



Neutral Citation Number: [2021] EWFC 92

Case No: ME20C00364/481

IN THE KENT FAMILY COURT

Re Z (Fatal Inflicted Injuries – Domestic Abuse – Failure to Protect)

The Kent Family Court  
Chaucer Rd, Canterbury CT1 1ZA

Date: 18/08/2021

**Before :**

**THE HONOURABLE MR JUSTICE WILLIAMS**

**Between:**

Kent County Council

**- and -**

Mother

Father

A, B,

C and D

Applicant

1<sup>st</sup> Respondent

**2<sup>nd</sup> Respondent**

**3<sup>rd</sup> -6<sup>th</sup>**

**Respondents**

(Through their Children’s Guardian Elaine Mitchell)

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Tina Cook QC / Philip McCormack (instructed by Invicta law) Local Authority  
Damien Woodward Carlton QC / Katie Phillips (instructed by DSD Law) Mother  
Frank Feehan QC/Caroline Harris (instructed by Fraser Hollands Solicitors) Father  
Sam King QC/ Joanne Porter (instructed by Stilwell Singleton Solicitors) Children

Hearing dates: 21 June – 25 June 2021, 28 June-2 July 2021, 5 July-9 July 2021,  
12 July -16 July 2021, 19 July -21 July 2021

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**Approved Judgment**

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

.....  
MR JUSTICE WILLIAMS

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

## Williams J :

1. On 27 May 2020 a little girl Z was admitted to Darent Valley hospital with a head injury. Tragically, despite treatment there and at Kings College Hospital her condition did not improve, and she died at 18.22 on 29 May. Following her admission, she had been found to have a number of injuries including a skull fracture, recent and older brain injuries and a healing fracture of the humerus and scapula. Z's 'adoptive' father and mother were both arrested on suspicion of attempted murder on 27 May. Z was not the biological child of the mother and father but had been informally adopted by the family when they were living in Afghanistan. An emergency protection order in respect of the family's other (biological) children was granted by District Judge Smith at 13:15 hours on 29 May and on 4 June HHJ Davies made an interim care order. The case was subsequently transferred to be heard by me and over the last five weeks I have been undertaking a fact-finding hearing in order to determine whether the local authority have established that the threshold criteria for the making of a public law order are established. The allegations are many but the most serious is that the mother or father inflicted the injury to Z from which she died.
2. The application is made by Kent County Council who are represented by Tina Cook QC and Philip McCormack instructed by Invicta law. The mother is represented by Damien Woodward Carlton QC and Katie Phillips instructed by DSD law. The father is represented by Frank Feehan QC and Caroline Harris instructed by Fraser Hollands solicitors. The children who are now the subject of these proceedings are A (DOB 2010), B (DOB 2016), C (DOB 2020) and D (DOB 2021). They are represented through their children's Guardian Elaine Mitchell by Sam King QC and Joanne Porter instructed by Singleton solicitors. In order to assist in maintaining the confidentiality of the identities of the parties I shall refer to the parties throughout as the local authority, the mother, the father and the children as A, B, C and D.
3. I would state at the outset that the very extensive nature of the documentary evidence and the depth in which we have considered the evidence leads to this judgment being of very considerable length. Given the linguistic and cognitive issues I recognise that the parents will struggle to fully access all of this judgment. I could not do justice to the complexities of the evidence without evaluating it at length. That part of my judgment entitled **Evaluation and Findings** sets out my principal reasons for reaching the **Conclusions** that I have, albeit in order to understand all of the nuances of the reasoning processes that I have gone through the judgment including its appendices has to be taken as a whole

## Threshold

4. The most recent version of the threshold criteria together with the parents responses can be summarised as follows. It does not contain all of the detail or indeed all of the allegations contained within the various documents and amendments but is a summary. [A(i)32, A(i)37, A(i)59, A(i) 123]

No	Allegation	M's response	F's response
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1.	On 27 May 2020 Z was admitted to hospital with a serious acute head injury from which she died on 29 May 2020. The acute injury was inflicted either by the mother or the father between approximately 6 AM on 26 May and her admission to hospital	The nature of the injury is accepted. The mother says Z was perfectly well before she fell down the stairs that morning; the mother denies inflicting the injury. The mother identified she had an injury to the top of her head going from one side to the other the width of a grape.	The father knew that she had a head injury which he believed to have been caused by a fall down the stairs of 27 May 2020. He denies inflicting the injury on her.
2.	If the acute head injury was not inflicted it occurred when she was not being sufficiently supervised.	Z was able to go up and downstairs alone. The mother had recently given birth. The father was shopping.	The father was not present, the mother had recently given birth and whilst she should have been supervised this was an accident.
3.	The parents failed to seek prompt medical attention once the injury had been occasioned.	Immediate medical attention was sought.	This is not accepted; as soon as the father was aware of Z's injuries he sought medical help including calling his friend to take them to hospital.
4.	Z had sustained an older skull fracture and extra-dural bleed in the period between 22 <sup>nd</sup> and 25 <sup>th</sup> May inflicted by either the mother or the father.	Fact of injury accepted. The mother is not aware of any older fracture and has explained Z fell off a trampoline and fell in Afghanistan. The mother denies inflicting it.	The father is not aware of Z suffering any head injury during this time period and queries whether the medical experts are correct. He was not aware of her crying having hurt herself.
5.	The injury would have caused significant pain and distress to Z when	The mother was unaware of Z experiencing any	The father is not aware of a time during that week

