

NEUTRAL CITATION NUMBER: [2026] EWFC 133 (B)

THE FAMILY COURT

SITTING AT OXFORD

HEARD ON 1ST TO 5TH JUNE 2026

JUDGMENT HANDED DOWN ON 11TH JUNE 2026

BEFORE HER HONOUR JUDGE OWENS

F

And

M

And

A (acting through her rule 16.4 Guardian, NYAS)

Representation:

The Applicant, F, not represented

The First Respondent, M, represented by Mr Kelleher, Counsel

The Second Respondent, A, through her rule 16.4 Guardian, NYAS, allocated caseworker Ms Chambers, represented by Ms Patel, Counsel

Court appointed QLR Ms Belegu, Counsel, for cross examination of M, MGM and Aunt

This judgment is being handed down in private on [11th June 2025]. It consists of 52 pages and has been signed and dated by the judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the children and the adult members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties and the child will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

Introduction

1. This case concerns one child, A, who is six years old. A's parents are M and F. They were in a relationship from 2012 until shortly after A was born in 2020.
2. F made an application for a Child Arrangements Order (CAO) on 24th September 2020. That application concluded with a final order by consent on 12th May 2021 before Magistrates. The final order was for A to live with M but spend time with F contact every Wednesday from 4pm to 6pm, building up to alternate weekends with overnight staying contact during 2022, with some shared holidays and such other time as the parties were able to agree.
3. During the period between F making the above application and March 2024 it appears that the parties each alleged various issues around contact, and M twice contacted social services to report concerns about A's care when with F. However, it appears that nothing came of those complaints following investigation by the Local Authority and contact between A and F did not stop despite those allegations. They also did not prevent the parties agreeing the CAO made on 12th May 2021 and the Court endorsing that agreement.
4. At the end of March 2024, M alleges that A made allegations of sexual abuse by F and stopped A spending time with F. On 20th June 2025, F applied to enforce the Child Arrangements Order (CAO) made on 12th May 2021. That application was gatekept by a Legal Adviser on 3rd July 2025, who listed the matter for a First Hearing Dispute Resolution Appointment (FHDR) before Magistrates on 2nd September 2025. It was not clear on the paperwork before the Legal Adviser at that stage that contact had been suspended because of sexual abuse allegations. Had it been made clear I have no doubt that the case would have

been allocated to a District Judge in line with allocation guidance. CAFCASS was directed to complete safeguarding by 4pm on 18th August 2025.

5. On 10th July 2025 M applied on a form C2 to vary the CAO made in 2021. This appears to be the first mention of alleged sexual abuse in any application, and the application also therefore appropriately sought re-allocation to a District Judge. The case was duly re-allocated by a Legal Adviser considering the matter on the papers on 13th July 2025, but this also meant that the FHDRA had to be moved to 16th September 2025.
6. On 16th September 2025 coincidentally the District Judge FHDRA list had to be moved to my list due to lack of District Judge availability. With input from the CAFCASS duty officer present for that hearing, considering PD12J and PD16A, and having heard from both parties, I re-allocated the proceedings to a Circuit Judge, suspended the 2021 CAO, joined the child and invited NYAS to act as Guardian due to lack of CAFCASS capacity. Orders for police, school, CAMHS and Local Authority disclosure were also made. The parties were directed to file evidence, starting with M setting out her allegations and then F responding. I listed the matter for a case management hearing on 14th November 2025 to consider whether a separate Fact-Finding Hearing (FFH) was required, input from the Guardian about interim contact, and any other necessary case management to progress proceedings.
7. However, due to a combination of NYAS needing more time to allocate a caseworker and prepare for the next hearing and a delay in obtaining police disclosure, parties submitted a consent order with a C2 application seeking to re-timetable proceedings on 6th November 2025. There was also an issue with obtaining A's medical records. Her GP had been directed to provide these by

way of a third party disclosure order made at the FHDRA in September, however initially the GP queried the appropriateness of complying with this order though did not apply to vary the order, then provided the records but in such heavily redacted form as to make them evidentially useless for the purposes of ascertaining if there was relevant evidence in relation to the abuse allegations. No application had been made to redact or withhold information about the child or parents, so it was made clear to the GP that they needed to supply the unredacted records or make an application if they sought to withhold information about the child or parents. The unredacted records were eventually provided in early November 2025.

8. The case was re-listed for a Directions Hearing on 16th January 2026 before me. By this point F, who had been legally represented in the earlier stages of the proceedings, was representing himself. M was legally represented and NYAS was fully on board with an allocated caseworker. Police, Local Authority and school disclosure was still outstanding so further disclosure orders were made against them. Directions were made for final evidence about the allegations, and the matter was timetabled to a FFH on 1st to 5th June 2026 inclusive, with a Pre-Trial Review (PTR) listed on 11th May 2026 to ensure that this FFH could be effective. Directions for any application for A to give evidence and consequential Re W assessment, and for any application for a prohibition on cross-examination and appointment of a Qualified Legal Representative (QLR) were also made.
9. On 11th May 2026 it was confirmed that no application for A to give evidence was being made by any party. No party had made any application in relation to a QLR within the timescale directed at the last hearing, but M made an oral application through her counsel for F to be prohibited from cross-examining her

direct and for a QLR to be appointed. It was not helpful that this application had not been made prior to this because it was not initially clear on what basis M sought to argue that the discretionary power to prohibit cross examination and to appoint a QLR should be exercised in this case, though M had been unrepresented for a period in between the two hearings. Such a late application also risked the effectiveness of the listed FFH if the court was unable to source a QLR for that hearing. Some disclosure was outstanding, and two of the witnesses that M sought to rely upon in support of her case were apparently not available until days 4 and 5 of the FFH, which also risked the case not concluding within the time available for evidence and submissions. I therefore listed another PTR before me on 22nd May to try to ensure that the FFH could be effective.

10. Very fortunately, later on 11th May 2026, the court administration confirmed that a QLR, Ms Belegu, had accepted the appointment and was available for both the adjourned PTR and the listed FFH.
11. By the time of the adjourned PTR on 22nd May 2026, it seemed as if the case was trial ready for 1st to 5th June, with M's witnesses able to give evidence on days 2 and 3, and the QLR confirmed as only required for day 1. Some disclosure was still outstanding, but it was not felt that this would affect the hearing whether received or not since the police disclosure, CPOMs, school and some other agency and charity disclosure and the statement of the social worker had been filed as directed.
12. On the morning of day 1, F made an oral application to have a QLR cross-examine MGM and aunt. Whilst again, it was unfortunate that this had not been sought previously, I did manage to deal with the application and conclude that it was necessary to exercise my discretionary power to prohibit cross-examination

direct of these two further witnesses and appoint Ms Belegu (who was fortunately available too) to cross-examine them. The basis for my decision was that F would be potentially intimidated by MGM and aunt given their negative views of him based on the evidence before me, and his cross-examining them in person would thus risk the quality of the evidence from them being adversely affected.

13. During the evidence of MGM and the aunt it became apparent that a) they may have seen a notebook that M had been compiling of allegations about F (the so-called 'book of allegations', a different book to the contact book), and b) may have been shown various documents from the proceedings by M in breach of the strict confidentiality required under the Children Act. This led to M being recalled on the afternoon of day 2, when she confirmed that there was a book of allegations, that she could produce this for inspection, though she denied that she had shown it or any papers to the MGM or aunt. The result of this, as well as this arising at the end of the Court sitting day, led to her being directed to produce the book of allegations to her solicitor that evening and for its contents to be disclosed into these proceedings. However, since Ms Belegu was not available for day 3 and there were three professionals scheduled to give evidence then, TA, SW and the Safe worker, this also meant that cross-examination of M about the information either from the book of allegations or elsewhere that might have been shared with the MGM and aunt could not conclude until the morning of day 4. On the morning of day 4 it also became apparent that the MGM may also need to be recalled about the entries in the book of allegations now that the entries themselves had been disclosed into the proceedings. Fortunately, she was available for 9.30am on day 5 and so was Ms Belegu, so MGM was recalled then with no party objecting to her being taken out of order after F's evidence on

day 4 since she had not been available for day 4 and further cross-examined by Ms Belegu and Ms Patel about the book of allegations.

14. It also became apparent during evidence from the Safe worker that she had compiled case notes after each session with A and had used those to write her statement. Alarming, she also told me that the statement that she had signed as being her evidence and to confirm the truth of the contents had in fact been written jointly with her manager and that only three paragraphs were her evidence. She also told me that she was aware that there had been a referral to Safe but was not aware of the contents of that referral and, given the issues around the basis on which Safe worked with A that also became apparent during her evidence, it was necessary to order disclosure of both her case notes and the referral form. The case notes were duly provided, but the referral form was not since it seems Safe regarded the information on that form as not belonging to Safe and therefore not something that they could disclose without the consent of the data owner. The case notes did not contain anything more than notes from the sessions themselves.

15. In addition to the witnesses noted above, I have also read the evidence contained in the Bundle prepared for this FFH, read the book of allegations, and read the Safe worker's case notes.

