



Neutral Citation Number: [2023] EWFC 303 (B)

Case No: OX22P00233

In the Family Court at Reading

160-163 Friar Street
Reading
RG1 1HE

FACT-FINDING JUDGMENT

11 October 2023

Before

HER HONOUR JUDGE NOTT

Between

B

Applicant

and

E

Respondent

Representation:

For the Applicant Father: Miss Markham KC, leading counsel, instructed by Rayden Solicitors

For the Respondent Mother: Dr Proudman, counsel, instructed by Morgan Wiseman Solicitors

The fact-finding hearing took place on 9-11 October 2023.

Proceedings concluded on 15 April 2024. This judgment has been abridged for publication where necessary to preserve anonymity.

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

Introduction

1. This is an ex tempore judgment given at the conclusion of a three-day fact-finding hearing in private law proceedings concerning child arrangements relating to a child aged nine. The child currently resides with the Mother, the Respondent in proceedings, by consent. The child has not seen the Father since 11 June 2022 after the Mother unilaterally stopped contact, informing the Father of the same on 14 June 2022. The Father had applied to the court, via a Form C100 filed on 1 June and issued on 7 June, for regular contact. That application was listed for FHDRA at Slough Family Court on 8 August 2022.
2. On 22 July 2022 the Mother filed a C2 application seeking an Order that the child should live with her and filed a C1A application alleging that the Father had physically, emotionally and psychologically abused the child and had emotionally, psychologically and economically abused the Mother.
3. The listed FHDRA was adjourned for safeguarding checks to 16 November 2022. Indirect contact comprising weekly video contact commenced on 24 September 2022.
4. At the FHDRA on 16 November the court considered that a fact-finding hearing was necessary to determine the Mother's allegations, listed the matter for three days commencing 3 May 2023, and made case management directions.
5. The listed fact-find could not take place on 3 May due to lack of judicial availability; the hearing was converted to a Pre-Trial Review at which HHJ Tolson KC relisted the substantive hearing for 14 June. He ordered interim supervised contact and that the Mother should serve medical records relating to her mental health on the Father's solicitors. Mother appealed both those orders which were stayed by the High Court pending appeal, effectively ruling out supervised contact until the substantive fact-finding hearing. On 13 June the fact-find was adjourned yet again due to lack of judicial availability and re-fixed for 8 August. On 6 July the hearing was further adjourned to 9 October, as a result of application by the Mother, made and determined without notice to the Father, due to Mother's counsel's unavailability.
6. The Mother's appeal of HHJ Tolson KC's interim orders remains yet to be determined and is unlikely to be determined now that it is overtaken by this substantive fact finding hearing.

Representation and Issues

7. The Mother is represented by Dr Charlotte Proudman. She seeks findings against the Father set out in her Schedule of Allegations, which Schedule is set

out at p9 - 13 of the Bundle, together with Father's responses. The Schedule is more of a narrative, with Mother alleging under seven broad heads of abuse that she suffered coercion and control at the hands of the Father throughout their relationship, which comprised emotional, psychological and economic abuse. There is one alleged specific incident of physical abuse of the Mother and one allegation of physical abuse of the child. Under the heading 'emotional and verbal abuse' Mother avers that the Father colluded with his family to criticise her weight and to subject her to racist abuse and pressure to convert to Islam. Mother's most serious assertions fall under the headline 'Gaslighting'. She avers that long before their child's birth the Father manipulated her perception of reality such as she began to question her sanity, and that he then manipulated her into accepting a false diagnosis of psychosis and paranoia from a psychiatrist Dr H sometime in 2009. Mother avers that the Father achieved the diagnosis through lying to the psychiatrist and says that once the Father had maliciously secured a false diagnosis of mental illness, he then used this to control her within the relationship, particularly after the child's birth in 2013 and from 2019 when the relationship was struggling. The Mother says that from 2019 - 2022 he would frequently threaten to use her documented but false mental health history to assert that she is an unfit Mother and to remove the child from Mother's care. Finally, she alleges post-separation economic and emotional abuse, and characterises the Father's application for contact as part of a pattern in which he seeks on-going control over her.

8. The Father is represented by Hannah Markham KC. He denies the Mother's allegations. He makes no cross-allegations and does not seek any findings against the Mother, but would rebut both the Mother's specific allegations of physical, emotional, psychological and financial abuse and the over-arching allegation that he was coercive and controlling throughout the relationship or subsequently. He says that his wife took against his family early on, with the antipathy increasing after the child's birth and that he was caught in the cross-fire, trying to please his parents while supporting his wife. He says that in the result neither the child nor the Mother have seen any of his family since 2018. He denies racism and says that in fact it was the Mother who on occasion abused him racially, having settled upon a general contempt for Muslims as a result of falling out with his family. With regard to the alleged 'gaslighting' the Father refutes that he either sought or caused a diagnosis in his wife of psychosis, paranoia or any other mental illness. He says that she told him that she had suffered intermittently with poor mental health before they met, and says that far from manipulating and using Mother's mental illness against her, he tried at all times to support her through various mental health crises. He says that he has never threatened to remove the child from the Mother's care - on the basis of her mental health or otherwise - and, as the marital relationship

was breaking down, has only ever sought reasonable contact, and to safeguard the child.

9. I have been greatly assisted by the written and oral submissions of counsel in this hearing; I am grateful to Dr Proudman and to Miss Markham KC for the skill and professionalism with which they have prosecuted their respective cases. Where there has been the odd heated exchange between counsel, that has reflected their focus and determination to protect their respective clients and promote their positions. When the court has the benefit, as I have, of highly competent advocacy on each side, the issues as they relate to the evidence are illuminated as the hearing progresses, and the task of determining those issues becomes more straightforward. While the legal framework has been relatively uncontroversial, what was clear from the written and oral submissions in closing that I heard just before lunch, is that at the end of this fact-finding exercise the parties remain as polarised as at the beginning; the issues are therefore stark. I am grateful for the assistance of the advocates on the evidence; ultimately the assessment of the respective reliability of the witnesses and the proper inferences to be drawn from the evidence as a whole are for me to determine.

The Child

10. The child is a very bright nine year old who, notwithstanding some mild dyslexia, is thriving at school. Despite their differences, the child is deeply loved by both her parents and benefits from their respective cultures and heritage. Having been born and bred here the child regards themselves as English, but is clearly curious about their paternal heritage and has enjoyed cooking and eating Palestinian delicacies. The child hasn't seen the Father in person for 16 months and in January this year – from the last information the court has about the child's views from an independent professional – the child told a teacher at school of worries about both parents and about “*upset*” at seeing the parents “*hate each other.*”

The Hearing

Participation

11. Since the Mother asserts that she and the child are victims of the Father's domestic abuse, s.63 Domestic Abuse Act 2021 is engaged, requiring the court pursuant to Family Procedure Rule 3A.2A to assume that the quality of her evidence and her ability to participate in proceedings are diminished by reason of vulnerability. As well as this statutory vulnerability, Mother had until recently a diagnosis of anxiety and depression which may add to her vulnerability, although her latest brief filing from her GP suggests that she is

currently mentally well. I have therefore considered the necessity of participation directions as described in Practice Direction 3AA.

12. PD 3AA is further engaged in this case with respect to the Father who suffered a stroke and underwent brain surgery in summer 2022 and whose cognition, memory and resilience remain affected notwithstanding an overall good recovery.
13. Pursuant to Part 3AA, participation directions have been made at this attended hearing to enable each party to participate fully and to give their best evidence. Both parties were offered regular breaks during proceedings generally and in their evidence specifically, although in the event they were able to give their evidence within usual session patterns. When parties have been in court they have been screened from each other; when each party gave their evidence the other attended the hearing remotely from within the court building with electronic screens in the courtroom positioned such that I could see the remote party, but the party giving evidence and counsel could not. The party joining remotely was able to contact their counsel live via WhatsApp to give necessary instructions as the oral evidence unfolded.