	occasioned and would have been obvious to any reasonable parent. The parents failed to seek any medical attention for this injury.	significant pain in this time period.	when Z was crying having hurt herself and he was unaware of her having injured herself.
6.	Chronic Sub-dural haemorrhage.	Fact of injury accepted. The only incidents known are the trampoline and the fall in Afghanistan.	Not accepted.
7.	Z sustained a complete spiral fracture to the right humerus and a fracture to the right scapula which were inflicted by either the mother or the father between five and 10 weeks prior to her death.	Believed to be sustained when Z fell off a trampoline.	Z fell from a trampoline and hurt her arm. The father saw that it was swollen on the forearm and bruised closer to the wrist than the elbow.
8.	Z would have suffered considerable pain and distress from these fractures, it would have been obvious to any carer that she required medical attention, the parents failed to seek medical attention.	The symptoms displayed were similar to those displayed by A when he was injured by police. Z complained of her arm hurting when it was manipulated to put clothes on but otherwise seemed well. The mother applied cream and gave Z syrup medicine for pain relief. They tried to see the GP but were unable to get an appointment	The father sought to book an appointment at the GPs but was unable to do so. Her arm was a little stiff but she could move it including eating her own breakfast.
9.	Z was missing a fingernail which was likely to be an inflicted	Z caught her finger in the kitchen door 5-6 days before the	The father was told Z had trapped her finger in the kitchen

	<p>injury by either the mother or the father. She would have suffered considerable pain and distress, it would have been obvious that she required medical attention, the parents failed to seek medical attention.</p>	<p>mother was admitted to hospital to have C. The nail fell off when the mother was in hospital. She has sustained similar injuries herself</p>	<p>door, there was blood under the nail and it eventually fell off when the mother was in hospital having C. The father does not think the fingernail injury was unusual or required a doctor to look at it.</p>
10.	<p>It is likely that in respect of the injuries sustained by Z both parents were aware it was inflicted by one or the other.</p>	<p>The mother denies inflicting any injuries on Z or being aware of any injury being inflicted on her.</p>	<p>The father denies causing any injuries himself and was unaware of the mother injuring Z</p>
11.	<p>It is likely that A and B witnessed or heard the injuries being inflicted upon Z and or were aware of the violence being perpetrated upon her.</p>	<p>As the mother denies any injuries were inflicted the children would not have witnessed this.</p>	<p>The father does not believe that any injuries were inflicted upon Z either by himself or the mother and so the children would not have been aware of this.</p>
12.	<p>In October 2019 Z sustained extensive burns because she was insufficiently supervised or the parents failed to take proper care. They failed to seek medical attention urgently.</p>	<p>The mother believed Z was asleep and unexpectedly came to where the mother was and knocked the kettle over and fell into the boiling water. The mother's phone had fallen in the bath and she was unable to call the father or seek alternative ways of getting help. The sought medical attention when he returned home.</p>	<p>The father does not accept this. He was not present at the time. It was an accident when Z tripped over a kettle being used to heat water. When the father got home and saw she was hurt and had blisters he got a taxi to take her to hospital.</p>