Parties' Positions

16. M alleges that F has physically and sexually abused A. She has made historic allegations of domestic abuse but has not pursued those allegations in these proceedings and accepts that the court will therefore disregard those entirely in the factual matrix that will ultimately inform welfare decisions about A.

17.F denies that he has physically or sexually abused A. He alleges that M has consciously or unconsciously coached A into making allegations of physical or sexual abuse against him, and that M has engaged in alienating behaviours.

18.NYAS, as A's rule 16.4 Guardian, is neutral in relation to the allegations, but has sought to explore the evidence to assist the Court in considering the evidence.

Relevant legal considerations

19.Practice Direction 12J is applicable given the allegations and is what has led to this separate FFH. At para 1 sexual abuse or violence is included in the definition of abusive behaviour. Para 2 makes it clear that this applies to allegations of abusive behaviour towards either a child or party by another party.

The purpose and focus of a FFH in the Family Court context is wholly different to that in a criminal court: *"The latter is concerned with the culpability and, if guilty, punishment for a specific criminal offence, whereas the former involves the determination facts, across a wide canvas, relating to past events in order to evaluate which of a range of options for the future care of a child best meets the requirements of his or her welfare. Similarly, where facts fall to be determined in the course of ordinary civil litigation, the purpose of the exercise, which is to establish liability, operates in a wholly different context to a fact-finding process in family proceedings. Reduced to simple basics, in both criminal and civil proceedings the ultimate outcome of the litigation will be binary, either 'guilty' or 'not guilty', or 'liable' or 'not liable'. In family proceedings, the outcome of a fact-finding hearing will normally be a narrative account of what the court has determined (on the balance of probabilities) has happened in the lives of a number of people and, often, over a significant period of time. 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.” (McFarlane LJ in **R (Children) [2018] EWCA Civ 198** at para 62).

20. Applying **A (No.2) (Children) (Findings of Fact) [2019] EWCA Civ 1947**:

*‘[100] **The questions for every fact-finding are What, When, Where, Who, How and Why?** Their significance and difficulty varies from case to case. Some answers will be obvious while other questions can be extremely hard or even unanswerable. **Sometimes a question may not need answering at all. At all events the questions come in no set order and each inquiry will suggest its own starting point. It will no doubt find apparently solid ground and progress from there, but conclusions can only ever be provisional until they have been checked against each other so as to arrive at a coherent outcome. At each stage, regard is had to the inherent probabilities and improbabilities surrounding what are inevitably abnormal circumstances.**’*

21. The burden of proof is on the person making the allegations and the standard of proof is to the civil standard, ie on balance of probabilities (**Re H-C (Finding of Fact: Rehearing) [2016] EWFC 48**, and **Re B (Children) (Care Proceedings: Standard of Proof) (CAFCASS Intervening) [2008] UKHL 35**). There is no burden of proof on the person against whom allegations are made to disprove them, or to provide alternative explanations (**Lancashire County Council v. R and W [2013] EWHC 3064 (Fam)**). If an allegation is not proved then the court will disregard it entirely, similarly if it is proved the court will treat it as established

and it will form the factual matrix against which welfare decisions will subsequently be made.

22. Findings of fact must be based on evidence, suspicion is not proof, and the Court must be careful to avoid speculation, particularly when there is gap in the evidence (***Re A (A Child) (Fact-finding Hearing: Speculation) [2011] EWCA Civ12***). The Court is entitled when determining whether or not a fact has been proved on the balance of probabilities to have regard to the inherent probability or improbability when weighing the probabilities and deciding whether, on balance, an event occurred (***Re B ibid***). It is essential to include in any assessment or evaluation every aspect of a case and take fully into account the demeanour of the parent, the evidence of the parties being of utmost importance and they must have the fullest opportunity to take part in the hearing (***Leeds CC v. YX & ZX [2008] EWHC 802 (Fam)*** and ***Re W and another (Non-accidental injury) [2003] FCR 346***). The court takes a 'wide canvas' approach, and scrutinises relationships over time, rather than applying criminal definitions (***Re A [2022] EWHC 3089 (Fam)***). In assessing the evidence of the parties, the Court will bear in mind their personal characteristics and in particular, any mental ill-health/disabilities from which they suffer which may impinge on their evidence (***S (A Child) (Care Proceedings; Surrogacy) [2015] EWFC 99***). The range of facts which may properly be taken into account may be infinite, and can include family history, parental attitudes, omissions that might not reasonably have been expected, abnormal behaviour by a child, and unsatisfactory parental responses to complaints, allegations or facts which may be minor when viewed in isolation but when taken together may suffice to satisfy the Court or the likelihood of future harm. The Court will attach to all relevant facts the appropriate weight when

coming to an overall conclusion on the crucial issue (***Re H and R (Child Sexual Abuse) [1996] 1 FLR 80***).

23. It is not, however, necessary to determine every subsidiary date-specific factual allegation (***K v K [2022] EWCA Civ 468***).

24. Contemporary documents are always of the utmost importance (per Mostyn J in ***Lancashire County Council v R [2013] EWHC 3064 (Fam)*** at Para 8) for, with every day that passes, the memory becomes fainter and the imagination becomes more active. The human capacity for honestly believing something which bears no relation to what actually happened is unlimited. ***Lancashire County Council v The Children and Others [2014] EWFC 3*** and the comments of Jackson LJ about the approach to repeated accounts and possible reported discrepancies may also be pertinent to a FFH, as is the commentary of Mostyn J in ***AO v LA [2023] 2 FLR 465*** (albeit in the context of Civil cases): *“the potential dangers of placing too great a regard on testimony based on a witness’s memory have been expressed in para 1.3 of the Appendix to CPR PD 57AC. This states: Witnesses of fact and those assisting them to provide a trial witness statement should understand that when assessing witness evidence the approach of the court is that human memory:*

(1) is not a simple mental record of a witnessed event that is fixed at the time of the experience and fades over time, but

(2) is a fluid and malleable state of perception concerning an individual’s past experiences, and therefore

(3) is vulnerable to being altered by a range of influences, such that the individual may or may not be conscious of the alteration.”

25. Given the evidence about how two organisations worked with A, and the widespread use of the term 'disclosure' by both lay parties and professionals in relation to what A has alleged, I have also reminded myself of the guidance from MacDonald J in **AS & TH and ors [2016] EWHC 532 (Fam)** and **Re P (Sexual Abuse: Finding of Fact Hearing) [2019] EWFC 27**. In the latter case, MacDonald J noted the challenges of assessing the evidence of a child where that evidence has not been tested by cross-examination: "259. *In family proceedings, evidence given in connection with the welfare of a child is admissible notwithstanding any rule relating to the law of hearsay (see the Children (Admissibility of Hearsay Evidence) Order 1993). The weight to be attached to a piece of hearsay evidence is a question for the court to decide (Re W (Fact Finding: Hearsay Evidence) [2014] 2 FLR 703). Within this context, a serious unsworn allegation may be accepted by the court provided it is evaluated against testimony on oath (Re H (Change of Care Plan) [1998] 1 FLR 193). It is very important to bear in mind at all times that the court is required to treat hearsay evidence anxiously and consider carefully the extent to which it can properly be relied upon (see R v B County Council ex parte P [1991] 1 WLR 221).*

260. *In this case, these principles are thrown into particularly sharp relief in circumstances where none of the children who have made allegations of sexual abuse have given oral evidence at this hearing and been cross-examined on behalf of those against whom they level those allegations. Mr Bagchi and Ms Bains, citing the American jurist John Henry Wigmore, who observed that "Cross-examination is the greatest legal engine ever invented for the discovery of truth", remind the court that oral evidence given under cross-examination reflects the*

*long-established common-law consensus that the best way of assessing the reliability of evidence is by confronting the witness (see **Carmarthenshire County Council v Y & Others** [2017] EWFC 36 at [8] per Mostyn J). Within this context, I remind myself that the Court of Appeal has made clear that where the evidence of a child stands only as hearsay, the court weighing up the evidence must consider the fact that it was not subject to cross-examination (**Re W** [2010] 1 FLR 1485). I make clear that I have done so.*

*261. In circumstances where, in this case, the allegations are comprised of hearsay evidence from children concerning (at least in respect of the children) events which are alleged to have occurred some years prior to the allegations being made, I also remind myself that a court considering the hearsay evidence of a child must consider not only what the child has said, but also the circumstances in which it was said (**R v B County Council, ex parte P** [1991] 1 FLR 470) and, again, that it has long been recognised that care must be taken not to focus attention on statements made by the child at the expense of other evidence (1997 Handbook of Best Practice in Children Act Cases).” He noted the need for caution about human memory generally since it is not a single, simple system, and also that what may be remembered by a child or young person “will not be a complete picture akin to a photograph or CCTV recording, and will vary depending on the age at which the experience took place. What an adult may consider to be a key element of a remembered experience, and therefore key to assessing reliability of the memory, may not be significant from the child’s perspective. The psychological processes involved in encoding, storage and retrieval of memories are susceptible to internal and external influences. With all this context, children’s accounts can be affected by their level of functioning, their*

emotional state and the levels of suggestibility. It is possible for a child to 'remember' an event that has not in fact occurred, or it has not occurred precisely in the way remembered. The child's recollection of past experience can be influenced by the process of questioning the child.'