Purpose

14. Where the Mother alleges domestic abuse in the guise of physical and emotional abuse of the child and long-standing, on-going coercive control of her, and where the Father denies perpetrating such abuse Practice Direction 12J is engaged. By para 16 PD12J, the purpose of this hearing is to establish:
 - (i) Whether the Father has perpetrated domestic abuse on the child;
 - (ii) Whether the Father has perpetrated domestic abuse on the Mother;

in order to inform the need for and extent of any consequent necessary risk assessment and to make informed decisions about the child's welfare when determining contact with the Father under a Child Arrangements Order. I only need to make findings to the extent that they further these purposes.

Legal Framework

Burden and Standard of Proof

15. Mother seeks the findings set out in her Schedule of Allegations; she bears the burden of establishing those matters on the balance of probabilities. The court must be careful not to reverse the burden of proof: it is not for the Father to establish that an allegation is not made out. However, through careful forensic analysis the court ought to be able to make straightforward findings drawn

from the evidence, without recourse to the burden of proof as per Cobb J in *R v BB (Domestic Abuse Fact-Finding) 2022 EWHC 108 (Fam)*.

16. The approach to Fact-Finding in private law family proceedings between parents should be the same as the approach in care proceedings. However, as Baroness Hale cautioned in *Re W (Children) 2010 UKSC 12*, “*there are specific risks to which the court must be alive. Allegations of abuse are not being made by a neutral and expert local authority which has nothing to gain by making them, but by a parent who is seeking to gain an advantage in the battle against the other parent. This does not mean that they are false but it does increase the risk of misinterpretation, exaggeration or downright fabrication.*”

Approach to Evidence

17. Findings of fact must be firmly rooted in the evidence and not based on suspicion or speculation. I must consider all of the available evidence considering each piece of evidence in the context of the other evidence – surveying a wide landscape – and must avoid compartmentalising.
18. Consideration must be given to the weight that can properly be attached to hearsay evidence, particularly given that there is no opportunity to test such evidence by cross-examination. Further, where the hearsay evidence comprises expert opinion, the court must approach it with particular care since expertise has not been established pursuant to FPR 25 (as in force before 6 April 2022 when this application was issued) or PD 25B, nor can the court know on what material any such opinion is based. Exhibited letters from medical practitioners are not expert reports and the court cannot treat them as though they are.
19. If after consideration of all of the evidence an event or pattern of behaviour is shown to more likely than not have happened, then it happened, if it is not shown to have crossed that threshold then it didn’t happen and must be disregarded – the so-called binary consequence.
20. The evidence of parents is of the utmost importance and I must make a clear assessment of their credibility and reliability. As to credibility, it is common for witnesses to lie in the course of investigation and hearing. They may do so for a variety of reasons – shame, misplaced loyalty, antipathy toward another party, fear, confusion and distress being examples. Even if I determine that a witness has lied about one matter, it does not follow that he or she has lied about everything.
21. There is a different but related question of witness fallibility, which is a matter of reliability rather than credibility. I should bear in mind that recall of events

by a witness is a process of fallible reconstruction which may be affected by external influences and supervening events, moulded by the process of litigation, with past beliefs being reconstructed to make them more consistent with present beliefs and motivated by a desire to give a good impression.

22. Further in this case, each witness' recall may be adversely affected – the Father by potential mild neurological deficit consequent upon his stroke, the Mother by historic mental fragility. I must bear this in mind when considering any inconsistency – either internally within the witness' evidence or where the witness evidence is inconsistent with evidence within exhibits. It does not follow that just because a witness has given an inconsistent account it means that his or her evidence is untrue or unreliable. Memory is affected in different ways. Some people do remember things more clearly over time, others have difficulty in recalling events accurately. For some, the passage of time may play tricks on or distort memories. Although they disagree about the cause, both parties agree that during the latter part of their marriage and perhaps subsequently, the Mother has exhibited signs of trauma. Whatever the cause, trauma has a well-established and increasingly well-understood effect on memory. The repetition of stressful incidents has the potential to impair memory such that an individual subject to such repeated incidents may struggle both to take in and later to recall or particularise the details. I must make careful assessment of this factor when drawing inferences from the evidence and reaching my conclusions about the facts.

Demeanour

23. The demeanour of a witness as they give evidence is of limited value. People react in different ways when coming to court and manage stress very differently. The presence or absence of emotion when giving evidence is not a reliable indication of whether the witness is telling the truth and being accurate or not generally. In the particular circumstances of this case where Mother has previously suffered poor mental health and the Father has been neurologically affected by ischemic stroke in the last year, I am unlikely to be assisted by attempting to assess credibility by virtue of demeanour in the witness box.

Domestic Abuse – Definitions and Approach

24. This is a case where the central allegation is domestic abuse through a pattern of coercive control comprising emotional, psychological and economic abuse. As described in PD 12J at paragraph 3, the definitions of domestic abuse in family proceedings are as set out in the Domestic Abuse Act 2021.
25. “Coercive behaviour” means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

26. “Controlling behaviour” means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour;
27. By section 1(4) DAA 2021 – adopted into para 2 PD12J – “economic abuse” means any behaviour that has a substantial adverse effect on [the victim’s] ability to—
 - (a) acquire, use or maintain money or other property, or
 - (b) obtain goods or services
28. The over-arching allegation in this case is of coercive and controlling behaviour throughout the period of the relationship, escalating from 2019. Therefore the court must follow the guidance of the Court of Appeal in *H-N and Others (Children) (Domestic Abuse: Fact-finding Hearings) [2021] EWCA Civ 448*. While I must determine specific allegations, my primary focus is on patterns of behaviour and whether the evidence taken as a whole supports a finding of overarching coercive and/or controlling behaviour, even if specific alleged incidents of abuse are not established.
29. It is common experience that victims of domestic abuse may try and hide what is going on, even from those closest to them. It is common experience that abusive relationships may last for a long time and that victims of abuse may struggle to remove themselves from such a situation. It is the experience of the courts that people who are in an abusive relationship may struggle to extricate themselves from it for a whole range of reasons including fear, shame, lack of resources, family responsibilities, cultural or societal concerns and/or their own conflicting emotions towards their abuser. Further, their capacity to react to events may be compromised or blunted by their past experience or their mental or physical health. Where the abuse is not physical but psychological, emotional and/or financial, those subject to it may not even recognise themselves as victims of abuse, particularly where the behaviours develop over time. I bear all this in mind when assessing the evidence against the issues in this case.

The Evidence

30. This fact-finding hearing commenced before me on 9 October 2023. Ahead of the hearing I had the benefit of being able to read and consider the updated bundle of evidence comprising just over 1160 pages of material, as well as video evidence served by the Father and by the Mother. It is fair to say that the witness statements served in this case significantly exceed that which is

provided for in the Family Procedure Rules. Mother's statements and exhibits comprise 523 pages; Father's statements and exhibits served in advance of this hearing comprise 303 pages, with a further dozen or so pages of exhibited email correspondence that I admitted into evidence as the hearing commenced. The first witness statements of both parties and the second witness statement of the Mother are inordinately long and raise many issues some of which require determination, some of which are peripheral.

