisement and they therefore moved him to another school. A letter from the third school said that G had visited it with both his parents and that the mother had come to the school on several occasions and had made no criticisms of G’s education there. The father’s evidence was that he had been clear that under no circumstances was G to be physically chastised. The mother accepted that she had sometimes visited the third school and that when she had done so G had seemed fine. She suggested that father may well have told the third school not to chastise G, but asserted that he would not have been listened to and that G would still have been physically chastised. Though she accepted not raising any complaints with the school herself on her visits, the mother told me that she thought the letter from the school could have been fabricated.
97. The material produced about G’s education demonstrated his excellent performance in both his second and third school and the photographs showed a little boy apparently happy to join in with school activities. I note the mother’s oral evidence that G’s good results were attributable to the father beating and pressurising G, but this struck me as unlikely given my views about the father-son relationship. G’s rather ambiguous comments to the children’s guardian about being hit at school and not liking school in country X did not correlate with the overwhelming balance of the evidence about his education. I consider that G’s comments were more likely to be the result of his beliefs after two years of being kept away from his school, his friends, his paternal family and life in country X and after two years of the mother reinforcing to G her explanations as to why they had left country X suddenly and without warning to the father.

Alleged Sexual Abuse by the Father

98. The mother’s schedule of allegations asserted that the father would lie in the bed with G, kissing him and touching him inappropriately. She also asserted that G was sexually abused on two occasions in February 2014 and May 2016 by the father and/or paternal uncle. In her first statement the mother said she had “*always had doubts*” about whether the father had sexually abused G. The basis for this suggestion was that the father was “*violent and strange*” during sex with her and had apparently told her that he had previously raped his sister. She also said that the father had kissed G inappropriately when lying in bed with him when G was either a baby or toddler prior to the couple’s separation. She had told her support worker that G had been “*potentially*” sexually abused by the father.

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99. During the hearing, the mother did not pursue her allegation that the father had sexually abused G and it was not put to him in evidence that he had done so. Instead, it was suggested to the father that the mother was justified in holding suspicions about him as a result of his alleged dismissal of her concerns regarding sexual abuse by the uncle. The allegation that the father had told the mother he had raped his sister was also not put to the father. Indeed, the mother accepted in her oral evidence that the father had not sexually abused G and explained that, in so alleging, she had been referring to G's alleged disclosure in March 2022 that the father had squeezed his genitals as a form of punishment for bedwetting.
100. Despite the mother resiling from her allegation that G had been sexually abused by his father, I was in no doubt that she had sought such a finding over and above the allegation of genital squeezing. Her allegation of sexual abuse was devoid of any explanatory detail and was wholly inconsistent with what she told the father's new partner about him in May 2021. Had she truly believed that G had been sexually abused by his father, she would not have responded to the father's new partner in the way that she did. I note she was under no obligation at all to respond to messages sent by the father's new partner. Further, her behaviour in country X was simply not consistent with a mother who knew or believed her child to be suffering sexual abuse from the father. Overnight contact between G and his father not only started but also increased after the couple's separation and the mother then allowed G to live with his father on a full-time basis. She made no application to any court or complaint to the police. Indeed, a medical letter produced by her in connection with her concern that G was being sexually abused in 2014 recorded that she had been advised by the doctor who had allegedly examined G to "*start medical legal actions*" but she preferred not to do so "*for family reasons*". The mother told me she had great anxiety that the father would prevent her from seeing G if she had pursued allegations of sexual abuse, yet she appeared willing to allow her son to be sexually and physically abused by his father and his paternal uncle over many years. In 2020, the mother declined to resume her relationship with the father because, as she told me in her evidence, the father wanted her to give up work and cover her face and hands. Why did she not submit to those terms if what she told me about G's abuse was true? It would have been the opportunity she told me she sought, namely to protect G from further abuse.
101. I am quite satisfied that the mother fabricated the allegation that the father had sexually abused G. She did so to bolster her case within these proceedings.

Sexual Abuse by the Paternal Uncle

102. The mother alleged that the father's brother had sexually abused G in February 2014 and in May 2016. In her first statement, the mother explained that G had complained to her about pain in his bottom and, when the mother questioned him, G said that his uncle would play the "*doctor game*" and would give him an "*injection*" in that area. She had taken him to a medical complex on 22 May 2016 where he was examined and it was confirmed that G had been penetrated in his bottom, this being likely sexual abuse. The mother exhibited a letter from the medical complex to her statement which recommended further investigation. Though she had not shown the father this letter, the mother said that she had discussed the issue with the father but he had threatened her and said that, if she told anyone or instigated any further investigations, he knew many people who could stop whatever process she initiated against his brother. She believed what the father said and took the matter no further.