26. Between paragraphs 572 and 860 of Re P, Macdonald J sets out comprehensively the factors to take into consideration and a suggested approach to handling allegations of sexual abuse, initial contact with children alleging abuse, record keeping, social work intervention and assessment and ABE guidance, referring to the Cleveland and Orkney Enquiries, academic research and previous case law. At paragraph 577 (and repeated at 854), he took judicial notice of the following:

- i) Children, and especially young children, are suggestible*
- ii) Memory is prone to error and easily influenced by the environment in which recall is invited.*
- iii) Memories can be confabulated from imagined experiences, it is possible to induce false memories and children can speak sincerely and emotionally about events that did not in fact occur.*
- iv) Allegations made by children may emerge in a piecemeal fashion, with children often not reporting events in a linear history, reporting them in a partial way and revisiting topics.*
- v) The wider circumstances of the child's life may influence, explain or colour what the child is saying.*
- vi) Factors affecting when a child says something will include their capacity to understand their world and their role within it, requiring caution when*

interpreting children's references to behaviour or parts of the body through the prism of adult learning or reading.

- vii) Accounts given by children are susceptible to influence by leading or otherwise suggestive questions, repetition, pressure, threats, negative stereotyping and encouragement, reward or praise.*
- viii) Accounts given by children are susceptible to influence as the result of bias or preconceived ideas on the part of the interviewer.*
- ix) Accounts given by children are susceptible to contamination by the statements of others, which contamination may influence a child's responses.*
- x) Children may embellish or overlay a general theme with apparently convincing detail which can appear highly credible and be very difficult to detect, even for those who are experienced in dealing with children.*
- xi) Delay between an event recounted and the allegation made with respect to that event may influence the accuracy of the account given.*
- xii) Within this context, the way, and the stage at which a child is interviewed will have a profound effect on the accuracy of the child's testimony."*

27. MacDonald J also identified 'the manifest dangers' from adopting an approach that the child is to be believed. At para 579, referencing the Cleveland Enquiry, he reinforced that: *"throughout the phase of the initial assessment and preliminary decision-making, social workers should be conscious of the fact that the presumption that the abuse has taken place can have damaging repercussions for the child and the family. Equally an abnormally low level of alertness to the possibility of child sexual abuse may deter children from subsequently trusting adults sufficiently to reveal the fact of abuse to them".* In

the same paragraph, he also highlighted guidance from the Orkney Enquiry that all those involved in investigating allegations of child sexual abuse must *“keep an open mind and not fall into the trap of confusing the taking of what a child says seriously with believing what the child has said... The preservation of an open mind requires a concentration in listening with care to what a child says, absorbing all that is said and weighing the child’s words objectively. A mind coloured by suspicion or a mind already moving towards a diagnosis can readily undervalue or ignore material that does not fit with the preconceived picture. Similarly material which does appear to fit may be over emphasised and highlighted in such a way as to distort the child’s further account of the situation ... as much care should be given to assessing a denial as examining an allegation ... Where allegations are made by a child regarding sexual abuse those allegations should be treated seriously, should not necessarily be accepted as true but should be examined and tested by whatever means are available before they are used for the basis of action.’*

28. At paras 600-60 MacDonald J summarised the considerations which a Court must have in mind when evaluating the evidence of a child who has made allegations of sexual abuse: *“600. Having regard to the matters set out in this section of the judgment, in evaluating the weight that can be attached to the allegations made by [named children] [...] and in summary, the court must consider the extent to which the following principles have been adhered to:*

- i) *Having regard to research into the manner in which a child registers, processes and recalls experiences from memory and the factors that may influence that recollection, and to long experience that emphasises the high level of caution that needs to be applied if the risk of obtaining unreliable*

evidence is to be minimised, very great care must be taken by adults when speaking to children who have made allegations of sexual abuse, and when analysing and assessing the weight to be given to statements by those children.

- ii) Adults speaking to children who have made allegations of sexual abuse must always be careful to keep an open mind with respect to the allegations made and to guard against the development of bias or preconceived ideas. The child should be listened to and taken seriously whilst care is taken not to prejudge the issue.*
- iii) Adults speaking to a child who is alleging sexual abuse should not stop free recall of events.*
- iv) Adults speaking to a child who is alleging sexual abuse should ask no more questions than are necessary in the circumstances to take immediate action.*
- v) Where it is necessary to ask questions, adults speaking to a child who is alleging sexual abuse should, as far as possible in the circumstances, ask only open-ended or specific closed questions, rather than forced-choice, leading or multiple questions.*
- vi) Any initial questioning by adults speaking to a child who is alleging sexual abuse should be intended to elicit a brief account of what is alleged (where and when the alleged incident took place and who was involved or otherwise present). A more detailed account should not be pursued and should be left to the ABE interview.*
- vii) As soon as possible thereafter the adult must make a comprehensive record of the conversation, which record should detail (a) the timing, setting*

and people present, (b) a full note of what the child said in the words used by the child (avoiding summaries of the account in the interests of neatness or comprehensibility and recordings of the adult's interpretation of the account), (c) a full note of the actual questions asked (if any) and (d) what was said by anybody else present. The record should also record the demeanour of the child and anything else that might be relevant.

viii) The adult should continue to record any comments made by the witness or events that might be relevant to the legal process up to the time of the ABE interview.

601. It is important to emphasise that in evaluating the extent to which those charged with, or finding themselves receiving allegations from children, have complied with these principles the court does not expect perfection and it would be unrealistic to do so. As Mr Vater and Mr Watson remind the court, complete adherence to 'guidelines' does not mean that an allegation is true; wholesale failure to adhere to 'guidelines' does not mean that an allegation is false. In the paper provided to the court by Mr Bagchi and Ms Bains, Children's Suggestibility Research: Things to know before interviewing a child (Anuario de Psicología Jurídica 25 (2015) 3-12) Ceci and his co-authors make clear that it is important not to discount a child's testimony merely because that child has been exposed to suggestive questioning. The Court must consider a whole range of factors."

29. In relation to alienating behaviours, I have had regard to the Family Justice Council Guidance issued in December 2024, which incorporated guidance from cases such as ***Re C (parental alienation: instruction of expert) [2023] EWHC 345 (Fam)*** and ***Re S (Parental Alienation: Cult) [2020] 2 FLR 263***. I have

reminded myself that a court would need to be satisfied that three elements are established before it could conclude that alienating behaviours had occurred:

- a) The child is reluctant, resisting or refusing to engage in, a relationship with a parent or carer; and
- b) The reluctance, resistance or refusal is not consequent on the actions of that parent towards the child or the other parent, which may therefore be an appropriate justified rejection by the child, or is not caused by any other factor such as the child's alignment, affinity or attachment; and
- c) The other parent has engaged in behaviours that have directly or indirectly impacted on the child, leading to the child's reluctance, resistance or refusal to engage in a relationship with that parent.

30. Applying the Guidance, the Court should bear in mind that manipulation of a child by a parent need not be malicious or even deliberate, it is the process that matters not the motive.

31. As the above Guidance also makes clear, although such allegations of alienating behaviour are often raised in response to allegations of abuse and feature in at least 50% of private law children cases, research suggests that alienating behaviours which actually impact on the child's relationship with the other parent are relatively rare. Consequently, findings of this will also be relatively rare. The behaviour of a child, or even where it is found that false allegations have been made, are not per se evidence of alienating behaviours.

32. ***R v. Lucas [1981] QB 270*** is also relevant since it is not unusual for witnesses in these cases to tell lies, but a court must be careful to remember that a witness may lie for many reasons including shame, misplaced loyalty, panic, fear or distress. The fact that a witness may lie about some matters does not mean that

they have lied about everything. The *R v. Lucas* guidance was amplified and enhanced in *Wigan Council v. M & Ors (Sexual abuse – Fact Finding) [2015] EWFC 6* and in *Re H-C (Children) [2016] EWCA Civ 136*. The latter case held that it is important to remember that a lie can never be taken, in itself, as direct proof of guilt in the criminal jurisdiction and the Family Court should adopt the same approach. A lie is therefore capable of amounting to corroboration but is not itself direct proof of the matter in issue. To amount to corroboration, a lie told in or out of court must be deliberate, must relate to a material issue, the motive for the lie must be a realization of guilt and a fear of the truth (though noting the *R v Lucas* multiple other potential reasons for lying), and it must be clearly shown to be a lie by evidence such as admission or by independent evidence.

Analysis and Findings

33. I have considered M's allegations first since these led her stopping A spending time with F and, in turn, to F making his application for enforcement. This also follows the order in which parties have dealt with the evidence in this FFH too. Essentially, M's evidence boiled down to a history of her being concerned about how A was before and after spending time with F, dating back to before the CAO was made, then in late March 2024 that A made two comments about her not using her finger when cleaning A and, that over time, A has repeated those comments to her, the MGM, the aunt, and professionals and added other explicit details. It is therefore necessary to carefully examine the chronology of the allegations, the context when each was made, as well as look at the details for consistency and inconsistency.