31. Although I only intend to deal in this judgment with the evidence on the matters that require my determination, I am afraid that the length of the evidence – and the fact that virtually no detail about the relationship, save perhaps the date the parties met, has been capable of agreement – means that this judgment too will be much longer than I would have liked for a private law case concerning contact. It is in fact longer than any judgment I have given to date in the public law proceedings that I usually determine.
32. Although there has been limited local authority involvement with this family up to now, as the evidence has unfolded over the past three days I have become increasingly concerned for the emotional and psychological welfare of the child – to the point that were these public law proceedings Threshold allowing for the making of public law Orders may well have been met. The issues then, require particularly careful determination.
33. Mother says that she has been controlled and abused since 2004; her statements detail numerous events and alleged patterns of behaviour over 19 years which she says led to unnecessary mental health interventions dating back to 2009/2010. Although the child with whose welfare this court is concerned was not born until 2013, the Mother avers that she has been subject to Father's control throughout the whole of that child's life, and has provided a wealth of narrative and documentary evidence going back over those years; Father has had to meet those allegations, and so has also provided significant amount of contemporaneous documentary evidence. During the course of this ruling, I will not refer to every document in the bundle, nor every piece of evidence I have read, heard and considered over the last few days, but I have taken it all into account when reaching my conclusions on the issues I am asked to determine. And – two specific allegations of physical abuse apart – since those issues concern patterns of behaviour rather than isolated incidents, as I have already stated I will not determine every disputed issue, simply those necessary for the court to make informed decisions about the child's welfare.

Medical Evidence

34. Notwithstanding the extensive material before me there is an obvious gap in the evidence. The disputed issues in the case centre on Mother's historic mental health diagnoses which go back to at least 2009, and yet I am not

assisted by any medical expertise nor any medical records. On 16 November 2022 DJ Henson directed the parties each to file a GP letter ‘*regarding their mental health, including any history, diagnosis, prognosis, treatment and engagement with the same.*’ The Father complied with this direction; the Mother did not. She exhibited to her witness statement filed on 23 December 2022 a GP letter dated 2 August of that year which simply stated that the Mother had a current diagnosis of anxiety and depression [p526]; she further exhibited a letter from Dr J, a consultant psychiatrist with whom she had had a single telephone consultation on 2 March 2022 and who had not seemingly seen or reviewed the Mother’s medical records.

35. On 7 February 2023 the Mother filed a further letter from her GP [p1090]. It referred simply to ‘*a history of depression and paranoid state*’ and clearly did not comply with the terms of DJ Henson’s Order.
36. By Order of 9 February 2023 DJ King repeated the direction of DJ Henson with respect to the Mother in identical terms. Consequently the Mother served a further GP letter dated and filed on 2 May 2023. Again this letter failed to comply with the court Order, and the Mother’s mental health history, diagnosis, treatment and engagement with the same – the very issues at the heart of the dispute between the parties – remain opaque.
37. Likely due to this opacity, on 3 May 2023 HHJ Tolson KC directed the Mother to disclose ‘*her medical records only insofar as these relate to her mental health but these shall not be disclosed to the Father. Disclosure shall be provided to the Father’s solicitor/counsel on the basis that they must not disclose them to the Father. The issue of onward disclosure shall be determined by the trial judge if necessary.*’ On the Mother’s instructions her legal team appealed that Order, which was then stayed pending Appeal. On 25 May Mother filed a second letter from Dr J who had had a second telephone consultation with the Mother on 24 May, some 15 months after their only previous consultation. Mother gave evidence that Dr J had seen ‘*some*’ of her previous medical reports but it is not clear which reports Mother chose to disclose to Dr J and which she withheld.
38. On the first morning of this Hearing Mother filed a fourth letter from her GP stating that she is no longer taking the anti-psychotic drug Risperidone – which she has been prescribed since 2017 – and that she is currently mentally fit and well.
39. When challenged by Miss Markham KC on her failure to abide the court Orders the Mother blamed her GP, stating first that she had ‘*chased and chased*’ and then that the GP letters ‘*were all the GP was prepared to give me at the time.*’ Pressed again, she said that she preferred to rely on the letters

from Dr J as “*she’s more qualified to talk about my mental health as a psychiatrist than my GP.*”

40. The Mother makes the serious and disputed allegation that since at least 2009 Father has manipulated her into questioning her sanity and has either manipulated three consultant psychiatrists – Dr H, Dr I and Dr G – or colluded with them falsely to diagnose her. Because the Mother has failed to abide the Orders of DJs King and Henson and is currently appealing the Order of HHJ Tolson KC this court cannot even discern with any certainty when these allegedly false diagnoses were made nor what they were. Psychosis, paranoia, PTSD, grandiose delusions and persecutory delusions have all been referenced by the Mother but there is no clear picture before the court of the nature or basis of any such diagnoses, still less the length and nature of any treatment or the Mother’s engagement and response to it.
41. Conversely, the Father, who denies the allegations but is in the position of having to rebut them with no access to the medical evidence capable of resolving the issue, has been seeking clarity throughout proceedings and is frustrated and hamstrung by the Mother’s consistent and repeated refusal to abide the court’s Orders.
42. Whatever my view of the Father, it is difficult to see how I am in any position to make any findings adverse to three named consultant psychiatrists who have each diagnosed and treated the Mother – in the case of two of them apparently over several years – without seeing a single letter or report from them, and in the absence even of a timeline of appointment and diagnosis; yet this is what Mother invites me to do – to find them at best negligent and at worst collusive in coercive control. Where the GP letters are sparse of content – and I have no doubt that Mother has ensured that they are deliberately so – neither the GP nor Dr J has been prepared to state that diagnoses of previous treating psychiatrists were wrong.
43. In the absence of medical evidence, I will need to determine the allegations based on my assessment of the parties and on any proper inferences I may draw from contemporaneous correspondence. However I cannot ignore the fact that the burden of proof of proving her allegation of gaslighting is on the Mother and that she has chosen not to put before the court the very best evidence that can establish – or fail to establish – that her apparent diagnoses of psychosis, paranoia and persecutory delusions were not only false, but were driven by Father’s malicious collusion as part of a campaign of extreme gaslighting to keep her off-balance, medicated and under his control.

Assessment of the Parties

44. I had the benefit of witnessing both the Mother and the Father being cross-examined by exceptionally skilful and well-prepared advocates. The Mother was cross-examined for three hours; the Father for four hours. The questioning on both sides was appropriately robust and covered all the necessary points without straying overly into peripheral issues. The robustness of the respective challenges allowed me to make informed assessment of the witnesses and their evidence.
45. The Mother failed to answer many of the questions put to her by Miss Markham KC. Time and again she would deflect a question by answering one that she wasn't asked, or by stating that she didn't see the relevance of the question or, when asked to explain her own conduct, by instead attacking that of the Father. As her evidence continued to be tested against the contemporaneous documentation, more and more inconsistencies were exposed. Further, even after careful consideration of her vulnerabilities I did not feel she was always trying to tell me the truth; rather she was preoccupied with attacking the Father and framing herself as a victim.
46. The Father gave his evidence reflectively, and answered every question he was asked straightforwardly. His evidence was consistent with his case and with his filed evidence. He was appropriately reflective about the child. He was able to consider his own behaviour where he had become embroiled in acrimonious and toxic exchanges with his wife, and accept that he had not always behaved as he would have liked to. Unlike the Mother I felt that he was always trying to answer the questions he was asked, and truthfully. I found him an impressive witness. Notwithstanding the acrimony of the divorce, the severity of the allegations against him and the fact that he has not seen his child for nearly 18 months, he was able to reflect, and to sublimate his own needs in favour of those of his child. His answer to Dr Proudman's question about the worry jar is indicative of that reflection and indicated to me that he has placed the child's welfare ahead of his own, is well aware of the emotional damage caused through the acrimony between the parents and is at a loss as to how to protect the child. I also infer from both his oral evidence and from his refusal in these proceedings to seek findings against the Mother that his focus is solely on the child; he wishes the Mother no ill-will; this is a man who just wants to first safe-guard and then spend time with his only child.
47. Where accounts diverged on specific issues, in all important respects the documentary evidence supports the account of the Father and undermines that of the Mother. The first example of this relates to the first major disputed issue in time, and that which is said to frame the alleged coercive control – the Islamic Marriage Certificate.