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103. In response to the mother's statement, the father produced a letter from the administrative director of the medical complex stating that the complex did not open until 2017 and that the doctor who signed the letter exhibited to the mother's statement had never worked for the medical complex. Additionally, at the time of the alleged visit to the medical complex in 2016, the father's brother was living abroad and had been there for over 18 months so it was not possible for him to have been sexually abusing G.
104. In the face of that evidence, the mother's second statement alleged that the father had admitted to her in 2014 that his brother had sexually abused G. She then said that she had taken G to the hospital in 2016 a second time after his uncle returned from being abroad. She went on to assert that, if G was wrong about his uncle, perhaps he had been sexually abused by "*another family member*". On 13 March 2022, the mother made a report to the police in this jurisdiction about the alleged sexual abuse of G by his uncle and said that the sexual abuse took place in 2015. She also told her support worker that G had been sexually abused by his uncle.
105. At a very late stage in these proceedings, the mother produced a document from the medical complex dated 17 October 2022, purportedly from the doctor who had examined G in 2014. This letter had been obtained for her by one of her friends who had been to see the doctor and who had produced to the doctor a copy of G's medical record. There was no statement from the mother's friend explaining how the doctor's letter had come to be made.
106. The father's case was that the mother's allegations were wholly untrue and fabricated. He accepted that the mother had called him from a hospital in 2014 where she had unilaterally taken G because he had apparently complained about "*pain in his bottom*" and said that his uncle had given him "*injections*". The mother told the father that she suspected sexual abuse. Both parents took G to see a paediatrician and a report dated 11 February 2014 raised sexual abuse as a suspicion, with advice to see a specialist. The mother did not wish to do so, but the father insisted and took G to see a forensic specialist the following day. The report of the forensic specialist exhibited to the father's first statement and dated 12 February 2014 stated that "*around the anus there is redness, itching and mild scratches inside the anus*" and that "*the shape of the anus is intact*". G was diagnosed with pinworm disease and the report stated that he had not been sexually abused. Furthermore, G's general medical records showed nothing to indicate sexual abuse. The father told me that, in early 2014, G had started to have overnight contact with him and the mother was often making "*trouble*" about the time the father spent with G.
107. In her oral evidence the mother gave a detailed and expanded version of G's alleged allegations about his uncle in both 2014 and 2016. The details she gave did not feature in any of her statements and were inconsistent with her written evidence that G may have been wrong and it could have been another family member who had abused him. I observe that, if what the mother described G as having told her was true, there was no conceivable basis for her to point the finger at anyone other than the uncle. The mother asserted that the father had fabricated the letter from the forensic specialist dated 12 February 2014. The mother also told me that, in early 2014, she had felt forced to agree an increase in the father's contact to include overnight contact.

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108. Despite the mother's belief that G had been sexually abused by the paternal uncle, it was not put to him that he had done so. Instead he was invited to comment on the allegation that he may have possibly sexually abused G. He denied doing so and drew attention to the lengthy period during which he had not been in country X and had had no contact with G.
109. Standing back and looking at the evidence, I am satisfied that no doctor concluded in 2014 that G had been sexually abused. On the contrary, it was the mother who suggested sexual abuse and not a doctor. The original medical record set out on a blue card appears to show "?? *sex abuse*" though this entry was not wholly clear. If it was authentic, the letter produced by the mother dated 17 October 2022 recounted that the mother had suggested sexual abuse to the doctor and not the other way round. The evidence overall supported the father's account of having taken G to a forensic specialist as advised. Indeed, the mother accepted in her statement that the father had done so but complained that he had not taken G to the right sort of doctor. That complaint was without any justification because the father had done exactly as he had been advised to do.
110. I am also satisfied that the mother's letter from the medical complex dated 22 May 2016 was fabricated. The document is emblazoned with the word "*Prescription*" which is odd given that it was nothing of the sort. G's age was incorrect – he was aged four years rather than five on the date this document was purportedly written. Furthermore, I accept the father's evidence that the complex was not open at the time the letter was written and the doctor who signed the letter had never worked at the medical complex. Incidentally, the uncle had been working abroad from December 2014 to 30 May 2016 so could not have been in a position to abuse G during that time. That cast real doubt on the mother's case that G had made two separate and identical complaints of sexual abuse, one in 2014 and the other in 2016.
111. The letter produced by the mother dated 17 October 2022 from the doctor who allegedly examined G in 2014 also raised a number of problems for the mother's case. Her case was that, in country X, there was no confidentiality in medical records and the doctor would simply have provided the information to any stranger who had asked for it. I note this was the polar opposite of her case as to how the father obtained flight records and CCTV footage from the airport. The mother said that the doctor had written the letter on presentation of a copy of the blue card medical record which all the advocates agreed was dated illegibly but which the mother alleged was dated 14 August 2014. Unsurprisingly, that was the date which found its way onto the face of the 2022 letter. The letter supported the father's case because it was the mother and not the doctor who suggested that G had been sexually abused and she who refused to take the matter further. The 2022 letter also failed to mention that the father was – on the mother's version of events – present at this examination. Finally, the name on the letter did not appear to match that on the blue record card despite the mother asserting this was the same doctor. Overall and in addition to the above observations, I found it wholly implausible that the doctor would - in October 2022 - have remembered the detail of an examination in 2014 especially in circumstances where the blue record card contained minimal information. I find that the October 2022 letter was fabricated to bolster the mother's case.
112. I am satisfied that the evidence supported the father's case that there was no evidence to justify any concern that G had been sexually abused in 2014. It was the mother who