34. It became clear and relevant during this FFH that M kept a book of allegations detailing concerns about A and the time she spent with F, and the first entry in

that book dated back to 19th August 2020 when A would have been nearly 19 months old, continuing to early January 2025. M's evidence about why she came to create the entries was that she spoken to a health visitor about concerns about how A was before and after spending time with F, and the health visitor advised her to write them down. She could not recall when this happened, perhaps understandably given the length of time that seems to have been involved and the number of times on her own evidence she sought advice from health visitors. Initially, when questioned by Ms Belegu and Ms Patel, M's evidence was that she became concerned about A's behaviours in 2022, and which M thought meant A was struggling with the increase in contact under the CAO. M told me that she had 'logged' these behaviours, though it was not clear that she meant in a wholly separate notebook kept purely for these purposes. She accepted that she had not always put her concerns in the contact book that traveled with A between her parents, despite this being the purpose of that book, but she did tell me that she had emailed and texted F at times to tell him her concerns and the recital to the CAO did note that they could also communicate about A in this way around contact.

35. When MGM gave me her evidence on day 2 , she told me that she thought the concerns about A spending time with F started when A was around 2, and that there had "been some helpful health visitors, first one really helpful, she would advise her (M) and would say she didn't think it was a good idea to take A on contact". When M was recalled about the book of allegations, she told me that she was "advised by the health visitor X to write down at the time, just concerning behaviours at the time, had not long been in the area, she contacted me when I moved...she recommended to take notes of behaviours and gave tips about

weaning etc, general health visitor stuff. This was around the year that court proceedings happened, can't remember definitely when those were, August 2020 to May 2021". She accepted that there were some gaps in the entries, including between 20th August 2020 and May 2021. She was very clear that the book was connected with A having contact with F, and that she started writing it on the advice of a health visitor because she was concerned about A spending time with F, though she did also accept that she couldn't remember what she had said to the health visitor nor everything because it was a very long time ago. When questioned by Ms Patel about this, she again said that the book of allegations came about because the health visitor advised her to write notes down and accepted that it was not part of the health visitor's role to give legal advice.

36. I have carefully read the book of allegations, which has one entry dated 19th August 2020, then a gap until 15th May 2021, with some later gaps in subsequent years as well. The CAO was agreed on 12th May 2021, so the main body of the book seems to have been completed after that point. 15th May 2021 would have been the first weekend that A spent time with F under the CAO, with that time increasing until she would stay overnight with him from the first weekend after her second birthday in January 2022, which would have been the weekend of 29th and 30th January that year (B14 CAO). There are no entries at all for that weekend, but there are other entries before and after noting that A appeared "*emotional*" and "*unsettled*" before and after spending time with F, and some entries noting "*strange erratic behaviour*" by her at times. It also records some comments from A at times saying things like "*no daddy no*". It is clear from both the entries in this book and from M's evidence to me that she drew a clear link between A's behaviour and comments and the time that A was spending with A.

M told me that she wanted to slow the progression of contact envisaged by the CAO because she thought that A was struggling with spending time with F, and attempted to agree with F that they could delay the introduction of overnight staying contact as a result, but F did not agree so she complied with the order. F did not dispute that he was asked to slow the progression of contact but did not agree because he did not consider that A was struggling based on the behaviours he observed and that A needed time to bond with him. Having reviewed M's evidence and the entries in the book, it is entirely possible that what M viewed as A 'struggling' with contact with F was normal for a very young child who had experienced the breakdown of her parents relationship and a series of inevitable changes that followed including her having to move house. It is also very possible that what is now suspected about A's potential neurodiversity may have contributed to her struggling to adapt to changes per se. Comments that M recorded A as making in 2022 and 2024 prior to contact ceasing in March 2024 would have been when A was still very young and therefore her communication would also have been limited by her age and understanding and it is difficult to see why M viewed them as concerning enough to write down as a result. A's communication has also historically been an issue and forms part of her having a SEN. A comment that M noted on 17th January 2024 as *"A said she wanted nanny to take her to the toilet Daddy said 'no' Daddy was not nice to Nanny"* when viewed objectively could have any number of interpretations including perfectly innocent ones, and not just that of M which was somehow that this was concerning behaviour by F. It has no context and what a child of A's age at the time may view as happening is not always the same as what happened. What the book does show is a pattern of M recording things that she regarded as

concerning about A's behaviour before and after spending time with F in the run up to contact stopping at the end of March 2024 and no acknowledgment that there could have been explanations for these other than A not wanting to spend time with F. With this in mind, there is a danger of confirmation bias in what M noted, I find.

37. It is also apparent from some of the entries, as Ms Patel put to M, that some were completed some time afterwards though the precise timeframe is not clear and, at points, may have been completed retrospectively some time afterwards since they say things like "*same ongoing behaviours the rest of the year*" (page 9 scanned page 8 of the book). M's evidence about these retrospective entries was not clear and was not credible. If, as she told me, she was simply compiling a factual log of occasions when she was concerned about A's behaviour before and after spending time with F, it is not clear why she noted some in detail and not others. She did say that she had a lot to contend with and that parenting A was challenging considering her behaviours, but this doesn't explain why she regarded some incidents as worthy of note and some not when they were largely repeats of the same whether recorded individually or dealt with by an overarching comment. Since these behaviours were largely not raised with F on M's own evidence, F was very clear that he had not seen the sorts of extremely challenging behaviours that M described and this also seems to have not been observed by any independent third party in the earlier years, it is not clear why M concluded that this was solely due to A spending time with F. The behaviours could have arisen as a result of the undoubted challenges of parenting a child such as A who has some additional needs (evidenced by her SEN), may be neurodiverse and who has had to adjust to significant changes as I noted.

38. It is not disputed that M contacted the Local Authority on 8th October 2020 and on 4th October 2021 to raise concerns about A in the care of F. As I have noted, the book of allegations only contains one entry for 2020, that of 19th August 2020, and M accepted when questioned by Ms Belegu that there were periods where she had no concerns so had not noted anything in the book, so it is not clear why M felt it necessary to contact social services in October 2020 to raise a concern when her own book and evidence was that there were no concerns at that time. The 4th October 2021 report to social services appears to correlate with a recording in the book from 3rd October 2021 which noted that A had “*a scratch under her left eye on her cheek*”. This may be the scratch that is shown in a photograph referred to in M’s statement at C260 para 19 and exhibited at C270, but M’s statement is not clear about this, and it is only the date of the photograph which is shown as 3rd October 2021 which seems to correspond. It seems as if M did raise this with F at the time based on what is in the Local Authority evidence and what both parties told me, however it only became apparent when the book of allegations had been produced and M recalled that there was a discrepancy between what she noted in the book as a single scratch and the two scratches she reported to social services (E385). The photo itself is not very clear and could show either one scratch or one scratch and a much fainter one next to it. Based on the Local Authority evidence at E385 about this it seems as if it may have been clarified with F after an initial denial that the scratch happened in his care that this arose as a result of a cat scratch when A was in his care, and it seems that social services viewed this as un concerning. At its highest, as the social worker seems to have advised M as recorded at E385, this seems to have been an issue about poor communication between the parties.

39. In 2023, based on the notebook and her oral evidence to me, M was concerned about some sort of discharge in A's pants. This is not addressed in either of her written statements but is recorded as something that she raised with social services in February 2025 (C156). No date was provided to social services but it seemed from M's oral evidence and the notebook as if there was one occasion and that was noted on Saturday 18th February (p10 scanned p9 of the book). Her evidence about why this was a concern, either at the time or since, was somewhat vague and it was put to her that this may have been associated with A's recurrent thrush. She did not accept that it was likely to have been that, but the absence of credible, compelling detail about this, the fact that she only raised it with anybody as a concern some two years later and the inherent greater likelihood of it being discharge associated with thrush means that I am not satisfied on balance of probabilities that this was sinister in origin and does not add weight to her evidence purporting to establish that A has been sexually abused by F.

40. M also raised an issue about A having oil around her bikini area as part of her report to social services on 4th October 2021. However, in the book of allegations this seems to be recorded as 15th October 2021 – "*oil around A's privates. (reported to MASH)*". Oddly, the date is therefore after the phone call to social services on 4th October, but the entry appears just above the 3rd October entry mentioned above. It was not clear from M's evidence to me why this was the case, and it seems more likely than not that M has retrospectively added other entries as I have noted so, on balance, it seems probable that M may have added these two entries in October 2021 after the event and mis recorded the date of one. That could also explain the lack of detail around either entry and the greater

detail provided to social services at the time. The social services record at E385 appears to be the first time that sexual abuse is noted as a possible concern in relation to the oil she observed on A's bikini line. This note is more detailed in terms of the context and what M observed at the time compared to the book of allegations, and noted *"Incident with the oil in nappy area was 3 weeks ago, mother is clear this was not in the vagina but around the private area, no soreness or other concerns that would indicate sexual abuse. Father has given a probable explanation"*. It is not in dispute that the explanation that F provided was that it may have come from the park where A was on a swing. What is notable about this aspect of M's case was how her language around where this oil was changed at points in the written and oral evidence: *"oil on her private parts"* to social services (E385), *"oil round A's privates"* (p4 scanned p4 of book of allegations), *"round her bikini line"* in oral evidence to me". It is also clear that what was observed was not in or around her vagina based on this evidence, so it is not clear why M did not simply accept the explanation that she may have simply got oil on her bottom from playing on a swing and felt it necessary to both note it in the book of allegations and to report it to MASH. The book of allegations entry about this also seems to have been the trigger for her to report it to MASH (leaving aside the date discrepancy) since that is noted against this incident, not the scratch on the face. At this point, it seems as if what M raised with MASH were minor concerns that perhaps suggested an over-anxiety on her part rather than any legitimate safeguarding concern, I find, and also pointed to poor communication between the parents as the social worker rightly noted at E385.