Analysis

Coercion into Islamic Marriage – Allegation 2

48. The first major incident of coercive control alleged by Mother relates to the signing by the parties of an Islamic Marriage Certificate in January 2006 ahead of their relocation to Singapore. In her witness statement at para 3 [p464] Mother avers *“the Applicant...demanded that I sign an Islamic Marriage which I later came to know was not legally recognised, and I now believe it was a religious marriage.”* She goes into greater detail at p484 where she says that both the Father and his family ‘demanded’ she sign the certificate and that she took offence at the gift of a copy of the Quran from the Father’s family. She asserts years of confusion as to her marital status and her feeling trapped in a Muslim marriage from which she could not extricate herself as she could not obtain the proper documentation. Although her initial evidence lacks specificity and clarity (see para 54 at p484) Mother seems to cite this as the first real coercive act on the part of Father causing her emotional and subsequently psychological harm.
49. The Father’s evidence on this is straightforward and set out in his first statement from paragraph 77 at p189. An Islamic Marriage Certificate enabled the Mother to move to Singapore with the Father who was relocating there on a work visa. He has produced two exhibits showing that on 8 Jan 2006 immediately prior to leaving for Singapore he signed a statutory declaration that he was in a genuine and on-going relationship with the Mother [p340] and that immediately upon arrival in Singapore on 11 January he and the Mother attended together at their High Commission and signed a Statutory Declaration stating that they were in a permanent relationship: *“we are engaged and plan to wed in November 2006”* [p339].
50. Dealing with the Father’s response in her second witness statement at para 79 [p909], rather than explaining how she could have been under any misapprehension as to her legal marital status in light of the Statutory Declaration she completed and signed, the Mother simply deflects and doubles down: *“The Applicant said I had to sign or I could not go, after already having quit my job as he asked me to. He had rendered me jobless and then used that to insist on an Islamic marriage.”* As to the statutory declaration, at para 78: *“The Applicant coerced me into signing a Statutory declaration that I objected to at the time which says we did live together continuously... He convinced his friend C to also write a false statement that we were de facto. This is not the first time the Applicant lied about official things”* And she goes on to make further complainant about the Father that has no relevance to the issues before this court. The DARVO technique – deny/deflect, attack, reverse victim and offender – has been raised before this court on behalf of the Mother. Yet it is the Mother’s response on this point – as on many – that is redolent of that technique. When these exhibits were put to the Mother in her

oral evidence she maintained “*this was very confused*”. She agreed that the Declaration in Singapore was in her handwriting, but then added, “*but it was all under B’s guidance and instruction.*”

51. I find that the Mother’s account is not credible: it is clear from the Statutory Declaration that she made in Singapore that she was well aware that she was not legally married, which is why she described herself and the Father as engaged. As for just doing as she was told by the Father – as she has described herself, she was an intelligent, well-educated, professional adult in her home country with family surrounding her at the time. Whether or not she had handed in her notice to travel to Singapore, that did not ‘*render her jobless*’ or vulnerable to subjugation – if she were having second thoughts she could simply have ended the relationship and got herself another job. I cannot see how she can have been under any misunderstanding about the status and purpose of the Islamic Marriage Certificate – it suited her purpose in allowing her to reside with the Father in Singapore just as it did the Father’s. Further, the idea that she could or would have allowed uncertainty about her marital status to rumble on for years is untenable.
52. I am unsure whether the Mother has told me a deliberate lie about this or whether she has reframed the start of the relationship in light of its recriminatory ending, and has now convinced herself that she was coerced or manipulated from the start. Whichever, she was not able or willing before me to reflect on the contemporaneous documentation and admit that her recollections may be unfair to the Father and his family. This became a pattern throughout her evidence, most clearly observed in her evidence surrounding her central complaint.

Extreme Gaslighting – Allegation 5

53. Mother’s evidence is set out in her first witness statement generally, but specifically at paras 111 – 113 and 118 – 124 [starting p497]. These paragraphs are nebulous, but suggest a first appointment with Dr H in 2009 and then some form of psychiatric input or another up to around 2017 when the Mother says that she realised finally that her health problems resulted from domestic abuse and gaslighting. Notwithstanding the seriousness of this allegation, Mother’s evidence in this first witness statement is largely vague and unsupported by documentary evidence.
54. In her second witness statement she has to address the more focused observations made by the Father in his defence, and she does so from paragraph 107 [p915]. She denies any mental health issues prior to her relationship with the Father. She sets out her teenage diagnoses but does not provide any evidence in support, which would be easy for her to do. She gives hearsay evidence about her Mother and Father’s views but has not applied to

adduce any evidence from them which might then be appropriately tested. At para 109 she insists “*Dr H was chosen by the Applicant*” which she repeats at her para 111. “*The Applicant had found Dr H specifically due to his specialist area which resulted in him listening to the Applicant and diagnosing me with a delusional medical issue.*” Dealing shortly with that which occurred in 2017 she reiterated “*the Applicant did not like the diagnosis of PTSD from Dr G and I was then to see the old psychiatrist who the Applicant favoured.*”

55. While the Father has obviously been unable to provide any psychiatric expert evidence, unlike the Mother he has produced contemporaneous messages between the Mother, himself and Dr G’s secretary.
56. On 31 January 2017 the Mother messages the Father saying that her doctor wants to meet him on the following Tuesday and is that OK? He responds, “*yes, of course*”. She replies “*she wants to hospitalise me*” [p420]
57. The Mother subsequently messages the Father saying she has emailed and left a message with Dr G indicating that she wasn’t happy about ‘*her extreme treatment*’ and asking the Father to support her in discussing the treatment plan before committing to it. The Father agrees. The Mother emails Dr G’s office to arrange the appointment with the Father, copying the Father in. [p422] A few hours later the Mother messages the Father saying that Dr G’s office have called wanting the Father to call them [p420]. The Father makes an appointment with Dr G for 16 February after her office contacts him by email. [p422-423]
58. On 4 February, Mother messages Father saying “*I am a good Mum. I feel picked on and harassed. We should have sold and left a year ago*” and then “*She put me on a watch list, B – simply for giving a 20+ year history*”. She then repeats “*I am a good Mum. I feel picked on and harassed. We should have left a year ago*” followed by “*I am really hurt*” then “*the medication is only for 6 days...*” and “*Need to speak to her about that?*” The Father replies “*I am on my way home*” [p420-421].
59. On 13 February Dr G’s office emails the Father to say that the Mother has cancelled the appointment booked for 16 Feb [p423].
60. Asked about these exchanges in her oral evidence, the Mother didn’t really address them save for denying that Dr G wanted to hospitalise her. She said, “*Dr G was recommended by B’s psychologist, my previous psychologist Dr I. B decided we needed a joint meeting. B vilified me. Dr G said I believe you have PTSD because of what you’ve been through – including my history with B. I don’t have a 20+ year mental health history – the text doesn’t say mental health history. Dr I said that he thought Dr G had overacted and I that had*

severe anxiety and said I should go back to Dr H. So I did and B told Dr H lies. He has painted my mental health as greater than it is.”