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said G complained about his uncle's behaviour and that complaint was made at a time when G was about to start or had started overnight contact, something about which the mother admitted to being unhappy. The father was diligent in taking steps to address the issue and took G for examination by a forensic doctor as advised. That consultation resulted in a clear diagnosis and it was noteworthy that no doctor suggested in 2014 that G had been sexually abused. The father said nothing to his brother at the time as there was no proper basis for him to do so. On the evidence before me, it was simply not open to me to make any finding that G was sexually abused by his uncle, whether in 2014 or at some other time.

113. I have the gravest concern about this allegation made by the mother. It was made on the basis of evidence which I find was fabricated. Her evidence about this allegation was characterised by both significant inconsistencies and spontaneous embellishment whenever the mother perceived herself to be trapped in an evidential cul-de-sac. Standing back, I am satisfied that the mother fabricated this allegation and I reject her belief that G was being sexually abused by his uncle. What happened in February 2014 sprang from the mother's unhappiness about G having overnight contact with his father rather than being grounded in a genuine belief that G was being sexually abused.

Conclusion: G's care in Country X

114. Having surveyed the care of G prior to his departure from country X, there was nothing to suggest he was a child being abused by his father or paternal family in any way. On the contrary, he was doted on by both his parents and well-provided for in terms of his education. Nothing objectively was amiss with the arrangements for G to spend time with his mother and she was involved with the arrangements for G's education. Subjectively, however, I consider it more likely than not that, in 2020 and especially after their closeness during the pandemic had ended and the reconciliation with the father had failed, G's mother continued to be unhappy at relinquishing the role of primary carer to the father. I have already commented on the nature of her relationship with G and I make it clear that, irrespective of the mother's unhappiness with G's care arrangements, I have found nothing about G's own circumstances which would explain his removal from country X by the mother.

G's Removal from Country X

115. The circumstances in which G was removed from country X were bitterly contested. That was not surprising given the potential significance of any findings I might make about this issue. I have approached my fact-finding task firmly focussed on making findings which are of relevance to the welfare decision I will eventually have to make. It is not my role to stand in the shoes of the Secretary of State for the Home Department and seek to review or remake her decision on the asylum status of G and his mother. However, I acknowledge that some of findings may be germane to any subsequent decision which the Secretary of State is invited to make.

The father's account

116. According to the father, contact proceeded normally in September 2020 and in the first week of October 2020. He provided a message exchange between himself and the mother on Friday 18 September 2020 when the mother sent him the location of a

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riding school where she hoped to register G for lessons. The father assumed she was there and messaged her to ask when lessons finished. The mother messaged back, saying 6.30pm. The father was some distance away and called the mother to check if she and G were still there but she told him they had already left. Contact proceeded as normal for the rest of September 2020 and the father noted that, on Saturday 24 September 2020, G sent him a message on the mother's work mobile saying that he had said a particular prayer. On Wednesday 30 September 2020, G and his father attended the religious school between 7.30 and 10.00 pm for a celebration as the children were being given prizes. He produced photographs of himself and G at the celebration. G then went as usual to his mother's for contact on Thursday 1 October 2020, returning on Saturday 3 October. Coincidentally, G went on a trip to a local farm with the religious school on 3 October and photographs showed him with other pupils and the trip leaders. The religious school confirmed G's attendance on that trip and his participation on the Good Seed Course (one of the school's Quranic programmes) between 22 September and 8 October 2020. The father dropped G off for contact once more on Thursday 8 October 2020 and then, as usual, collected him for Friday prayers on 9 October 2020, returning him to the mother's home at about lunchtime. This was the last time the father said he saw G. When the father arrived to collect G on Saturday 10 October 2020, neither G nor the mother were at the property. Later that afternoon, the mother accepted sending the father a message saying: *"This situation can't stay like this anymore. [G] and I are at a safe place far from home. The solicitor will file a case tomorrow and I will only see you at court"*.