13.	<p>The children have been exposed to domestic violence between the parents. Incidents include</p> <p>(i) 28.6.19 when F punched, slapped and kicked M and A was pushed and hit his head</p> <p>(ii) F had whipped M with a cable and strangled her</p> <p>(iii) 25.8.19, F repeatedly punched M</p> <p>(iv) 15.11.19 F assaulted M and bloodied her nose and grazed her hands</p> <p>(v) 13.12.0, F assaulted M, pulling her hair and causing bruising to her arm, cuts on her hand and marks on her neck</p> <p>(vi) On 27.12.20 M and F assaulted each other. M stabbed F with scissors causing puncture wounds to his shoulder. F assaulted M causing scratches to her face and next</p>	<p>The mother denies Domestic Violence. The father slapped her once in Iran before the children were born.</p> <p>The mother accepts she made untrue allegations on 28 June after F accidentally caught her finger in a door.</p> <p>M cut her hands whilst trimming a bush and put her hand to her face creating an impression of a nose bleed.</p> <p>The mother told the BRC F had used harsh words and ignored her in Afghanistan and this was misunderstood.</p> <p>F slipped on oil and injured himself. The mark on her was an allergic response to aubergine.</p>	<p>The father denies any domestic violence. They have had some arguments but not abusive.</p> <p>M hurt her thumb in the door on 28 June.</p> <p>The neighbour made a report on 25.8 to cause trouble as F has had problems with them</p> <p>M cut her hand whilst cutting grass and often has nosebleeds</p> <p>F slipped on oil and fell on scissors cutting his back. She unintentionally caught his face whilst helping him up.</p>
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			Marks on the mother were from an allergic reaction.
14.	<p>The father has behaved in a coercive and controlling way to M including</p> <p>(vii) Using abusive language</p> <p>(viii) Forcing her to have sexual intercourse</p> <p>(ix) Preventing or discouraging her from speaking English and isolating her</p>	<p>The mother denies making such allegations (she may have been misunderstood) and denies any other form of coercive or controlling behaviour.</p>	<p>The father denies any coercive or controlling behaviour. They have had arguments. He encouraged the mother to learn English and to learn to drive.</p>
15.	<p>The children have suffered physically and emotionally as a consequence of the violence between the parents.</p> <ul style="list-style-type: none"><li>- A was caught up in the violence</li><li>- F was verbally abusive to A in a shop</li></ul>	<p>The mother denies the children have been caught up in more exposed to any incidents.</p>	<p>The father denies A was ever caught up or injured in an incident.</p>
16.	<p>The mother failed to protect the children from domestic violence. She denied that there was violence, encouraged him to return home.</p>	<p>The mother allowed the father to return home once as his clothes were dirty.</p>	<p>The father denies the mother sent many messages asking him to go home. These were historical messages. He attended the home on one occasion to deal with bills and clothes.</p>



17.	The father has demonstrated anger and aggression to many professionals.		The father does not accept he is aggressive to professionals. He has on occasions been frustrated when he felt he was not being listened to.
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5. The parties respective cases have been set out in Position Statements before the hearing commenced, adduced in evidence over the course of five weeks and have been the subject of detailed oral and written submissions following the completion of the evidence. The documentary evidence was contained in an electronic bundle running to several thousand pages as well as body worn videos of various events and the police interviews of the parents and A. Over the course of the five weeks I heard evidence from a host of medical experts and witnesses of fact most of them by remote means. I heard from the parents in person during a hybrid segment of the hearing. Unfortunately the mother had to self isolate as a result of exposure to covid which required some rescheduling and led to the father giving evidence before the mother. Apart from some delay to the delivery of this judgment I do not think any prejudice was caused to either party by the late readjustment of the order in which evidence was to be given.
6. Marshalling and evaluating that evidence has been a considerable logistical task alone and I have been greatly assisted by the work of the party's legal teams to present the material in a digestible way through chronologies, medical evidence summary and detailed cross-referencing in the course of the case and during submissions. I would like to express my thanks to the party's legal teams for the efforts they have put in to ensure that the case was presented as thoroughly as it was.
7. I do not propose to set out the parties cases on the law and evidence at this stage in the judgment. The parties are largely agreed on the relevant legal framework which was contained within a 29 page note prepared by Ms Porter and supplemented by references by the mother and father in their submissions. I have drawn from, although not repeated those in their entirety below and have attempted to address specific submissions made in relation to the law therein.
8. The medical evidence is also largely agreed although there are of course some very significant differences in what each of the parties draws from both individual experts but more importantly the combined effect of the expert evidence. The minutes of the expert meeting together with the schedule of responses to the questions in the experts meeting and the summary of the medical evidence contained in particular within the Guardian's closing submissions have been invaluable in enabling me to understand and evaluate the expert medical evidence. The summary of the expert evidence contained within this judgment I hope properly reflects the totality; which of course ranges far more widely and knowledgeably across the medical plain than my summary can hope to do. I shall address the particular points relied upon by the parties in my

discussion and evaluation of the conclusions that should be drawn from the various strands of evidence later in this judgment

9. The evidence of the witnesses of fact and documentary evidence is summarised in the detailed chronology which is annexed to this judgment. In particular it is there that I have recorded and analysed the parents' evidence and set it alongside the evidence which emanates from the various other sources. Within the chronology I consider and determine some of the submissions made by the respective parties and the arguments in favour of and against particular conclusions. The chronology is an integral part of the judgment.
10. The extensive nature of the evidence brings with it a logistical and evaluative burden but it also brings with it the benefit of a very wide panorama populated with a host of evidential features which can be surveyed to enable the court to reach a conclusion on what can be seen. True it is that there are some parts of the landscape which remain in shadow or are obscured by the fog either because the evidence is non-existent or because it remains unclear but this is not a case where the picture is so obscured that conclusions are made difficult by lack of clarity or uncertainty.