41. On 13th February 2022 M contacted the NSPCC, based on her evidence and that in the Local Authority disclosure (E387). Again, the main area of complaint from M seems to be about poor communication between the parents with M alleging that anything that she advised F of about A being taken as a criticism. M did tell the NSPCC that she was *“not aware of any child protection concerns within father’s home”*, and the concerns she raised about A’s behaviours could also be unsurprising in the context I have noted earlier about A’s additional needs and change, as well as being a reflection of A potentially picking up on M’s anxiety about A spending time with F, I find.

42. On 4th February 2022 the Local Authority disclosure also confirms that M made a report to NSPCC again, alleging that *“the situation with A and her father is getting worse. When A is to visit her father she becomes very upset. A will refuse to put her shoes on and hide in the cupboard. A will also refuse to eat breakfast on the morning that she is to stay with her father. When she returns from her father’s care, her behaviour changes. A is normally a happy child. M is increasingly worried about A. A is headbutting the floor and refusing to eat for 24 hours after returning from fathers. She is also rocking in her cot, backwards and forwards crying when she has been in father’s care. A is also crying her sleep, ‘no no no daddy’”* (E387). The report to the Local Authority was made on 5th April 2022 (E386) by the NSPCC. The assessment of the Local Authority on 6th April 2022 following receipt of this information was that a MASH worker would contact M to discuss the referral and then also contact F to explore the concerns, but noted that the information raised concerns that there was conflict between the parents which could impact on A (E390). F was clear to the social worker who spoke to him as a result that he had not witnessed the sorts of extreme behaviours that M

was alleging when A was with her. An Early Help Assessment was recommended as a result of this referral, which is also in the bundle dated 20th April 2022 and which concluded that this was essentially a private law dispute between M and F and not a matter for social services, though a concern about the potential impact of parental acrimony on A was noted (E396) no other valid concerns were identified by the local authority and that seems to have been a reasonable conclusion based on the information they were privy to at the time from my reading of the evidence.

43. Following the above work by the Local Authority, it is recorded at E402 on 12th September 2022 that communication between the parents had *“greatly improved”* on M’s account to the social worker, and the case was closed to social services accordingly. I would also note, given that some of the supposedly concerning behaviours that M reported to the NSPCC involved A not wanting to put her shoes on or get dressed, that M’s evidence to this Court is that A has also not wanted to do that at times when A was not due to spend time with F as this seems to have been part of the incident on 13th September 2024 reported to MASH by A’s school where A was observed to be rubbing her back and saying that *“M picked me up and threw me on the floor, really hard...cos I pulled her hair”* (E496). As is not uncommon with young children at times, it seems therefore as if A did not always co-operate when being dressed or having to put shoes on, and it sounds as if her behaviour could be extremely challenging at times in response if it included hair pulling. I will return to this aspect of the evidence later, because it provides some insight into how A may view the actions of adults as opposed to how adults may view them and this is directly relevant to what M and other have heard A say at times.

44. At the end of March 2024, it is not in dispute that M stopped A spending time with F. She did so because it is alleged that A made allegations of sexual abuse. Her evidence and that of her witnesses, MGM and the aunt, was that at some point in March A was heard to say “don’t use your finger” when M was upstairs cleaning A on her own in the bathroom after a toileting accident. The precise date for this is not clear, but both M and MGM were clear that A spent the weekend with F as planned following this initial comment. Both M and MGM said that they found this comment “concerning” in their written and oral evidence to me, but were unable to explain why they found it concerning when questioned by Ms Belegu and Ms Patel. The aunt’s evidence about this aspect was also unclear about the precise date that she overheard A say “don’t use your finger” when M was on her own cleaning A in the bathroom after a toileting accident. She was clear that she heard this from downstairs in the living room while A and M were in the bathroom, and that this was both because the comment was loud but also because the house was very small. M accepted that her house was small and that the walls were “paper thin” in her evidence to me. The aunt’s evidence was that she *“asked M for clarification as to what A meant by this comment. I do not recall my exact words, but my question was to that effect. M informed me that A had previously made a similar comment a few days before and that she did not know what A meant by what she said”* I recall replying to the effect that it was strange for A to come out with a statement like this, and that M should seek some professional support and advice” (C322). M, MGM and the aunt all described this comment from A as “a concern” or “concerning”, though were unable to explain why it was concerning as I have noted.

45. It seems from the book of allegations as if M asked A *“why she was saying this”* (p13 scanned p12), but A did not say anything, and the book of allegations seems to record these comments and M asking her about it taking place over the dates of 22nd, 27th and 29th March and 3rd April 2024 with again the entries appearing to have been completed as one block after the event though how long after is not clear. It is also not at all clear from M’s evidence if she attempted to ask F about this. She accepted that she had not put this in the contact book before A went to stay with F for the last time at the end of March 2024, though she seemed unsure if she had raised this in text or email with F and has not produced any such communication in any event. She was asked several times by both Ms Belegu and Ms Patel at points in their respective cross examination of her why she had not raised this with F if it was ‘concerning’, but I did not hear her give a clear explanation or satisfactory answer when this was put to her. I note that she found the process of giving evidence and sitting through a five day contested hearing extremely challenging (though she was afforded breaks and attempts were made to simplify questions by both advocates and by my attempting to clarify in case she was struggling to understand what she was being asked at points). I also note that any parent making the sorts of allegations that M raised in this case would be bound to find this a distressing and difficult experience. However, the burden of proof was on M, and it was both relevant and necessary to explore what she had done to ask F about what A was saying if she thought that it might have come from something that happened in his care. It was also reasonable to expect parents to communicate about this as part of co-parenting in a co-operative way that was putting A’s interests first. It is hard not to see M’s failure to communicate anything about this first comment to F nor to

ask him outright if anything had happened as either the remark did not cause her concern at all, or she took it as confirming her worst fears that A was being harmed in the care of F and was the culmination of years of such suspicions based on the previous incidents she recorded and/or reported to agencies such as the NSPCC and Local Authority.

46. On 4th April 2024 at 20.31 hours the police log confirms that M reported her concern that A had told her *“through her dolly”* that F *“puts his fingers in her and makes her sore”* (E468). She also reported that A had said *“ a couple of times last week and this week ‘don’t use your finger’ when [M] has gone to wash her private area. She has been a little sore. [M] tried to talk about what happened at daddy’s house”* (E468-E469). On 5th April 2024 M produced to the police a video that she had taken, a video that has also been produced as part of the evidence for these proceedings. It is only about 40 seconds long, and seems to start part way through the conversation. The transcript of that video is helpfully contained in the police disclosure at E469-E470. M accepts that she asked A leading questions (though in her oral evidence she actually only accepted asking one leading question, the questions in the video are almost all leading), saying that she was shocked and, of course, I note that she is a lay parent faced with something that, if true, would be deeply shocking and difficult to deal with. M is a child-minder on her own evidence, and does have some safeguarding training, it seems, though it is perhaps understandable if that training which would normally include not asking leading questions went completely out of her mind in the circumstances she described. Regardless of this, what M recorded A as saying did not include the word ‘vagina’ until M introduced it by her leading question “oh, what about her vagina?”. It is also not clear quite what A was describing

happening before that question either, nor whether what she described was something that had happened to her or was something that had happened to her dolly, as the police noted.

47. As a result of the police concerns, and A's very young age, it was decided that they would arrange for an intermediary to assist with a pre-interview assessment to be conducted. Two such assessments were completed, one on 19th April 2024 and one on 6th September 2024 and the contemporaneous notes of each appear in the police disclosure in the bundle. The first assessment recorded no concerns raised by A about potential sexual abuse or inappropriate touching and also recorded her being positive about both being with M and with F at his house, as well as that both of her parents helped her wash in the bath in an entirely appropriate way and in a way that did not cause her any upset. The second assessment was some months later and initially A said that she had no worries about M, being at her paternal grandmother's house, no worries generally, but suddenly when asked *"last time we spoke you said about daddy, feel?"* A answered *"Daddy hits me, bites me, bites me on my face. Takes my pants off and pokes me, makes me sore (indicated with hand to groin)"* (E492). She was then asked *"Can you tell me what 'poke is?'"* and answered *"Takes my pants off and pokes my bottom and vagina...Made it sore. He scratched my face, scribbled on it and coloured it in with a pen"* (E493). I would note from the latter sentence that what A described there would have been likely to have left some form of marks, but there is very little recorded evidence of A returning from spending time with F with marks. The only recorded evidence is the scratch or scratches I have mentioned above, a small mark on her chin which seems to be dated 2021 (C269), and a small bruise on her arm which seems to have

happened in M's care from the contact diary entry accompanying it (C272) and a cut next to her left eye and mark on her forehead from falling over her toy box in September 2021 (C271). Professionals have not observed any concerning marks or injuries on A, and the GP did not record any either.