117. On Sunday 11 October, the mother's brother told the father that the mother and G were on a plane en route to this jurisdiction. On Monday 12 October, the father issued proceedings in country X for G's return. That same day he went to the airport and spoke with the manager of the passport control office and explained what had happened. Checks were run on the computer database and the father was informed that, on Sunday, 4 October 2020, the mother had travelled to country W. The father therefore believed that the information from the mother's brother was a ruse and he travelled to country W on or about 15 October 2020. He spent some 9/10 days there searching for the mother and G with the help of the local police and passport offices. He was told by the police in that country that the mother had left and returned to country X on Wednesday, 7 October 2020. However, the records at the airport in country X did not show her arriving there. On his return to country X on 24 October 2020, the father reported G was missing to the prosecution authorities who began an investigation. The father told the prosecutor about the mother's trip abroad and also told him that he knew the mother had returned to country X because he had seen her on 8 October 2020 when he delivered G to her home for contact.
118. At the end of October 2020, the father returned to the airport and distributed missing person pamphlets. A security officer offered to help him and the father explained that he suspected the mother had travelled with the help of her sisters, giving the officer their names and details. The records at the airport showed that a person using the passport of one of the mother's sisters had entered country X on 8 October 2020. The father was advised to seek further information in relation to flights with a particular foreign airline on 9 and 10 October 2020. The father attended the airport the following day and spoke to the office of the prosecution authorities situated there to tell them what he knew. He was given a letter to take to the CCTV department at the airport, permitting him to watch the CCTV footage on 9 and 10 October 2020. Very

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quickly, the father was able to identify the mother, G and the mother's sister in the CCTV footage. He told the prosecution authorities what he had discovered and they told him that they would take the lead in investigating matters.

119. On 3 November 2020, the prosecution authorities made a formal disclosure request to the airport and to the foreign airline. The father was directed by the prosecutor to go to the airport to view the CCTV footage with an officer. Later that day the father arrived at the airport and viewed further CCTV footage in which he identified the mother, G and the mother's sister. All the CCTV footage was placed by the officer on a flash drive which was handed to the father so that he might hand it to the prosecution authorities. On 4 November 2020, the father handed the flash drive to the prosecution authorities. On 5 November 2020 the father met with the prosecutor who had asked him for help accessing the material on the flash drive. The father was able to do so and identified G, the mother, and the mother's sister to the prosecutor. Before he left the prosecutor's office, the father copied the flash drive onto his computer without permission, explaining in his written evidence that he was worried the videos could get lost or destroyed in circumstances where they were the only real evidence that G had been at the airport with his mother on 9 October 2020 and had boarded a flight leaving country X.
120. In January 2022, the father made a formal request of the prosecution authorities for the copies of the CCTV footage in order to use it within these proceedings as he did not have the requisite formal permission. His request was initially refused but, on making a second request, the prosecution authorities furnished him with a flash drive containing the footage as well as other documents relevant to G's departure from country X. On 1 August 2022, the prosecution authorities provided the father with a letter confirming that he had been supplied with that information.
121. On 18 November 2020, the prosecution authorities made a request for disclosure of flight records from the foreign airline and those records were disclosed to it on 26 November 2020. On 3 January 2021, the court in country X made an order requiring the mother to hand over G to the father. On 29 March 2021, the prosecution authorities received information to the effect that three passports belonging to two of the mother's sisters and the mother's nephew had been used to travel on 9 October 2020. On 13 April 2021, the prosecution authorities in country X concluded that the mother had travelled with G and one of her sisters, using three British passports, two of which were in the name of the mother's sisters and one of which was in the name of the mother's nephew. The mother and G had left the airport on the evening of 9 October 2020, travelling first to country X and then on to country Y, arriving on 10 October 2020. Thereafter, the mother and G travelled to this jurisdiction.
122. The father's evidence was that he had met the mother's siblings many times and indeed lived with her sister, L, for several months. He produced a message from the mother to him sent in May 2020, which made reference to her sister, L, interfering in a dispute between the mother and father. That message also referred to the mother's brother, J, to whom the mother had spoken "*two days ago*". When he issued his application, the father had no reason to invent siblings for the mother. In his statement dated June 2022, the father told me that the mother's sisters, K, and L, together with her brother J, had claimed asylum in this jurisdiction and were experienced in knowing exactly what to say to ensure that an asylum claim would be successful. K had told the father that he and the mother could claim asylum in this jurisdiction and