### **The Legal Framework**

#### *The burden and standard of proof*

11. In order to make a care or any public law order the Local Authority must prove that the situation justifies the intervention of the State. This means that the Local Authority must establish the statutory threshold set out in s.31(2) Children Act 1989.
  - (2) *A court may only make a care order or supervision order if it is satisfied –*
    - (a) *that the child concerned is suffering, or is likely to suffer, significant harm; and*
    - (b) *that the harm, or likelihood of harm, is attributable to –*
      - (i) *the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or*
      - (ii) *the child's being beyond parental control.*
12. The relevant date for determining whether the threshold is met is the date at which the application was made; namely on 27 May 2020. However, the Court can rely on subsequent events as per *Re G (Care Proceedings: Threshold Conditions)* [2001] 2 FLR 1111. Later events cannot be relied upon unless they are capable of showing what the position was at the relevant time and if so they should be admitted for that purpose.
13. In respect of the task of determining whether the 'facts' have been proven, the following points must be born in mind, as referred to in the guidance given by Baker J in *Re L and M (Children)* [2013] EWHC 1569 (Fam) confirmed by the President of the Family Division in *In the Matter of X (Children) (No 3)* [2015] EWHC 3651 at paragraphs 20 – 24. See also the judgment of Lord Justice Aikens in *Re J and Re A (A Child)* (No 2) [2011] EWCA Civ 12, [2011] 1 FCR 141, para 26

14. The burden of proof is on the Local Authority. It is for the Local Authority to satisfy the court, on the balance of probabilities, that it has made out its case in relation to disputed facts. The parents have to prove nothing, and the court must be careful to ensure that it does not reverse the burden of proof. As Mostyn J said in [Lancashire v R 2013] EWHC 3064 (Fam), there is no pseudo-burden upon a parent to come up with alternative explanations [paragraph 8(vi)]. Therefore, there must be real care not to assert that if the court finds that the parents are unable to provide an explanation for any of the injuries that Z has sustained that this therefore results in the conclusion that the explanation must be a malevolent one.
15. The standard to which the Local Authority must satisfy the court is the simple balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing probabilities and deciding whether, on balance, the event occurred [Re B (Care Proceedings: Standard of Proof) [2008] UKHL 35 at paragraph 15]. Within this context, there is no room for a finding by the court that something might have happened. The court may decide that it did or that it did not [Re B at paragraph 2]. If a matter is not proved to have happened, I approach the case on the basis that it did not happen.
16. Findings of fact must be based on evidence, and the inferences that can properly be drawn from the evidence, and not on speculation or suspicion. The decision about whether the facts in issue have been proved to the requisite standard must be based on all of the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors [A County Council v A Mother, A Father and X, Y and Z [2005] EWHC 31 (Fam)].
17. The court considers expert evidence alongside all the other evidence. Rather, it must take account of a wide range of matters which include the expert evidence but also include, for example, its assessment of the credibility of the witnesses and the inferences that can properly be drawn from the evidence. The court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvas. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to a conclusion. In this case the parents urge the court to place the local authority's case in the context in particular of the positive reports of the parents care of the children and the multiplicity of reports which observe positive parenting
18. Thus, the opinions of medical experts need to be considered in the context of all of the other evidence. Appropriate attention must be paid to the opinion of medical experts, those opinions need to be considered in the context of all the other evidence. It is important to remember that the roles of the court and the expert are distinct and it is the court that is in the position to weigh up the expert evidence against its findings on the other evidence. It is the judge who makes the final decision. Cases involving allegations of this nature often involve a multi-disciplinary analysis of the medical information conducted by a group of specialists, each bringing their own expertise to bear on the problem. The court must be careful to ensure that each expert keeps within the bounds of their own expertise and defers, where appropriate, to the expertise of others. When considering the medical evidence in cases where there is a disputed aetiology giving rise to significant harm, the court must bear in mind, to the extent appropriate in each case, the possibility of the unknown cause [R v Henderson and Butler and Others [2010]

EWCA Crim 126 and Re R (Care Proceedings: Causation) [2011] EWHC 1715 (Fam)]. Today's medical certainty may be discarded by the next generation of experts. Scientific research may throw a light into corners that are at present dark. "That affects neither the burden nor the standard of proof. It is simply a factor to be taken into account in deciding whether the causation advanced by the one shouldering the burden of proof is established on the balance of probabilities."