61. There is nothing in either the text exchanges between the parties or the email contact with the doctor’s office suggestive of the Father manipulating either the Mother or the doctor into a false diagnosis, nothing suggesting that he is taking any lead whatever with the doctor – the text exchange accords with his account and is at odds with that of the Mother – objectively that text exchange implies a husband appropriately sensitive to and supportive of his wife as she tries to navigate a mental health crisis.
62. Further the text exchange supports the Father’s contention that the Mother had described to him a history of mental illness dating back to before they met. It is clear from the context, despite the Mother’s oral evidence in cross-examination, that she had indeed described to the consultant psychiatrist in January 2017 a ‘20+ year history’ of mental health issues hence the reference to being put on a ‘watch list’. This belies her claim that she had no mental difficulties before her engagement to the Father in 2005. The Father has been consistent and I prefer his evidence.
63. I do not of course look at the contact with Dr G in early 2017 in a vacuum. The Father in his first witness statement gave that referral some context, stating that the Mother had been increasingly emotionally labile, taking offence, being aggressive and then seeing herself as a victim, in a number of daily interactions in the years preceding her breakdown in January 2017.
64. The Father’s position on the Mother’s mental health is set out in his first witness statement from para 112 – 116. From para 117 he sets out and evidences some unusual episodes that he says caused him to believe that the Mother’s mental health was declining due to her extreme and inappropriate reactions to everyday events and interactions. He states that if he raised this with her she would accuse him of ‘gaslighting’ her. He said that he found himself walking on eggshells.
65. In her second witness statement and in cross-examination the Mother had to address a number of her own contemporaneous emails to third parties adduced by the Father (whom she had copied in to the correspondence). It was put to her that these emails tend to undermine her self-portrayal as a victim cowed by coercive control and rather imply either abusive or unstable conduct on her part, over a number of years and towards a number of people. Mother avers generally that these are irrelevant and that in placing them before the court the Father and his solicitors are continuing post-separation domestic abuse.
66. I find that there is a clear relevance to this material: primarily it is contemporary evidence of Mother’s functioning and behaviour during the

period that she asserts her husband was manipulating her and her doctors and otherwise controlling her; therefore it has relevance to the very finding that she asks me to make. Second, where the material undermines Mother's evidence in her sworn witness statements it is capable of having relevance to the overall reliability of that evidence.

67. All the acrimonious interactions are post the child's birth, save for the first matter which began when Mother was heavily pregnant, and continued after the child's birth.
68. Taking them chronologically, the first episode concerns filming at the home of an elderly neighbour Mrs K and is described at para 119 of the Father's statement. The Mother refuted this entirely in her Second statement at para 113 [p917], "*I did not report Ms K to the council and no investigation was triggered...the lighting was floodlighting used on a professional TV set and it shone through black out curtains. I kindly requested that it be pointed in a different direction and they obliged as they were no longer using it*" She goes on to deflect by attacking the Father: "*The Applicant has taken what actually happened, twisted it to do nothing other than attempt to discredit me in proceedings.*"
69. Contemporaneous emails produced in rebuttal show that this sworn evidence is untrue and that if anything the Father downplayed the Mother's behaviour: the Mother was so incensed by both the filming and the council's handling of her complaints that she was corresponding intemperately with various public servants over an eight month period from October 2013 to June 2014. On 8 October 2013 she sent a letter to Mrs K over the light put up by film crew inside Mrs K's flat, accusing her of a "*violation of residents rights [that] is un-neighbourly, illegal and highly offensive. The residents feel extremely aggrieved and unhappy.*" She goes on to threaten legal proceedings and says that Mrs K's landlord will also receive a copy of the letter.
70. Next she sent an email to the local council reiterating her complaints. Her tone escalates over several emails over the course of the month and is aggressive, demanding and threatens unspecified legal action and further complaint to various bodies.
71. When the child was 2 days old, the Mother sent an email to various people at the council complaining both about the initial filming and an alleged breach of privacy and accusing the council of lying in their response to her. In it she threatens legal action and complaint to regulatory bodies. Subsequently she makes an email complaint to the council criticising how the earlier complaint was dealt with and complaining about three new film crews in three weeks, taking residents' parking spots. Her tone is aggressive and hostile.

72. The matter continues well into 2014 with the Mother by now emailing the CEO of the council on 3 April, copying in various others, asking for a full investigation, followed by a further complaint made to the council on 16 April 2014 wherein she accuses the recipient of the letter, Mr L (to whom she had made the initial complaint back in October 2013) thus: “*your recollection of the facts is inaccurate.*” There are continued accusations of breach of privacy surrounding disclosure of her identity as a complainant to Mrs K’s landlord or landlady, notwithstanding the Mother’s letter to Mrs K at the time saying she was copying in the ‘landlord.’ In a further email the same day she claims poor treatment by a Mrs Y as a result of learning she had complained about the filming. She complains about having been ‘*effectively evicted*’ from her home while heavily pregnant for the sake of a neighbour’s and the council’s benefit. She also refers to having made twelve complaints to the council in 2012.
73. What the Mother said in her witness statement about this is simply not an accurate reflection of events. I remind myself about fallibility of memory particularly given the passage of time and potential mental fragility and consider whether there might be an innocent explanation - could this lengthy correspondence simply be something the Mother has forgotten? Given the volume of her emails, their escalation and the number of public servants from whom the Mother demanded a response I do not think it can be. Further, in cross-examination the Mother suggested for the first time in proceedings that these emails, and many of the other emails exhibited by the Father were in fact edited/drafted by him. She said that he would control and rewrite ‘*many, many*’ of the emails sent from her account, although she could not be specific about which despite being given ample opportunity to do so by Miss Markham KC.
74. Given the overarching allegation of coercive control, if the Mother had raised with her solicitor at any time prior to this hearing the suggestion that her emails had been overseen or controlled by the Father then this should and would have been set out in the Schedule of Allegations. Accessing private emails or monitoring private email accounts is a well-known form of controlling behaviour which raises red flags with support agencies and which Mother’s solicitors and counsel will have been alive to. I am therefore satisfied that the first time the Mother raised the Father controlling her through email monitoring, editing and rewriting was in her oral evidence. I am not asked, and have never been asked to make a finding of coercive behaviour based on control over emails. I therefore cannot make such a finding. But in any event it is clear from the emails surrounding the Mrs K complaint that they were written by the Mother – two of her correspondents refer to lengthy telephone calls that they have just had with her; there is no mention of the Father.

75. The Father's evidence is that three months later Mother engaged in another unnecessarily antagonistic interaction with Mrs K's landlord, AB: In response to an email sent on 8 Sept 2014 to all leasehold owners of the property chasing unpaid service charges, AB sends an email apologising for the delay in settling his arrears, explaining that he has just been diagnosed with cancer, will be having an operation on 11 Sept, and will be off work for three weeks thereafter [p381]. Mother receives this email as one of the recipients of the thread. On the day that AB has said that he will be in hospital, the Mother writes to him in a somewhat aggressive manner chasing a signature needed for freehold purchase. It is clear she has read his email as she references his three weeks away as making her patience run *'very thin'*. AB responds pointing out that she has sent him that email knowing that he is in hospital about to have his operation, but assuring her he has matters in hand. She responds within the hour: *"Hi AB, I'm sorry you have cancer. Everyone has someone in their lives touched by cancer AB."* The rest of the email is similarly unkind and dismissive. He responds with a simple *"Your compassion does you proud."* The Mother's response is abusive and accusatory: *"This is not on. You are being presumptuous and condescending. You do not know me....Even people with cancer need to pay their bills. Bills you were informed about in April!!"* It continues in similar vein with a litany of complaint before ending, *"I am not responsible for your health issues. Don't you dare speak to me like that again. And don't you dare try to put your issues onto me and play the victim game."* The Mother copies others into this exchange, including the Father.
76. The Mother's evidence on this is contained in her second statement at para 114, a lengthy paragraph which begins *"this is an attempt by the Applicant to discredit me. While I acknowledge that I could have used better phrasing when emailing AB I believe context is required."* There then follows justification of her behaviour and further criticism of AB as *"notorious for not responding and for not paying his service charges."*
77. The emails sent by the Mother (in particular in the context of their recipient apparently being in hospital being prepped for his cancer operation) make very uncomfortable reading. It is unsurprising that this incident caused the Father concern about the Mother's mental health.
78. Even with stable mental health today the Mother cannot accept that her behaviour was at all troubling, and would seek to justify it, dismiss it as irrelevant and simply an attempt to discredit her.
79. I accept that the Father is not trying to discredit Mother; he asks for no findings against her, but is defending himself from serious allegations of extreme gaslighting. Objectively the contemporaneous correspondence is consistent with the Father's version of events: the Mother was becoming more

unreasonable; her unpleasantness towards AB is quite extreme, and the Mother cannot recognise that even some nine years on.