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proposed that he travelled to the UK with her as her boyfriend and that the mother travelled as her husband's girlfriend. The father refused to do so. In 2011/2012, the father had a conversation with L who told him that she was going to travel to the UK and claim asylum, either on the basis of sexual orientation or that she was a member of a persecuted sect. It was the father's belief that, following L's successful claim for asylum, the mother had falsely claimed asylum based on either her alleged sexual orientation or on membership of a persecuted sect. In his oral evidence, the father maintained his knowledge of the mother's siblings and the conversations he had had with her siblings about claiming asylum in this jurisdiction.

The mother's account

123. It was the mother's case that she and G did not leave country X in the manner suggested by the father. Within these proceedings, the mother had been extremely circumspect as to how she and G came to leave country X, merely saying in her first statement that she did not leave in the manner asserted by the father. In her statement dated 21 March 2022, the mother said that she left country X for an unknown country by boat, going through three different countries on a journey which took several weeks. She then boarded a lorry and ended up in the UK. When she was let out of the lorry she did not know which country she was in but met someone who gave her an address and that was how she found her way to the Home Office to claim asylum. No real detail about the mother's departure from country X was forthcoming until after her asylum file was disclosed in early August 2022.
124. In November 2020 in a statement prepared to support her claim for asylum, the mother gave an account of why and how she came to leave country X. Following her divorce, the mother said she became involved in the collection and distribution of medical supplies to minority groups within country X. As a consequence, on Thursday, 17 September 2020, the mother was arrested and detained by security agents. She was interrogated, tortured and raped. She was accused of being affiliated with a prominent opposition group within country X. The mother claimed that the security agents threatened to kill G and she therefore told them she would cooperate with them to supply information about the opposition group, despite having no connection with that group. The mother was released on Saturday 26 September 2020 with an expectation that, one week later, she would provide the security agents with the information they sought. In desperation, the mother claimed she raised \$10,000 over the course of the next three days to pay an agent to get her and G out of country X, because her passport had been confiscated. On Wednesday, 30 September 2020, the mother and G left home and travelled to the coast where they boarded a ship on 1 October 2020, sailing for 10 days or more. The mother and G then spent a day travelling in a truck which then boarded a boat for a further few days. An agent then moved the mother and G by small boat to another ship which sailed for a few more days, during which the mother and G put on a lorry. When the lorry got off that ship, the mother and G got out and were told that they were in a safe place. The mother claimed she did not know that they had arrived in this jurisdiction and said that she and G "*walked in order to find someone*". By chance she saw a man who gave her an address and took her to a cash machine where he withdrew money which she gave to him in exchange for \$500 in her possession. The mother and G were then able to travel to the Home Office reception in Croydon, where the mother made her asylum claim on Tuesday, 20 October 2020.

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125. In these proceedings, the mother denied having any siblings, stating that she only had half siblings who she had not seen for several years. The mother told the Home Office that she was an only child, before changing her position a few days before her second statement in these proceedings was due in March 2022 when she admitted having half siblings.