19. In *BR (Proof of Facts), Re* [2015] EWFC 41 Peter Jackson J (as he then was) stated:

*"8. Each piece of evidence must be considered in the context of the whole. The medical evidence is important, and the court must assess it carefully, but it is not the only evidence. The evidence of the parents is of the utmost importance and the court must form a clear view of their reliability and credibility. 9. When assessing alternative possible explanations for a medical finding, the court will consider each possibility on its merits. There is no hierarchy of possibilities to be taken in sequence as part of a process of elimination. If there are three possibilities, possibility C is not proved merely because possibilities A and B are unlikely, nor because C is less unlikely than A and/or B. Possibility C is only proved if, on consideration of all the evidence, it is more likely than not to be the true explanation for the medical findings. So, in a case of this kind, the court will not conclude that an injury has been inflicted merely because known or unknown medical conditions are improbable: that conclusion will only be reached if the entire evidence shows that inflicted injury is more likely than not to be the explanation for the medical findings."*

20. The evidence of the parents and of any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. They must have the fullest opportunity to take part in the hearing and the court is likely to place considerable weight on the evidence and the impression it forms of them [Re W and Another (Non-Accidental Injury) [2003] FCR 346].
21. When seeking to identify the perpetrators of non-accidental injuries, the test of whether a particular person is in the pool of possible perpetrators is the balance of probabilities [Re S-B (Children) [2009] UKSC 17], the first stage being to identify any person who had the opportunity. It is always desirable, where possible, for the perpetrator of non-accidental injury to be identified both in the public interest and in the interest of the child. The court must not assume that because Person A is more likely to have inflicted the injury than Person B that this establishes on the balance of probability that it was Person A. Where it is impossible for a judge to find on the balance of probabilities, for example that parent A rather than parent B caused the injury, neither can be excluded from the pool and the judge should not strain to do so [Re D (Children) [2009] 2 FLR 668 and Re S-B (Children)]. Where a perpetrator cannot be identified, the court should seek to identify the pool of possible perpetrators on the basis of the real possibility test, namely that if the evidence is not such as to establish responsibility on the balance of probabilities, it should nevertheless be such as to establish whether there is a real possibility that a particular person was involved. When looking at how best to protect child and provide for his future, the judge will have to consider the strength of that possibility as part of the overall circumstances of the case [Re S-B (Children) at paragraph 43]. The need for care to be taken not to reverse the burden of proof when the court considers the pool of perpetrators was considered in *B (Children: Uncertain Perpetrators)* [2019] EWCA Civ 575. [para 48]

*“Centrally, it does not alter the general rule on the burden of proof. Where there are a number of people who might have caused the harm, it is for the local authority to show that in relation to each of them there is a real possibility that they did. No one can be placed into the pool unless that has been shown. This is why it is always misleading to refer to 'exclusion from the pool': see Re S-B at [43]. Approaching matters in that way risks, as Baroness Hale said, reversing the burden of proof.”*

22. Where there are only two possible perpetrators the court must survey the evidence as a whole as it relates to each individual in order to arrive at a conclusion about whether the allegation has been made out in relation to one or other on the balance of probabilities. Evidentially this will involve looking at them separately and together no doubt comparing the probabilities in respect of each of them. The question the court must ask is *“does the evidence establish that this individual probably caused this injury”* and not who is the more likely. [**Re B (a child) 2018 EWCA civ 2127**, set out at paragraph 21.]
23. In this case the local authority advance a case of inflicted injury. The parents advance their case that this was accidental injury; there is no burden on them to do so still less to prove accidental cause. The possibility of other explanations also arises, although it is only lightly touched upon, as no party in particular the parents, suggests that any of the children are responsible. However, for instance in relation to the old subdural haematoma if I were to exclude the ‘stable’ accident or in relation to the humerus/scapula fractures if I were to exclude the trampoline accident that does not lead to the conclusion that on balance of probabilities they were the result of inflicted injury. In the Popi M case [1985] 1 WLR 948 Lord Brandon identified the dangers of the court reaching a conclusion by reliance on the exclusion of other possible causes.