48. At this point I would also note that M alleged that the GP had failed to accurately record what A said to her during a consultation on 29th April 2024. The GP records of that consultation and M's subsequent request to amend the record appear in the Bundle at E433 and E432. The GP was quite clear both before and after M sought amendment that A reassured her 2-3 times that no-one had touched her inappropriately. It seems from this evidence that M alleges that A whispered in her ear that her father touched her, but this was not heard by the GP and I have some doubt that it happened as M alleges because the GP would have noted a child whispering something in their parent's ear whilst such important information is being clarified with them. It is also odd, if A did what M alleges, that M did not immediately raise it with the GP either. On balance, I did not find M a credible or compelling witness about this aspect. She was also alleging that a GP, trained to deal with these sorts of safeguarding issues, did not comply with her training but made no complaint about that either. I find that M has sought to manipulate the GP record in relation to this consultation in an attempt to bolster her case that A has been sexually abused.

49. When interviewed in a Video Recorded Interview (VRI) applying Achieving Best Evidence guidelines (it is not in dispute that these were scrupulously followed by the police in this case), A did not mention anything about her bottom or vagina. In that VRI the only allegation she made about F was that he hit her with an open hand on her front and back, and that she was 'bitten' on the arm with what seems

to be tongs but, as the police also noted at E482, having watched this VRI several times, her account is very muddled and overall certainly does not reveal any details of anything that could be taken as sexual abuse or inappropriate touching.

50. After contact ceased at the end of March 2024, it is alleged by M that A has continued to make allegations about F's behaviour towards her when she was spending time with her. M's case is that she has revealed more details and that this is consistent with the actions of a child gradually revealing traumatic sexual and physical abuse. The book of allegations ended in January 2025. M said this was because she thought that the reports she made to social services via email would be kept on the social services chronology. It is not clear quite what she thought would then happen to that chronology. Apart from what M and MGM say that A has said from the point of the police investigation onwards, I have looked carefully at what A has or has not said to any other professionals or others about the allegations since that report (there is no evidence of anything being said to anyone prior to this point even on M's case).

51. After the 8th August 2024 when the Local Authority received a referral from the police arising from their investigation of the end of March/early April allegations of sexual abuse, and as recorded by the social worker in his statement at C307, a referral was made by the Local Authority to the Early Help Team. The social work statement says *"During a recent home visit by [redacted], Early Help Practitioner, to gain wishes and feelings of A, she entered the room and shared 'Daddy pokes my bum and my vagina, he hits me and bites me". This was without prompting from workers and was then repeated by A during the course of the visit. This was then escalated to The Children's Assessment Team"*. By this

point, it is not in dispute that M had referred A to a Children’s Independent Sexual Violence Adviser (CHISVA), as a result of which A was provided with some play therapy, and M and A with what is described as *“emotional and practical support to children/young people following rape or sexual abuse”* (E342). That support seems to have been in place between that referral on 21st May 2024 and March 2025 (E342). It seems from the letter that the CHISVA provided as if it was taken as a given that A had been subjected to sexual abuse as that letter says the referral was *“following disclosures of sexual abuse A had shared with her Mother perpetrated by her Father during his care”* (E342). I would note at this point that the social worker seemed to be completely unaware of the need for caution in dealing with allegations of sexual abuse and of the need to preserve an open mind, repeatedly referring to ‘disclosures’ from A, and not able to differentiate between a disclosure and an allegation when asked by Ms Patel about this. He was also unable to acknowledge that there was a difference when I tried to clarify his evidence about this, nor did he appreciate that a matter being reported to the police was not the same as a criminal conviction. The issue of professionals working with children not demonstrating an open mind in this situation is one that also arose in relation to the SAFE worker and the Local Authority disclosure is also peppered with references to ‘disclosures’ from A. I note that the lay witnesses, including M, also referred to ‘disclosures’ from A, but appreciate that they are lay people and may have taken on the terminology being used by professionals. I will address the overarching concern that this issue identifies in relation to general professional practice at the end of this judgment, but would note that shows that those around A, including many professionals who should have known better, were operating in a way that took as a starting assumption

that A had been sexually abused well before anything had been determined. The evidential implications of doing that for this case may be very significant, which is why the judgments of MacDonald J emphasised the need for care.

52. The wider context within which A may have said things to both professionals and to M and the MGM is crucial. It is not clear what M or the MGM may have said to A following the first comment about not using a finger, I find. Their written evidence about this is completely silent about this, the MGM's written evidence also completely lacking any surrounding details leading up to an alleged comment being made as was put to her by Ms Patel. The MGM sought to explain this by saying that she was simply recording the relevant facts. However, as Ms Patel also put to her, it is striking that much of her wording in her statement is identical to that recorded by M in the book of allegations. Whether or not M or the aunt saw the book of allegations and were able to use it to produce their statements was a key disputed issue in this case. As I have noted earlier, the emergence of this book and whether it had been seen by MGM and the aunt led to the MGM and M being recalled, as well as the evidence from the aunt that she had seen papers from the proceedings prior to writing her statement.

53. My note of the evidence from the MGM and the aunt was quite clear. The MGM said she had seen the book, described it as a "notebook with dates and concerns" and that she had "looked inside". Despite this she was adamant that she did not accept that the evidence about later allegations from A could have influenced her recollection of the earlier allegations. Having looked at her statement and what is in the book of allegations, and considered her evidence and that of M to me during the hearing, it seems very clear that MGM did see inside the book despite M's protestations to the contrary. I cannot see how MGM

could have otherwise used the same words as some of the entries, nor confused the dates at times as Ms Patel put to her. It was not, as the MGM tried to tell me when recalled about this, simply a question of her asking M to provide her with more details about incidents that she already had pretty good recall about, I find.

54. Similarly, the evidence of the aunt to me initially was that she had seen various parts of the written evidence that M was producing for these proceedings, particularly her statement and exhibits, and that she had helped M collate these documents following printing them on her printer as M did not have a printer. I accept that M may not have meant to do more than simply use the aunt's printer, and may not have meant to breach the confidentiality of these proceedings, but this is evidence of M failing to properly appreciate the need to avoid sharing information with a witness that might influence their evidence, even if that influence were to be inadvertent. Far more significant, from the way in which M, the MGM and aunt have given evidence to me both in their statements and in person, is the impression that there has been discussion amongst them about what A has said at times. M admitted that there have been such discussions, though she did not accept that A could have overheard any of these. However, on her own account her house is very small and the walls very thin, and it is not clear that A would have been asleep every time adults were discussing these issues downstairs. On the evidence of both M and MGM, A would struggle to go to sleep, though M did say that she would have music playing quietly in her room at nighttime. It is entirely probable that, at times, A may not have been asleep when they thought that she was and may even have left her room at points, though it seems that there would have been a stairgate preventing her from coming downstairs and another preventing her from getting into the living room,

however doors were left ajar as the MGM told me. It is therefore not beyond the bounds of possibility that A may have overheard conversations between the adults downstairs even if they were trying not to disturb her.

55. The context of when A has said things at times is also troubling. As I have noted, she has unfortunately been exposed to an environment of adults not approaching things with the sort of open mind that is required. She has also been exposed to some leading questioning by M based on the video of 4th April 2024, and it is likely that M may well have asked other leading questions at times if she did not appreciate why these should not be asked of A, I find.

56. In 2025 A was also the subject of a Referral to SAFE. The evidence of the SAFE worker was extremely troubling about the assumptions that underlay the work she did with A. It is not clear what A was told about why she was going to be seeing someone from SAFE, but it is clear from the SAFE evidence that they operate from a starting point that they *“offer one-to-one support with a trained practitioner to help children move on from their experience of victimization, using a range of practical and emotional support, advocacy, and protective behaviours-based work to improve emotional literacy and feelings of safety”* (E340 letter from SAFE dated 7th October 2025). The evidence of the SAFE worker in question was, as I have noted, somewhat alarming and made it plain that she did not approach that work with an open mind at all. As she told me, “I always believe the children, we must always believe the children”. This was precisely the sort of lack of open-mindedness that MacDonald J noted had created so many problems in the Orkneys and Cleveland in the past. It is also, I would note, not ultimately operating in a way that is putting the interests of the child first since it may undermine any evidence obtained during their work with a child and, in turn, that

may create difficulties in relation to any Criminal or Family proceedings where that evidence is considered. It is also not clear what was said to A about why she was working with someone, let alone why one of them came from an organisation called SAFE, and it raises a concern that a child such as A, who may interpret things in a very literal way, may have formed the impression that she needed to be kept safe from something, possibly her F, I find.