Analysis: The Mother's Arrest and Detention in Country X

126. The mother resisted disclosure of the asylum file into these proceedings and, despite knowing that the court was being asked to return G to country X, she did not tell the court about being kidnapped or in danger in country X. Moreover, she did not tell the court that G was in danger because of the threats made to his life. In her statement filed in September 2022, she took issue with the evidence presented by the father about how she had left country X but said nothing further to explain her own case. In her statement dated 12 October 2022, the mother maintained that the account she had given to the Home Office was correct.
127. In her oral evidence, the mother told me that G had been present when the security agents arrested her on Thursday, 17 September 2020. It was late in the evening and G was asleep. Initially the mother told me that she was in bed with G when the men entered the flat, but then told me that she managed to jump out of bed into the hallway "the moment they came in". She said the men then covered her head. Having told the court in her written evidence that she had been asked to produce her papers and thus had handed over her passport, the mother was asked how that could be possible with a cover on her head. She then told me that the agents rummaged in her bedroom and the living room before finding her bag where the passport was. According to her, this took seconds. I note that her account was inconsistent with her written evidence to the effect that, once outside on the truck, the security agents blindfolded her. Her account struck me as an attempt to downplay the effect that such events would have had on G and thereby account for his failure to tell his father anything about what had happened.
128. The mother could not explain why G had not mentioned her abduction to his father other than suggesting that the maternal grandmother had told him not to tell anyone. She could not explain why her mother would have done that. The mother could also not explain the text sent to the father on 18 September 2020. At first she challenged the date of the text and, when the original version was produced, she then claimed that the maternal grandmother must have taken G horse riding the following afternoon and G must have used her phone to text the father. I found that highly unlikely given what the mother said had occurred the night before.
129. The father's version of events struck me as rather more plausible than the mother's. At the time he filed evidence of the text sent on 18 September 2020, the father was totally unaware of its importance having only provided the screenshot of the messages to the court to show the mother's text to him on 10 October 2020. His oral evidence was consistent with the text message sent on 18 September 2020. I note that he saw the mother for contact handover on 24 September and when he collected G from the mother's home on 26 September 2020.
130. My greatest difficulty with the account given by the mother of her arrest and detention was the notion that G would have said nothing about this extremely frightening event

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to his father when he saw him as usual for Friday prayers and after he had been collected by his father as usual on Saturday, 19 September 2020. The mother's account of her arrest late at night in front of G would have represented a very serious traumatic experience for this little boy. I found the mother's response when asked about the impact on G of what he was said to have witnessed – that G was a “*smart*” child and “*understood*” – utterly divorced from how a young child of 9 would have responded to his mother's kidnap and how he would have behaved for over a week, not knowing when or if he would see his mother again. In fact, G's message to his father on 24 September 2020 about saying a particular prayer was innocuous and in keeping with a child whose world was entirely as normal. I observe that there would, moreover, have been no reason for the maternal grandmother not to have told the father what had happened as, on the mother's account, he was a man of influence with the authorities who might have been able to assist.

131. In my opinion, the mother was being untruthful about the circumstances of her arrest. That dishonesty must also call into question the remainder of her account of her interrogation and detention, particularly given (a) the evidence of the father that he saw her on 24 September 2020, a day when she was allegedly still detained, and (b) G's failure to indicate that anything was amiss in the maternal family home during the relevant dates.

Analysis: The Journey to the UK.

132. The mother's account of leaving her home on 30 September 2020 to seek safety in an unknown foreign location was undermined by a variety of evidence before me. First, there was evidence showing that G attended a day trip with the religious school on 3 October 2020, a date when he was purportedly with the mother aboard a vessel at sea. Photographs of the trip have been provided together with letters from three employees confirming that G was with them. I note that it had been the intention of the father to call one of the employees to give evidence about the trip on 3 October 2020 but, for a variety of practical reasons, that proved not to be possible. In any event, calling this witness would not have been proportionate in that it would have caused these proceedings to overrun. I have reminded myself that the weight I can give to the evidence of the three religious school employees is tempered by the fact that they have not been called to give oral evidence and be cross examined about their statements.
133. Second, in her oral evidence, the mother accepted that G was with the father on Wednesday 30 September 2020 as the pictures of the celebration at the religious school demonstrated. In her written evidence, I note that the mother initially disputed the date of the photographs provided by the father and suggested that these were somehow fabricated because of corruption in country X. For the first time in her oral evidence, the mother told the court that she went to the father's home that evening and begged to take G a day early. The father agreed and the mother said she returned to her home whereupon, late that night at about 12 or 1 am, an agent took her and G to the coast so that they could board a boat on 1 October 2020. This account was wholly inconsistent with her written evidence to the Home Office which said that she and G were taken to a house elsewhere on 30 September 2020 and then picked up from that house in the evening and taken to the harbour. In my view, it was an account spontaneously created in the witness box to address the inconsistency of G being with his father on 30 September 2020.