*“My Lords, the late Sir Arthur Conan Doyle in his book The Sign of Four, describes his hero, Mr. Sherlock Holmes, as saying to the latter's friend, Dr. Watson: “How often have I said to You that, when You have eliminated the impossible, whatever remains, however improbable, must be the truth?” It is, no doubt, on the basis of this well-known but unjudicial dictum that Bingham J. decided to accept the shipowners' submarine theory, even though he regarded it, for seven cogent reasons, as extremely improbable.*

*In my view there are three reasons why it is inappropriate to apply the dictum of Mr. Sherlock Holmes, to which I have just referred, to the process of fact-finding which a judge of first instance has to perform at the conclusion of a case of the kind here concerned.*

*The first reason is one which I have already sought to emphasise as being of great importance, namely, that the judge is not bound always to make a finding one way or the other with regard to the facts averred by the parties. He has open to him the third alternative of saying that the party on whom the burden of proof lies in relation to any averment made by him has failed to discharge that burden. No judge likes to decide cases on burden of proof if he can legitimately avoid having to do so. There are cases, however, in which, owing to the unsatisfactory state of the evidence or otherwise, deciding on the burden of proof is the only just course for him to take.*

*The second reason is that the dictum can only apply when all relevant facts are known, so that all possible explanations, except a single extremely improbable one, can properly be eliminated. That state of affairs does not exist in the present case: to*

*take but one example, the ship sank in such deep water that a diver's examination of the nature of the aperture, which might well have thrown light on its cause, could not be carried out.*

*The third reason is that the legal concept of proof of a case on a balance of probabilities must be applied with common sense. It requires a judge of first instance, before he finds that a particular event occurred, to be satisfied on the evidence that it is more likely to have occurred than not. If such a judge concludes, on a whole series of cogent grounds, that the occurrence of an event is extremely improbable, a finding by him that it is nevertheless more likely to have occurred than not, does not accord with common sense. This is especially so when it is open to the judge to say simply that the evidence leaves him in doubt whether the event occurred or not, and that the party on whom the burden of proving that the event occurred lies has therefore failed to discharge such burden.”*

24. Drawing on this Lady Justice King in *A (Children)* [2018] EWCA Civ 1718 stated that:

*“57. I accept that there may occasionally be cases where, at the conclusion of the evidence and submissions, the court will ultimately say that the local authority has not discharged the burden of proof to the requisite standard and thus decline to make the findings. That this is the case goes hand in hand with the well-established law that suspicion, or even strong suspicion, is not enough to discharge the burden of proof. The court must look at each possibility, both individually and together, factoring in all the evidence available including the medical evidence before deciding whether the “fact in issue more probably occurred than not” (Re B: Lord Hoffman).*

*58. In my judgment what one draws from Popi M and Nulty Deceased is that:*

*(i) Judges will decide a case on the burden of proof alone only when driven to it and where no other course is open to him given the unsatisfactory state of the evidence.*

*(ii) Consideration of such a case necessarily involves looking at the whole picture, including what gaps there are in the evidence, whether the individual factors relied upon are in themselves properly established, what factors may point away from the suggested explanation and what other explanation might fit the circumstances.*

*(iii) The court arrives at its conclusion by considering whether on an overall assessment of the evidence (i.e. on a preponderance of the evidence) the case for believing that the suggested event happened is more compelling than the case for not reaching that belief (which is not necessarily the same as believing positively that it did not happen) and not by reference to percentage possibilities or probabilities.”*

25. In *R v P (Children: Similar Fact Evidence)*[2020] EWCA Civ1088 the Court of Appeal at paras 24-26 considers when and how the court should rely upon propensity/similar fact evidence:

*“24. This analysis, given in a civil case, applies also to family proceedings. There are two questions that the judge must address in a case where there is a dispute about the admission of evidence of this kind. Firstly, is the evidence relevant, as potentially making the matter requiring proof more or less probable? If so, it will be admissible. Secondly, is it in the interests of justice for the evidence to be admitted? This calls for a balancing of factors of the kind that Lord Bingham identifies at paragraphs 5 and 6 of O'Brien.*

*25. Where the similar fact evidence comprises an alleged pattern of behaviour, the assertion is that the core allegation is more likely to be true because of the character of the person accused, as shown by conduct on other occasions. To what extent do the facts relating to the other occasions have to be proved for propensity to be established?...*

*26. Again, this analysis is applicable to civil and family cases, with appropriate adjustment to the standard of proof. In summary, the court must be satisfied on the basis of proven facts that propensity has been proven, in each case to the civil standard. The proven facts must form a sufficient basis to sustain a finding of propensity, but each individual item of evidence does not have to be proved.”*

26. The father submits that even if the court found that the father had been physically violent to the mother this would not support a propensity to be violent in general or in particular to have been violent towards Z. The court would also have to consider the evidence that the father had a loving relationship with Z which on the evidence is clearly a mutually loving relationship.
27. I do not consider that the allegations of domestic violence to the mother or to A is strictly similar fact, but it is more in the nature of propensity to violence. If the findings establish that prior to the injuries Z sustained there is evidence that the father had demonstrated a propensity to spontaneous violent behaviour that would be potentially relevant to both whether the injury was inflicted and if so by who.