57. In the same vein, M's evidence about how she has handled A becoming upset, having night terrors or making an allegation is notable. Her evidence was that she would thank A for saying something and write it down. MGM told me that it went further than this and that M would tell A that she would write it down, and M initially said that to me herself, but then changed this to say that she had not said that. She did say that she had taken advice from a police officer about how to handle any allegations from A, though this advice was that this came from someone who was not the officer in the case as she said in her statement (C98) and it does not appear anywhere in the police disclosure. It does seem unlikely that a police officer would have told her to tell A that it would be written down, especially since a police officer would be very likely to be aware of the risks of how this might affect A and anything said subsequently by A and how this might impact on any criminal investigation. Regardless of that, even thanking a child such as A could be viewed as A having done something that she is being praised for.

58. M also told me that she would respond to A becoming upset or having a night terror by telling A that she was 'safe', and that she would cuddle her until she calmed down. MGM told me that they would try to distract A when she became distressed and, in relation to an example when she said that A reacted badly to a

doll in a toy shop, that this could mean taking her to a different shop or buying her ice-cream to distract her. This could all be seen by A as being a) told that there is validity to not feeling 'safe' anywhere else and particularly in the care of F, and b) being rewarded for showing distress. At the very least, it forms part of a complex and troubling picture of A living surrounded by people who were operating from a perspective that A was not safe with F, and that anything that she said to them was true, I find. Even if this was not deliberate on the part of those around her, it is bound to have potentially affected what she was saying and fed into the development of those allegations, I find.

59. It is also troubling that, although they strenuously denied this in their evidence to me, both M and MGM have clearly had access to the book of allegations and worked on what is in there together as I have found. This is bound to have affected their recollection of events subsequently and may have also fed into the development of supposed allegations made by A later. In the book of allegations M noted at page 11 (scanned page 10) "*Monday 12th Feb Bath time putting toys on her vagina*". It seems this is 2024 from the year that heads the page in question. This predates the allegation made in the bath on 4th April, and the comments allegedly made at the end of March about not using a finger. There is no context for this being recorded, and it is not clear why this was noted by M let alone why she would have associated it with F at that point unless, as she told me, the contents of this book were purely recording her concerns about A's time with F and issues around that and somehow she associated a child doing what is described with that. The notable thing about this entry is that it echoes something that M says A has said later in August 2024 about F putting toys on her vagina (C259), but this is not something that M reported as a concern at the

time. The lack of detail from M about what the entry in February 2024 about this was referring to, and the possibility that A may simply have been playing or exploring her body in way that many young children do, means that it is less likely that this is evidence of A having been sexually abused, I find.

60. M was asked by both Ms Belegu and then Ms Patel about the use of the word 'vagina' by A. M's evidence was that she has always taught A the correct words for her body, and this is clearly not something that is ordinarily problematic. However, quite what A has said and what she has meant when she has referred parts of her body and things happening to them is a major issue in this case. It was noted by the police that it was M who introduced the word 'vagina' in the video on 4th April 2024, and this is not a word that A has used to any professional initially. It is also striking that when A has referred to her vagina initially, she said that she was touched or poked 'through' her vagina or bottom and it is only much later that M or MGM say she talked about being poked 'in' her bottom. This was not something she said in her VRI when questioned by an officer who was clearly very skilled in conducting an ABE compliant interview. Even in her pre-interview assessment when she mentioned something about being poked in her bottom, she was unable to explain what she meant by this despite the officer carefully and appropriately trying to clarify with her. I can take judicial notice of the fact that a young child may not necessarily appreciate or perceive a difference between the vagina and labia, and that this can extend to not being able to differentiate between vaginal and labial penetration too. A may not therefore have been able to differentiate between the two if this had happened to her. However, it was notable that M herself was confusing in the language that she used when giving me her evidence about what A had said, referring to A's 'private parts'

rather than using the correct terminology and, as I have noted, her language about the oil she saw on A's bottom and where precisely this was also changed over the course of her reporting her concerns and in her evidence to me. I appreciate that a lay person, and particularly a parent struggling with shocking and difficult things like this, may not always be terribly precise in their language. However, this is clearly another part of the complex and concerning context within which A has made the comments that have been recorded by third parties. Put simply, if A has said one thing and M has noted it or remembered it as saying something subtly different and potentially more sinister than the original comment because of her perception that F has harmed A, this would tend to make the evidence about what A has said less reliable even if the comment has been made to a neutral third party.

61. There is then the added complication of A having made some comments to a third party who told me that they were not neutral and were not approaching working with A with the sort of open mind that is required. The SAFE worker is a particularly troubling example of this. She produced her case notes after it became apparent that these existed when she gave me her oral evidence, and because of her evidence to me about how her statement was produced. Leaving aside that neither she nor her manager apparently understood that the statement should have been the SAFE worker's evidence alone rather than a combined effort between her and her manager and that the SAFE worker did not read or understand the declaration of truth that she had signed on the statement when asked about it, the SAFE worker was also not a very clear or compelling witness about the work that she had actually done with A and the context within which A came to make the allegations about her paternal grandmother and F hitting her

and biting her. The case notes provide more context, including that some of the sessions took place at A's home with M present, and some were at school with a member of school staff present. The case notes show that the SAFE worker did ask A questions about what she had said and that she commented on what A first said on 4th June 2025 that *"it was not nice for her nanny to do that"*. The work seems to have included asking her to write down her worries and good things (11th June 2025 case note) and asking her to do this prompted her to say she *was worried about seeing her daddy in her mind"*. On 2nd July 2025, the case note recorded that *"at one point she said bad people went to jail and she hoped her daddy went to jail as he did bad things. She said he hit her and bit her"*. After that session A declined to engage with other sessions with the SAFE worker. Although the comments from A in the SAFE worker's statement were in quotes as direct speech, and the SAFE worker said that she could recall this but had used her case notes to refresh her memory, I do note that there is no direct reported speech in the case notes themselves, so it is not entirely clear to me that the SAFE worker's recollection is as clear as she told me it was when she gave her evidence. Both M and the SAFE worker were asked by Ms Belegu and Ms Patel about A using the word jail. M and the SAFE worker said that they thought A would have picked up the word from children's television or from her peers. However, neither addressed how such a young child as A was in July 2025 would have been able to make the link between a person doing bad things and going to jail as a result and what she was saying F had done to her. That is also potentially more abstract thinking in connecting the concept with the allegations, and I am not clear that A would have been likely to do that at her age without an adult telling her that, a concern that is increased when I remind myself

that A may be neuro-diverse and therefore potentially more likely to struggle with abstract thinking at any age, I note. On balance, it seems more likely than not that A has picked up on something that adults around her have said about F, I find.

62. One further key piece of undisputed evidence that is relevant to the background and context of A's allegations is her medical issues. There is no dispute that A has a long history of bowel and bladder issues, starting when she was approximately six months old. These issues were significant, culminating in her being seen by the bowel and bladder clinic and being prescribed increasingly more significant quantities of medication to try to tackle recurrent constipation. She also had recurrent UTIs, vaginal thrush and experienced frequent and distressing episodes of soiling and being extremely sore because of the consequences of the medication administered to cause her to evacuate her bowels. The Local Authority, medical and police disclosure all note these aspects. Although F denied that A was sore when she spent time with him, his written evidence and his input to the Local Authority makes it clear that he did at times notice that she was sore, this was a recurrent issue and he clarified when I asked him that he had to apply cream at times. Although Mr Kelleher noted in closing that F's evidence about applying cream, and whether he had bathed A's genitalia at times, was inconsistent, F has no burden of proof in relation to these allegations and has no burden to provide any alternative, potentially innocent alternative explanation for what A has said.

63. Based on the medical evidence before me it seems clear that A had a serious, chronic issue with her bowel and bladder which led to her frequently being extremely sore and needing to be cleaned after toileting accidents. It seems

more likely than not she would have found being cleaned, even carefully, painful when she was very sore and even the application of cream to soothe her might have also been painful at such times. Although M disputed the GP record and tried to get it amended afterward, the GP did not note any allegation made by A of sexual abuse or inappropriate touching by F when she saw A shortly after the 4th April 2024, despite what seems to have been careful and appropriate questioning by the GP. In this context, M seeking to get the GP to amend her record is concerning. It chimes with concerns expressed by professionals during the police investigation and the involvement of social services that M *“was very keen for A to speak to professionals and seems obsessed with the sexual abuse. Concerns it is being driven by mother not A”* (E477), and *“seems to tell anyone about the ongoing investigation and is very fixated on this”* (E498).