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134. Third, the mother suggested that the religious school employees were liars and that the date of the photographs showing G on the trip to the local farm on 3 October 2020 had somehow been manipulated or fabricated. There was simply no evidence for that assertion, this being the sort of claim the mother made easily and without justification in response to inconvenient evidence which undermined her case.
135. Fourth, the mother admitted sending the text message to the father which he received on 10 October 2020. She was asked about how it would have been possible for her to have sent the father a text message when, on her account, she was likely travelling in a boat with G. In response, she provided a brand-new account to the effect that, in between being a passenger on various boats, she had the agent tether her phone to his internet connection in order to send a text message to the father. I found this account completely incredible. If the mother was right about how her trip away from country X was organised, she had placed herself and G in the hands of individuals who, in my view, were more correctly described as people traffickers rather than “agents”. I found it incredible that one of these individuals would have permitted the mother access to his phone and internet connection to send a message to the father which might have been capable of being traced. Incidentally, and equally unlikely, in my view, was the mother’s description of G being happy, excited, and showing no fear when he was on a ship for 10 days, was confined to a room below sea level in circumstances where, on her account, the mother had no idea where they were travelling to and could provide him with little reassurance. Further, the mother’s account of being provided with a telephone by a random stranger in the street on her arrival in the UK struck me as equally unlikely.
136. Fifth, the mother asserted that the father had fabricated material to the effect that three individuals using the passports of her sisters, K and L, and of her nephew travelled from the airport in country X on 9 October 2020. When faced with confirmation from the foreign airline itself as a result of my disclosure order, the mother accepted that these people had travelled on the date in question but continued to assert that she knew nothing about them and was not related to them. I am satisfied that, contrary to her accounts, the mother does have siblings and was in communication with them at the relevant time. The apology message sent to the father in May 2020 made reference to her mother and [L] interfering but she told me that L was a friend rather than a member of her family. The same message referred to her brother J with whom she had been speaking two days earlier. In her oral evidence and despite accepting that the first two thirds of the apology message had been sent by her, the mother asserted that the father must have fabricated the last third of the apology message. There was absolutely no basis for that assertion and I find that the mother sent the entire message. I accept the father’s evidence that the mother had siblings, at least three of whom had successfully claimed asylum in this jurisdiction. The records from the airline, coupled with the CCTV footage and the evidence of Mr Spencer, was straightforward, namely that the mother’s sisters’ passports had been used to leave the country X on 9 October 2020. I regard it as vanishingly unlikely that this was a coincidence as the mother’s case seemed to suggest.
137. The father had produced messages downloaded from the mother’s Facebook account between her and third parties about her arrival in this jurisdiction. Those messages had been obtained by his brother in an unorthodox manner by logging into the mother’s account, having guessed correctly that her password was G’s date of birth.

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The provenance of some of these messages together with relevant date information was unclear and so I have attached no weight to their contents.

138. Finally, the CCTV footage produced by the father was authentic and has not been tampered with or manipulated in any way. I accept the evidence of Mr Spencer in that regard and note that, eventually, the mother conceded the material was authentic. The father quickly recognised the mother and G on the CCTV footage which strikes me as important in this regard as he knew both G and his mother very well indeed. I have seen video footage of G which I have considered alongside the contents of Mr Spencer's report. A comparison of the boy in that footage to the photographs of the boy seen at the airport on 9 October 2020 is striking. Mr Spencer concluded that there was strong support for the proposition that the boy in the CCTV footage was indeed G. In my view, that boy was indeed G and I accept Mr Spencer's evidence and that of the father. Though Mr Spencer could only provide moderate support for the proposition that one of the women was the mother, I note the mother's repeated failure to provide any photographs that met Mr Spencer's requirements and consider that she did so to avoid identification. Having seen her in the witness box and considered the evidence on this point very carefully, I am satisfied that the mother was seen at the airport with G leaving country X on 9 October 2020.
139. In conclusion, I am satisfied that the mother and G travelled to this jurisdiction by aeroplane on 9 October 2020 and arrived here on or shortly after 10 October 2020. To do so, the mother used a passport which was not hers as did G. It follows that I disbelieve the mother's account of when and how she and G travelled to this jurisdiction.
140. There are some aspects of the evidence which remain unexplained. These include an alleged trip by the mother between 4-7 October 2020. It is not necessary for me to resolve that ambiguity though there may be some substance in the suggestion made by Mr Harrison KC that the trip was a dry run to test whether the mother could re-enter country X, using the passport of a relative.
141. It is important to note that the mother told me she did not believe that the father had anything to do with the state agents who allegedly kidnapped and interrogated her. No risk to her arises from the mere fact that the documents in the asylum proceedings have been disclosed to the father and Mr Gupta KC did not put to the father that he had disclosed documents in breach of the undertaking of confidentiality that he had given to this court in August 2022. There is no evidence before me to suggest that the father has disclosed those documents to any individuals, whether they be state agents or otherwise, who may seek to do the mother or G harm if she were to return to country X.
142. Finally, I observe that the mother's case in these proceedings can be properly understood not by reference to experiences of abuse for G and herself in country X, but by the need to bolster her account to the Home Office which, in March 2022, secured a grant of asylum for herself and G. She had close relatives who had claimed asylum successfully in this jurisdiction and I consider that she may have thought that doing so herself would allow her a fresh start with G in her care, unbothered by the need to interact with the father.