80. Father's evidence is that in the same year the Mother saw a man urinating in the bushes in the cricket club across the road from their flat, and that her reaction was an overreaction to the event. She opened the window with the child in her arms, shouted at the man and then called the police complaining that a man was exposing himself to children. Mother accepts that this occurred but says that it was a proper reaction on her part that the Father is seeking to twist into something sinister. If this were a one off incident then it may be seen as no more than an overreaction, but I agree with the Father that it has to be viewed in context.
81. On June 16 2015 emails reveal an issue between the Mother and a staff member at the child's nursery leading to the Mother's complaint followed by the child's removal. [p247] I am not going to go through the email chain in any detail but I note the very quick change of tone from the Mother in email correspondence when she disagrees with fees. She was abrupt and aggressive in tone after her originally polite, conciliatory and complimentary notice letter sent on 20 June. After this initial correspondence there was silence on the nursery's offer concerning outstanding fees, and then an abrupt refusal to pay the reduced outstanding fees on 18 July (sent at 4.49am), with an assertion that the nursery has caused 'harm' to the child and the family in her further response sent on the afternoon of 20 July.
82. On 8 October 2015 the Mother reported a neighbour to the police alleging sexual abuse of his daughters. That complaint obviously had to be thoroughly investigated by police and social services. It was determined to be unfounded. Police concluded that the Mother's complaint was made in good faith. [p1019]
83. November 2015 brought an email from CD to the leaseholders chasing payment for a building contractor called E who he had apparently employed on everyone's behalf to work on the jointly-owned building. The Mother responds curtly saying that a cheque will be made out to E, but chases service payments. CD responds that he will sort out the service payments and queries the delay in paying E. The Mother's response is abusive: "*CD you're being a Dick, don't contact me again*". He replies saying she is being very silly and asks her not to contact him again. Her response is yet more abuse – accusing him of having been 'abusive' for months – and shouting at him via the use of capitalisation. She refers to E as a '*cowboy builder*'. This is in an email with a number of recipients including the Father [p406-408].
84. Mother addresses this in her second statement at para 199 as "*a further attempt by the Applicant to discredit me. I should not have responded to CD*

in the way in which I did but again I wish to provide context” she then makes further complaint accusing a builder of threatening behaviour [p919].

85. Again the Mother fails to address the content of her correspondence, nor does she accept it is abusive behaviour, implying a lack of emotional control, beyond acknowledging that she shouldn't have responded as she did. Confusingly, in her second statement the Mother refers to E as a company rather than a builder, suggesting that her recollection of events may not be clear.
86. Whatever the context, again the swiftness of the Mother's escalation into outrage and accusatory abuse within the short email chain is troubling and one can see how in the context of the previous incidents the Father might begin to harbour concerns that there is a growing pattern of instability – whether that be emotional instability or psychiatric.
87. The incident described by the Father at his statement para 121 about an altercation between the Mother and the mother of a child with a stoma at a play centre is not supported by documentary evidence; the Mother denies it. In the context of the evidence and in view of my assessment of their respective reliability, I accept the Father's account.
88. The Mother next complained in 2016 to the Health and Safety Executive about respiratory problems allegedly caused by the negligence of builders near her home address, which she claimed had caused her family, including her 3 year-old to seek medical attention. She also complained about blocking the road and accused the builders of *'bullying, threatening and intimidating myself while I had my 3 year-old with me'*. She talks about being covered in dust and toxic insulation which she believes could be carcinogenic and feels *'very aggrieved and very disgruntled'*. She receives a reply on 9 December and responds intemperately.
89. On 8 December 2016 the Mother writes to her local council complaining about alleged illegal parking by builders in her street. She complains that the builders have *"resulted to bully and intimidation tactics"* (*sic*). She enclosed more than 30 pictures and videos [p409 – 416]. The Mother says in her evidence at para 119 [p920] *"the builder in charge at the end apologised to me and said they had done the wrong thing by blocking the road...I had genuine reason to raise concerns and I see nothing wrong in my actions"*. I agree with Dr Proudman that the Mother has every right to complain about anti-social activity and that the builders were likely causing a nuisance. However it is not the fact of the complaints to the council that is concerning, it is their nature and tone, particularly in this context of an on-going pattern of such complaint.

90. It is Father's evidence that by early 2020 the Mother had stopped taking her medication and accused him of having manipulated her doctors H and G – the Father's statement at p209. He says that she showed him bags of medication which she had been collecting - he assumed so as not to arouse suspicion from her treating doctors. The Mother says that this is wholly untrue at her para 126 [p923].
91. The Father describes at p209 an unusual and possibly disturbing incident involving the Mother and a child at a public park in December 2019 which the Mother deals with at her para 125 [p922]. I don't set out the detail here but the screenshot of text correspondence between the parties at p425 supports the Father's version of events, both as to what happened and that Mother had likely stopped taking her prescribed medication – this would explain the erratic behaviour and likely precipitated the Mother seeking help from Dr G in late January 2020, as described from paragraph 56 above.
92. Having made the determinations above on specific issues relevant to Mother's allegation 5 of gaslighting I do not propose to go through any more as they pertain to the relationship. My clear conclusion is that there was no gaslighting, no pattern of coercive or controlling behaviour on the part of the Father throughout the relationship; rather the Father found himself in a very difficult position and did all he could to support his wife through what must have been a very difficult number of years for both of them. He said in his evidence to me that it was '*exhausting*,' and I can well understand that.
93. Because allegation 5 also cites post-separation gaslighting I must deal with that. I do so shortly. The Mother characterises the Father's application for contact as him using her mental health against her to remove the child. This is her consistent position through witness statements, pleadings and again in her evidence. It is unfounded. Apart from the word of the Mother, which for the reasons set out above I am reluctant to accept without supporting evidence, there is nothing in the papers before me that suggests that the Father has ever threatened to remove the child from the Mother's care. All of his emails to the Mother from November 2021 to the point that he issued proceedings concern his pleas for reasonable contact – that's to say contact of more than two hours, not any form of 'lives with' arrangement or Order. Far from using her mental health against her, the Father told Social Services that while he had concerns about the Mother's mental health and how that might impact on his contact with the child, he was not saying that she was not a safe carer. He told me that once Social Services were involved he was happy to leave matters to their professional assessment. He did.
94. Mother stopped contact in June 2022 with no good reason, after she had learned from the Father in couples therapy that he had filed a C100 seeking contact; she refused to give Father a reason beyond saying that the child had

made some ‘*very concerning*’ disclosures after the previous weekend’s contact. Neither his subsequent instruction of solicitors, his cooperation with Social Services, nor any of his interactions with any professional concerned with the child’s welfare can properly be described as abusive. When he raised concerns with Social Services in the aftermath of the child’s reported hallucinations and broken arm, asking for escalated intervention, he did so out of concern for the child’s safety, and because Mother simply wasn’t giving him any detailed information upon which he could be satisfied that all was well. Further, unlike Social Services and other professionals involved in the child’s care, he had lived through his wife’s previously unstable and erratic behaviour, and was also trying to manage her sustained hostility towards him.