64. M and MGM also set out in their written and oral evidence that A has, in their view, been ‘triggered’ by things she associates with F, such as toys, cars that look like his, and mentions of fathers. They are, of course, not qualified to identify when a child has responded to something because of past trauma as opposed to displayed coincidental behaviour that is not actually as a result of something seen or said. It was also apparent from their evidence that they do not appreciate that there may be a difference between how they as adults may view something as opposed to a child. Ms Patel also pointed out in submissions that an adult may also view things through a particular lens, in this case through the lens that A has been sexually and physically abused by F. The only independent evidence of A saying anything to a professional that shows she has a negative association of some kind with her paternity or identity is that of the TA who only worked with A briefly in the period February to March 2025. The TA accepted

that she did not handle the situation well because she asked A some questions when her training told her not to. As with some of A's other allegations to both professionals and maternal family, it seems as if the first comment came out of the blue and was not very detailed. One of the other things that A has said to professionals since the initial allegations surfaced in April 2024 is that F not only hit her but bit her toes, making them bleed. M was asked about this by Ms Belegu and then by Ms Patel. Her evidence was not clear or compelling. I tried to clarify because she persisted in simply answering that A's toes were sore when she was asked if she had ever seen cuts or bleeding on her toes. She then said that A always had cuts and scabs on her toes and that M had seen these, but could not remember when this was nor when it was in relation to A spending time with F. I did not find her credible about this and it seemed M was simply inclined to think the worst F even where something that A had said did not make sense based on her observations, I find. This is in marked contrast to the way in which she responded to A making an allegation about M hurting her, I note. It is not in dispute that in November 2024 an urgent strategy meeting was convened because A had been observed at school to complain about her back hurting her and said that this was because M had thrown her on the ground really hard because she pulled her hair. M's explanation for this at the time and since is that this was because A was refusing to put her shoes on, and that M put her on the naughty step as a result. She therefore says that A has misinterpreted perfectly reasonable and innocent actions as M hurting her. This explanation seems to have been accepted by professionals from the evidence before me, and F does not seek a finding that A was hurt by M. However, this is a stark illustration of how easy it is for a child to say something, that to be perceived as an allegation

of harm by a parent, and yet there is a perfectly innocent explanation for the comment the child has made. One odd thing about the first two remarks that M, MGM and the aunt say that A made in March/April 2024 about not using a finger is that this was said when A was alone with M and, without any other context, this could have prompted them to wonder what M was doing to A that led to the remark. In fact, the aunt did ask M about this according to her evidence. Yet none of them seem to have leapt to the conclusion that M must have in some way abused A for her to make the remarks, in marked contrast to the way in which they did reach the conclusion that F had harmed A. This is an illustration of the dangers of confirmation bias, I find, and the subsequent comments from A must also be seen in this light, particularly since the majority of them are not made to any third party and are made in circumstances that are not entirely clear in terms of context or what was said to A before or things she may have overheard. On balance, I do not find that M has proved that F has sexually or physically abused A as she has alleged.

65. Next, I have turned to consider F's two allegations. Although I have not found M's allegations proved, this does not mean that M has coached A to making the allegations. F has to prove that this has happened, M does not have a burden of proof to disprove it. Given my findings above though, I am satisfied that M has inadvertently encouraged A to make allegations against F and this includes failing to ensure that she has not inadvertently overheard adult conversations as well as the more subtle influence that her responses to things said by A will have had, I find. I do not find evidence that A has been deliberately coached by A to make the allegations, though. As Mr Kelleher submitted in closing, there is no evidence anywhere of A saying to anyone that M has told her to say anything. It is not

even the case that M has ever been recorded saying to A anything along the lines of, A tell so and so about when F did this to you. F cannot therefore prove on balance of probabilities that M has consciously coached A to make allegations. However, as I have found, A has been exposed to adults around her who have operated from the presumption that A has been harmed by F, and they have responded to things that she has said in ways that I have found would be likely to be viewed by A as rewarding her for saying those things. M has also introduced additional details through her questioning of A in the bath on 4th April 2024, which has then become confused in the subsequent allegations from A in terms of whether those details came from A or not. The concerns of professionals about M's actions at times as I have noted are also relevant. In light of this, I am satisfied that M has, at times, unconsciously coached A to making allegations against F, particularly the ones made later on. To this extent F's allegation is proved on balance of probabilities.

66. In relation to F's second allegation that M has engaged in alienating behaviours, it is not in dispute that on 12th December 2023 during a handover at M's front door there was a very unfortunate incident in which both M and F accept that they behaved poorly, putting their adult conflict above A's needs and exposing her to that conflict in a way that would have been harmful for her. Both accept that handovers were sometimes good and sometimes not so good. It is also not in dispute that A has said various things to a number of people, including some professionals, that suggests she is reluctant to see F. However, she has not seen him since March 2024 so it is not clear how reluctant she actually is to see F at this point, noting that what young child may say to one parent or professionals may be very different to what they actually do or say to another

parent and that I have found that A has been inadvertently coached to say negative things about F by way of the allegations against him. That may mean that her true wishes and feelings on the subject may be very different.

67. The exposure of A to their adult conflict in December 2023 could have fed into A's reluctance to see F, though it is less likely that a one-off incident of that nature would explain her reluctance some two and half years later, I find. F would also have to prove that any reluctance on the part of A to see him is not consequent on his actions towards M or A, or due to any other factor such as the child's alignment, affinity or attachment. Ms Patel explored the latter with M, who accepted that A may have been a child who was anxious about leaving her and, of course, A is an only child who may be very closely bonded with her M and naturally reluctant to leave her when she was much younger. On balance, given the professional concerns about the ongoing parental acrimony which I have also noted at times in the Local Authority evidence and referred to above in relation to the allegations, I find that F has not proved that A is reluctant to spend time with him purely because of M having engaged in behaviours that have directly or indirectly impacted on A leading to A being reluctant, resisting or refusing to spend time with F. Whilst I have found that M has inadvertently behaved in a way that has encouraged A to make allegations against F, it is also likely that A having been exposed to her parents acrimony and her anxiety about separation from M has fed into her reluctance to spend time with F, I find.

68. I have also considered, because the application that started the current proceedings was an application by F to enforce the existing CAO, whether F has proved that M has failed to comply with that order without reasonable excuse and whether this would support a finding that M has engaged in alienating behaviours

since that seemed to be the case that F was putting in this FFH. F's evidence about the alleged breaches is not entirely clear. He set out details of various dates that he said he did not see A in his statement at C207-C208. As Mr Kelleher put to him in cross-examination and then pointed out in his submissions, the evidence there acknowledges that the majority of occasions were cancelled due to A being ill. Although F said that missed contact was not always made up, he was taken to occasions when M had made that missed contact up (C294), and F accepted that his evidence did not show him missing up to five occasions per month as he told the social worker (E472). Ultimately, his evidence seemed to be that there were some occasions when he doubted that A was actually ill, particularly when he saw her on Facetime and she looked fine, and he was not sure that time was always made up when contact was missed but accepted that he may have been wrong about this as his statement was based on what he had recorded in his phone as supposed to take place and then not happening, and he could have missed recording when it was made up. In relation to his concern that A was not always ill as M said, Ms Patel asked him whether this could be because it was not apparent on Facetime that A was tired or needed to rest and F agreed that this could be the case but it seems the mistrust between him and M (which mirrors the mistrust M has about F and his ability to safely care for A, I note) may well have fed into his perception of this. He also accepted that, as M alleged, he would sometimes view her attempts to advise him about how to meet A's needs as her criticising him.

69. Overall, I can see why F might have been concerned that M did not support A having a full relationship with him given later events and allegations, but it is difficult to see whether he had this perception before those later events and

allegations because his evidence, and anything that is in the Local Authority evidence when earlier referrals were made to MASH by M, does not assist with this. As I have noted in relation to M's allegations earlier, it seems as if there was an ongoing issue about poor communication between the parents and it does not seem as if they were sign-posted to any resources designed to assist them with improving this in A's interests, noting that the previous CAO was made when face to face resources such as the Separated Parents Information Programme had been suspended due to Covid-19. I do not find that F has proved that M failed to ensure that A spent time with F without reasonable excuse and this does not alter my conclusions about his two allegations that I have set out above.

Conclusions

70. These proceedings will now continue to the welfare stage where the above factual context will be used to inform decisions about what is in A's best interests about the time that she spends with each parent. The extent to which M can move on from her suspicions and allegations about F and support A to have a full relationship with F will be central to that decision making too, as will the extent to which both parents can put aside their acrimony and learn to work collaboratively and constructively as A's separated parents. On a practical level, in the immediate interim there are no safeguarding reasons for A not to spend time with F and for that to be unsupervised. However, A has not seen F for over 2 years at this point and that is a very long time as well as a significant part of her young life so far. There is also the complication about what she has been inadvertently exposed to in terms of the views of her maternal family about F and the allegations. The Guardian will need to advise the court with regard to what is in A's best interests to reintroduce her to spending time with F. It will also be

important for her welfare that A is not placed in situations where she is again inadvertently encouraged to make allegations against her father, or to believe that her father is somehow a danger to her.

71. Finally, given my observations in this judgment about the way some of the key professionals have not approached what A has said at times with an open mind, I would suggest that SAFE review the guidance given by MacDonald J and consider whether their working practices need to be adapted accordingly if they are to work with children before any conviction, finding or admissions of abuse. Based on the evidence of the SAFE worker in this case, they may also want to consider whether training to understand that reporting something to the police is not the same as a conviction, finding or admission would assist. I would also suggest that the SW also review best practice guidelines and relevant training around working with children who make allegations of abuse, in particular the need to avoid use of the word 'disclosure'.

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

[11th June 2026]