Conclusions

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143. Given the findings I have made, it follows that G has experienced serious harm arising from the behaviour of his mother. Throughout the hearing, my questions of the witnesses were focused upon trying to understand G's experience, both in country X and since that date. It was abundantly clear to me that G sustained enormous losses by reason of his removal, without prior warning, from country X. Leaving aside his relationship with his father, G was taken from two grandmothers with whom he had spent very significant periods of time; taken from his other paternal relatives; removed from his school and his many friends without the opportunity to say goodbye; and severed from his country of origin and birth. He has had to adapt to new circumstances in this jurisdiction and learn a new language, all of which occurred in circumstances where his status in this jurisdiction was, until late March 2022, uncertain.
144. The weight of the evidence pointed to a strong and positive attachment between G and his father. The photographs of G with his family and with his schoolfriends spoke volumes about a happy little boy loved by his family and making excellent progress in his education. I regard it as deeply troubling that the mother was unable to identify any losses for G, telling the court that his removal from country X had only had positive consequences.
145. On any analysis, the mother's behaviour gave rise to significant concern. This was no spontaneous departure from country X, but a carefully planned and premeditated removal. The mother was prepared to travel to this country using passports which did not belong to her or to G, thereby running the risk of discovery and possible criminal charges. G was involved in her enterprise and, in my view, has experienced significant harm as a result. I do not know whether the mother told G in advance about her plan to leave. If she did so, G would have been required to maintain a secret from his father, his family, his school teachers and his friends. If she did not tell G about her plan in advance, he would have been completely confused about what was happening to him and why. The mother's failure to permit G to speak to his father or to message him showed a ruthless disregard for G's feelings. It was entirely understandable from her perspective because any communication with those left behind in country X would have risked the unravelling of the mother's enterprise. I consider it likely that the mother took steps to ensure that G did not give the game away either at the airport or at the asylum centre or when he spoke to the children's guardian.
146. The schedule of findings attached addresses the case advanced by both parents but makes findings focussed on what is necessary for the welfare determination I must eventually make about G. If a matter in the schedule of allegations produced by each parent is not present, it is because I have either not considered it necessary/appropriate to make a finding about it or because the evidence did not warrant such a finding.
147. That is my decision.

SCHEDULE OF FINDINGS

- A. The mother was untruthful about her date of birth and background. Neither she nor G were discriminated against by reason of her alleged membership of a minority group.
- B. The mother was unhappy that G lived with his father from the age of 7. From time to time, there was tension and dispute between the mother and the father about the arrangements for G's contact.
- C. When living in country X, the mother has not established, on the balance of probabilities, that she was a victim of domestic abuse by the father as she alleged.
- D. G was not physically or sexually abused by his father. These allegations were fabricated by the mother.
- E. The father did not attempt to radicalise G into violent jihadi extremism as the mother alleged.
- F. The mother fabricated an allegation that G was sexually abused by his paternal uncle in country X. To make good that allegation, the mother fabricated or caused to be fabricated two letters, one dated 22 May 2016 and one dated 17 October 2022. The mother made that allegation initially in circumstances where she was unhappy about G's contact with his father.
- G. There was nothing about G's own circumstances which could explain his removal from country X by the mother.
- H. In October 2020, the mother removed G from country X to the UK without telling the father and without seeking his consent.
- I. The mother and G left country X by aeroplane on 9 October 2020, using passports which did not belong to them and which belonged to members of the mother's family. The mother and G arrived in country Z on 10 October 2020 and they made their way into this jurisdiction shortly thereafter.
- J. The mother has at least three siblings, two sisters K and L, and a brother, J. All three live in this jurisdiction and have successfully claimed asylum here. The mother has lied about having no siblings.
- K. The mother was untruthful about the circumstances of her alleged arrest on 17 September 2020.
- L. On 18 September 2020, the mother messaged the father about a riding school where it was intended G should have lessons. En route to join her there, the father spoke to the mother but she told him that she and G had already left that place.
- M. G had contact as normal with his mother during September and early October 2020. The father saw the mother when he delivered and collected G.

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- N. On 3 October 2020, G attended a trip with his religious school.
- O. The father dropped off G for contact with his mother on 8 October 2020 and collected G for Friday prayers on 9 October 2020. He returned G to his mother's care by about lunchtime on 9 October 2020. That was the last time the father saw G.