Economic Abuse- Allegation 3

95. I can take this shortly. Even taking the Mother’s evidence at its height, it falls far short of establishing behaviour on the part of the Father that had or has a substantial adverse effect on the Mother’s ability to—

(a) acquire, use or maintain money or other property, or

(b) obtain goods or services.

96. In any event the Mother’s evidence was wholly undermined in a brief but effective series of questions in cross-examination. I am satisfied that the Mother lied in her witness statement at para 83 [p492] when she stated in relation to a deposit for their rental flat when they first moved to Singapore, “*in the end we borrowed money off a friend which I repaid with interest*”. She was forced to concede that the friend was Father’s best friend, and the repayment of the debt was met by Father’s income, paid into a joint bank account that she had full access to. That she had joint control over that single income stream is evidenced by her arranging the repayment and deciding to add interest by way of thank you. Despite pleadings to the contrary, while the sole breadwinner during most the relationship was the Father, his income and bonuses were paid into a joint account that the Mother had full access to. After the Father had left the family home the Mother took half of the money from the joint savings account and half from the joint current account – totalling around £30,000. She was eventually forced to concede that the Father had not complained about that, and had never stopped her access to money. Even now, the Father pays the mortgage, the gas and electricity on the family home and the child’s school fees.

97. Mother’s complaints under the heading economic abuse really amount to disgruntlement that the divorce has necessitated her having to go back to work, and annoyance that during the relationship the Father would from time to time help members of his family out financially. Mother’s attempt to

categorise that as economic abuse is not only hopeless bearing in mind the legal test, but indicative of a lack of understanding of or empathy for the Father's cultural heritage.

Racism and Religion – Allegations 2 and 4

98. Taking this topic as shortly as possible, the Mother has made a number of allegations against the Father's family. I am in no position to make specific findings against family members who have not been given permission to file statements and who in any event have not seen the Mother or the child since 2018, and only saw them intermittently before then since they live abroad.
99. Since I am dealing with patterns of behaviour, I do not examine the minutiae of complaints of various slights over the years, but I broadly accept the Father's account. It is clear from the Mother's statement that from the outset of the relationship she was predisposed to look for slights where there were none – even taking offence at the gift of a copy of the Quran upon her signing of the Islamic Marriage Certificate: the Mother chose to take this as an insult rather than accept it as a tradition in Islamic culture, and a welcome into the family.
100. I am sure that the Father felt caught between his wife and his family; acrimony between in-laws is far from unusual. But I do not accept that he colluded in or enabled any bullying – racist or otherwise – from his family.
101. Neither can I find that the Father coerced or tried to coerce Mother into converting to Islam. He may well have asked her to pay lip service to the religion around his family. Neither the Mother nor the Father are particularly religiously observant – neither attend regularly at any church or mosque. Far from enforcing a Muslim culture in the family home, photographs show the Father putting up Christmas trees and lights annually – with his smiling child. He has attended family christenings, he is proud of his child's cultural background on both sides. He has an international background and an international mindset.
102. The only evidence of racism between the parties in the papers is directed from the Mother to the Father. In a 13 + minute tirade from the Mother to the Father captured by the Nest camera in the family living room on 25 April 2022, the Mother abuses the Father non-stop. She can be heard shouting at him, mocking him, repeatedly calling his family abusers, accusing him of lying about her, of manipulating others, of using her mental health against her, of intending to abuse the child, and of being his parents' 'flying monkey' – this latter insult is the language of narcissistic abuse in which by now the Mother is apparently well-versed.

103. Despite its unpleasantness, this tirade does not seem to me to be uncontrolled. It is lengthy, repetitive, aggressive, abusive, but not uncontrolled. The Mother accuses the Father's family of racism towards her, but she is derisive – screaming at the Father that he is an '*idiot*', '*a little prick*' and she mockingly refers to him as '*Arab Muslim B*' and later to him and his family as '*the Arab Muslim B family*'.
104. The Mother has sought to deal with this in her statement by saying that she referred to him/them as Muslim to highlight the fact that his family's alleged insistence on her adopting his religion and culture was oppressive and abusive, but that is not how I read and then hear her comments. She hasn't sought to justify the epithet 'Arab'. This is straightforward racist abuse by the Mother of the Father in which she expresses her contempt for his heritage and culture.
105. This is a tirade that comes the day after the Father has told the Mother that he has spoken to the child about moving out, and has explained to her the sensitive way in which he tried to do that, bearing in mind that she refused to speak to the child with him as part of a unified front. Yet her tirade is almost exclusively about her and her needs; the child is barely touched upon. The language and accusations mirror much of the text exchange back in October 2021; Miss Markham KC reminds me that it occurred on the day of the Social Services assessment of the child.
106. Timing can be informative, particularly when looking at patterns of abuse. The Father has been criticised for feeling abused by the Mother emailing him about a sleepover for the child two weeks after he had a stroke and when she had failed to take the child to visit him in hospital and was preventing contact generally. The Father said in evidence that he wished he had not responded by email to the Mother at all, but simply referred her email to his solicitor. He said that he took the email as a deliberate taunt, but pointed out he was recovering from a serious neurological event and consequent brain surgery. I can well see why he felt taunted and abused by Mother's email, and I am surprised that his response to her is cited as evidence of his abuse. I consider that the Mother knew very well what she was doing.
107. This type of very subtle taunt is not isolated. On 29 December 2021, at a time when the Mother accepts the marriage was effectively over, when she had been angered by a recent family visit between the Father and his family in late October, and two days before she contacted police reporting Father for assault, the Mother sent the Father an email suggesting that she and the child might enrol in Krav Maga classes. Understandably and predictably, this Father with his Palestinian heritage saw this as a provocative and as a further deliberate rejection of his culture. Para 32 of the Father's witness statement sets out his feelings about this [p172].

108. In her second witness statement Mother says that she did not know that Krav Maga is an Israeli army martial art and she also says that the Father did not know this [p891]. This is a vigilant Mother. She researches, checks and rechecks any new activity, nanny, educational or therapeutic setting into which she enrolls her child. She is an educated woman with a family military background and has lived with a Palestinian Muslim for 15 years or more, In that context and in the context of the family dynamic at the time, I find it highly unlikely that she did not do a basic internet search on Krav Maga on receipt of the flyer – if indeed she was genuinely unaware that it is a martial art well known to be the foundation of Israeli army training. Furthermore, unlike other martial arts its aim is not to subdue an opponent, rather to kill him, or otherwise to do as much damage as possible as swiftly as possible. The email has a link which it prefaces in bold, *“Please kindly watch this very short video as I think it sums up our club perfectly”*. The video is three and a half minutes long and I find it unlikely that the Mother didn’t watch it. I have watched it. Accompanied by a loud voiceover it shows a series of adults performing highly aggressive attacking manoeuvres with the offensive use of weapons including guns and large knives to the throat, and ends with a logo identifying itself as “Israeli Defence Tactics”. Krav Maga is seemingly an odd choice for this Mother and this child. In this specific evidential context it seems to me to be part of a pattern whereby the Mother seeks to exclude the Father and his culture wholly from the child’s life, and then to subtly or not so subtly emphasise that she is the one in control. She is at once interfering with the time the child spends with the Father and at the same time proposing that she and the child sign up to a martial art and ethos that could not be more offensive to a displaced Palestinian.
109. A less subtle emphasis of her control is exemplified in the emails between Mother and Father through February and March 2022 as contact is being negotiated – I note in particular the email exchange on March 5 2022: the Mother is in control of the child, all arrangements, and is shutting the Father out. She is not being controlled by him [p540-545].
110. I do not find that the Father racially or culturally abused the Mother as pleaded; the evidence in fact shows the reverse to be true. A phrase stated by the Father during his cross-examination as to his thoughts about the Mother had particular resonance with me, having seen the Mother give evidence and in the context of all the material before me: the Father said that in the Mother’s mind you are either with her or against her. If you are with her you have to be with her 100%; you cannot question her. He said this thoughtfully, and contextualised it by saying he felt that this was due to ill-health rather than malice. It seems to me on the evidence that I have heard that the Mother determined that the Father was ‘against her’ when he met up with his family on a visit to the UK in late October 2021 as evidenced within the text message

thread at p830 – 846 spanning 6 Oct to 29 Oct: the clear abuser in this exchange over a number of days is the Mother. The Father's responses are proportionate, self-reflective and kind. Ultimately he did not take the child to visit the grandparents since the Mother put so much emotional pressure on him not to that he felt that he could not. As the marriage became increasingly acrimonious, she has sought to maintain control by isolating the Father from their child – and therefore isolating their child from the Father.

111. The Father has not abused Children Act proceedings. He has made a single application for contact and then defended himself against very serious allegations of abuse. I am unsure how this can be characterised as 'abuse' – his only alternative would be to accept the Mother's decision to remove him from their child's life. He has chosen not to raise the temperature by making cross-allegations against the Mother. He told me that this is because he only wants to safeguard and see his child; he does not want to criticise his wife or ask for findings. Many respondents to allegations of serious domestic abuse would not have such self-control.
112. If anyone has abused these proceedings it is the Mother, including by the deliberate flouting of court Orders and lodging appeals to frustrate the court's proper determination of her C1A application, and by making false allegations of abuse. I am unable to determine the extent to which this may be driven by any mental illness or personality disorder, but nonetheless I am satisfied that Mother has pursued baseless allegations to the detriment of the child.

Stalking and Harassment – Allegation 6

113. I have dealt with the Mother's abuse caught on camera in the family home in the section above. For the avoidance of doubt the Father has produced cogent evidence refuting the Mother's claim that the Nest camera was installed without her consent, against her will or in order to control her. The Mother bought the camera as a birthday present for the Father, she had the same online access to the camera as he did, she was able to turn it off and on as she chose; it was there primarily to keep an eye on the dog. The Father accepts that he turned the camera on for his own or for the child's protection in the week or weeks before he had to leave the family home, but Mother was aware of this and it was not an unreasonable step given the situation in which he found himself.
114. In no way can any post-separation indirect contact with the child be described as monitoring, stalking or harassment. Yes, the Father recorded the indirect contact when it started; he told me that this was because he felt he needed to safeguard himself from any false allegations from the Mother pertaining to indirect contact in light of the false allegations she consistently made about his conduct in, and the child's reaction to, direct contact. I can see why he felt it

necessary to take this step. The Father was possibly misguided, but this was safeguarding, not abuse.

Physical Abuse of the Mother – Allegation 7

115. The allegation that in or around 2016 the Father’s Mother elbowed the Mother in the chest has no place in the Schedule of Allegations. The allegation that in January 2021 the Father hit the Mother in the face with his arm and in the result perpetrated an act of domestic abuse on her is not established. The best evidence of this incident derives from the police disclosure of the Mother’s contemporaneous complaint: “*victim confirms that she believes the suspect’s actions were accidental*” [p1105]

Physical Abuse of the Child – Allegation 1

116. The overwhelming weight of evidence – from the child’s own account to professionals involved in their care or safe-guarding – is that the child has never complained that the Father has physically abused them. The only complaint the child has made, if it can properly be termed a complaint, was in their first online therapy session which is recorded thus: “*discloses... worried about the way in which... felt around Dad... Described feeling scared and not safe, and descriptions and gestures that suggested physical chastisement by Dad; things that... did not feel comfortable with*”.
117. Unsurprisingly this triggered a Social Services investigation. The allegation was not repeated to the Social Worker who saw the child on two separate occasions. In fact the child told the Social Worker positive things about the Father – ‘*he’s funny in a good way.. tells Dad jokes*’ and said the only thing they would change is that he works too much.
118. The only other allegations from the child come via the Mother who insists that the child is so scared of the Father that the child has threatened to kill themselves rather than have contact, has screamed at the Mother for failing to protect them, and, alleged for the first time in the Mother’s oral evidence, that the child was self-harming by punching themselves in the eye. It was put to the Mother that if this latter claim were true, Mother would have told one of the social workers. Mother said that she had, and that this was why she stopped contact in June 2022 – she told me “*I told the counsellor who shouted at me and shamed me*”. This court has the evidence from the counsellor; there is no mention of any such disclosure or incident.
119. When asked why she thought that the child had never said anything negative about the Father to any professional, the Mother said that she was the only person the child trusted. Taken to the letter from the school of 13 January 2023 wherein the deputy head teacher wrote that the child ‘*mentioned feeling*

lonely at home,’ expressed worry for both parents and upset at seeing them *‘hate each other,’* the Mother sought to downplay or recast this as “*an interpretation by a teacher of something [the child] said.*”

120. When asked why she had instructed her solicitors to appeal the Order for interim supervised contact made by HHJ Tolson KC in May this year the Mother gave contradictory answers. She said that she felt “*B would be unlikely to behave badly in a supervised environment*” – implying that she did not want him to be able to establish or evidence positive contact. She also said that she opposed interim supervised contact due to safeguarding concerns. She told me “*I felt it best that Cafcass should be involved with a s.7 report.*”
121. But the Mother has actively obstructed Social Services investigation and safeguarding. On 23 June 2022 Social Services determined that level 3 support was now required [p440] – an upgrade from level 2 which would enable social workers to speak again with the child. Had this occurred the court would now have the benefit of hearing the child’s current views from an independent source. The Father had been asking for this and was delighted to be informed this was the local authority view. As an aside, I have yet to come across a perpetrator of domestic abuse who has so welcomed and actively sought Social Services investigation.
122. However the escalation to level 3 did not occur, because it has to be by consent and the Mother refused her consent saying that she was too busy with work. At best this shows a failure to prioritise the child’s welfare over her work; at worst it demonstrates a determination to prevent the child’s voice being heard in these proceedings other than through the filter of the Mother. If the Mother really had had undocumented telephone calls with the head of Social Services about the child’s allegations of abuse at the hands of her Father, then she would be welcoming increased support and investigation, not frustrating it.
123. The Father did not physically abuse the child. He has not subjected the child to gaslighting nor to projections of his control. It may well be that the Mother has.

Findings

124. I am asked to make a finding of DARVO against the Father in this case. It will be clear from my analysis of the evidence against the issues that no such finding is justified. It is the Mother who has deflected, who has attacked and who has tried to demonise the Father and paint herself as a victim of domestic abuse.
125. I make no findings against the Father;

126. I find that the Mother has pursued baseless allegations against him, but in the absence of a cogent medical history or FPR compliant expert report I am unable to say why.
127. The evidence in this hearing has given me cause for concern about the child's emotional welfare due to perception of the Mother's hostility to the Father and due to their stated feelings of loneliness at home.
128. I have further concerns surrounding the child's care due to the Mother's flouting of court Orders concerning the filing of medical evidence and her mischaracterisation of whatever mental health problems she has or has had as symptomatic of domestic abuse. It may be relevant to the child's welfare that the Mother has chosen to hide what seems to be a long-standing history on and off of mental illness, even when seeking to rely on the same to establish gaslighting at the hands of the Father. It would also seem from the evidence of Mother's interactions with third parties over many years that if she is not mentally unwell she may benefit from an anger management programme and or assessment in respect of possible personality disorder.
129. I will therefore direct the local authority to file and serve a section 37 report to explore the fact and extent of any safeguarding risks posed to the child by the Mother.