#### *Lies/Withholding Information*

28. It is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind at all times that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear, and distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything [R v Lucas [1981] QB 720]. It is important to note that, in line with the principles outlined in R v Lucas, it is essential that the court weighs any lies told by a person against any evidence that points away from them having been responsible for harm to a child [H v City and Council of Swansea and Others [2011] EWCA Civ 195].
29. The Family Court should also take care to ensure that it does not rely upon the conclusion that an individual has lied on a material issue as direct proof of guilt but should rather adopt the approach of the Criminal Court, namely that a lie is capable of amounting to corroboration if it is (a) deliberate, (b) relates to a material issue, and (c) is motivated by a realisation of guilt and a fear of the truth [Re H-C (Children) [2016] EWCA Civ 136 at paragraphs 97-100]. Both the mother and the father remind the court that lies about one aspect of the case, for instance domestic violence, should not lead the court to conclude that there is a lack of honesty about another category of allegations namely inflicting injury on Z. I have no difficulty in accepting this proposition. If the parents have been dishonest in various ways, it does not mean they have been dishonest in every respect and it does not mean their evidence can in effect be ignored. However conversely if I find them to be dishonest in a significant way on one category of allegation inevitably it will impact upon the weight that I'm likely to attribute to their evidence on other issues and thus the balance that is likely to emerge. The weight rightly to be given to the evidence of parents who are transparently honest and reliable might

outweigh medical and other factual evidence leading to a local authority being unable to prove a case on the balance of probabilities. On the other hand, the same medical and other evidence might establish the local authority's case when the parent's evidence can be given little weight because it is transparently dishonest and unreliable. That does not reverse the burden of proof but is simply the outcome of the evaluative exercise of the weight to be given to the various pieces of evidence before the court.

30. I am also alert to the danger of placing too much weight on inconsistencies which may emerge from the giving of multiple accounts over time. In Lancashire County Council v The Children [2014] EWFC 3 (Fam), Jackson J (as he then was) said:

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

31. I bear in mind the observations of Leggatt J in the Gestmin case [2013] EWHC 3560 (Comm) although in this case the danger does not arise so much from the passage of time but rather the profound importance of the matters under consideration, the stress upon the parents at the time the accounts were given and the risk of nuances being lost through the process of interpretation. I accept the mother's submission that subjecting the parents evidence and that of others who have recorded what they said must be approached with caution and that apparent inconsistencies should not of themselves lead the court to conclude that the parents are unreliable or dishonest. Inevitably when recalling events which have happened some time ago or which were in themselves extraordinarily stressful the parents cannot be expected to be precise or entirely consistent. The same of course is true for other witnesses. As with most issues of evaluation of evidence it is of course always a question of fact and degree in which the consistency of evidence with previous accounts or with other evidence must be the subject of scrutiny and balance.

32. I have, in the particular circumstances of this case reminded myself when assessing and weighing the impression I form of the parents of the observations of Macur LJ in Re M (Children) [2013] EWCA Civ 1147:

*[12] Any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so.*

33. The need for caution in how one evaluates the credibility of a witness and the reliability of their evidence by reference to demeanour and the need for caution in the weight to



be given to demeanour in the evaluation of evidence was also articulated by Leggatt LJ in *Sri Lanka v Secretary of State for the Home Department* [2018] EWCA 1391.

34. Although the general approach is that any fact which needs to be proved by the evidence of witnesses is generally to be proved by their oral evidence (r22.2(1)(a) FPR 2010) facts may also be proved by hearsay evidence. The effect of Children Act 1989 s.96(3), Children (Admissibility of Hearsay Evidence) Order 1993 is to make all evidence given in connection with the welfare of a child admissible notwithstanding its hearsay nature. This would commonly include Local Authority case records or social work chronologies which are very often hearsay, often second- or third-hand hearsay but also extends to witness statements. The court should give it the weight it considers appropriate: *Re W (Fact Finding: Hearsay Evidence)* [2014] 2 FLR 703 and where hearsay goes to a central issue the court may well require the maker of the hearsay statement to attend to give oral evidence.
35. In *Re L-W (Children)* [2019] EWCA Civ 159 the Court of Appeal allowed a mother's appeal in respect of a failure to protect finding following a Fact Finding Hearing at which her partner had been found to have inflicted serious non-accidental bruising to her daughter. Lady Justice King said that courts at a fact finding hearing must not fall into the trap of assuming too easily that, if a person was living in the same household as the perpetrator, a finding of failure to protect is almost inevitable – and should be alert to the danger of such a serious finding becoming a “bolt on” to the central issue of perpetration (see para 64). King LJ stated the following:
- “62. Failure to protect comes in innumerable guises. It often relates to a mother who has covered up for a partner who has physically or sexually abused her child or, one who has failed to get medical help for her child in order to protect a partner, sometimes with tragic results. It is also a finding made in cases where continuing to live with a person (often in a toxic atmosphere, frequently marked with domestic violence) is having a serious and obvious deleterious effect on the children in the household. The harm, emotional rather than physical, can be equally significant and damaging to a child.*
- 63. Such findings where made in respect of a carer, often the mother, are of the utmost importance when it comes to assessments and future welfare considerations. A finding of failing to protect can lead a Court to conclude that the children's best interests will not be served by remaining with, or returning to, the care of that parent, even though that parent may have been wholly exonerated from having caused any physical injuries. Any Court conducting a Finding of Fact Hearing should be alert to the danger of such a serious finding becoming ‘a bolt on’ to the central issue of perpetration or of falling into the trap of assuming too easily that, if a person was living in the same household as the perpetrator, such a finding is almost inevitable. As Aikens LJ observed in *Re J*, “nearly all parents will be imperfect in some way or another”. Many households operate under considerable stress and men go to prison for serious crimes, including crimes of violence, and are allowed to return home by their long-suffering partners upon their release. That does not mean that for that reason alone, that parent has failed to protect her children in allowing her errant partner home, unless, by reason of one of the facts connected with his offending, or some other relevant behaviour on his part, those children are put at risk of suffering significant harm.”*
36. In *G-L-T (Children)* [2019] EWCA Civ 717 King LJ repeated what she had said in *Re L-W* and further stated that:

*“72. I repeat my exhortation for courts and Local Authorities to approach allegations of ‘failure to protect’ with assiduous care and to keep to the forefront of their collective minds that this is a threshold finding that may have important consequences for subsequent assessments and decisions.*

*73. Unhappily, the courts will inevitably have before them numerous cases where there has undoubtedly been a failure to protect and there will be, as a consequence, complex welfare issues to consider. There is, however, a danger that significant welfare issues, which need to be teased out and analysed by assessment, are inappropriately elevated to findings of failure to protect capable of satisfying the section 31 criteria.*

*74. It should not be thought that the absence of a finding of failure to protect against a non-perpetrating parent creates some sort of a presumption or starting point that the child/children in question can or should be returned to the care of the non-perpetrating parent. At the welfare stage, the court’s absolute focus (subject to the Convention rights of the parents) is in relation to the welfare interests of the child or children.”*

37. The mother submitted that the question of whether she had minimised abuse or failed to recognise a lurking risk is a matter for the welfare stage once the question of risk and from whom it emanated had been clearly determined. That certainly is a potential outcome depending on my findings.
38. The question which I raised in the course of submissions was the relevance of cultural or other issues which might bear upon the reasonableness of the actions or inactions of an individual who has been said to have failed to protect. For an individual brought up in a culture where violence to women and children is normalised or acceptable and where state authorities do not normally intervene to provide protection or support, or where the individual is a victim of serious domestic abuse and is disempowered as a result, is the court to apply some notional objective (by whose standards) threshold of what a parent might reasonably have been expected to do or does one apply a subjective standard; what was it reasonable for that parent to do. I was unable to hear detailed submissions on the issue and have not been in a position to formulate an approach which is anything other than case specific. In this case it seems to me in determining whether a parent has failed to protect their children one has to consider that parent in that situation. As Lady Justice King made clear the consequence of a finding of failure to protect is not binary but rather is a matter which would fall for further consideration within the paramount welfare evaluation.

### **Factual Evidence**

39. My summary of the evidence and many of my conclusions on it are contained within the very lengthy and separate Chronology: Appendix A.

### **Experts meeting and the interplay of the formation of opinions**

40. The consequence of the exchanges of the medical reports and the experts meeting inevitably informed the overall opinions that the experts finally came to and to some extent aspects of or the final sum of their opinions were based on the opinions of other experts rather than purely within their own field. They were cognisant of this fact and all at some stage accepted the interplay, were ready to identify the limits of their expertise and where a matter was within the field of another expert. There were some minor areas of disagreement which appeared either on paper or as a result of oral

evidence; for instance Dr Offiah did not agree that axonal injury could not result from a stair fall as it appeared Prof Al-Sarraj had opined but on closer examination Prof Al-Sarraj's opinion was not as definitive as it might have appeared to Dr Offiah and Mr Jayamohan and Dr Offiah were both of the view that a stair fall could explain the injuries to the skull and brain whereas Prof Al-Sarraj, at least initially seemed to rule that out.

41. In the experts meeting Dr Cary emphasised that neuropathology is the gold standard but in this case, what was seen on acute presentation was important. It was also noted that what Dr Offiah had seen on the radiology was trumped by what was seen at autopsy in terms of the presence of skin lacerations; although Dr Offiah was not inclined to accept this in respect of soft tissue injuries. Dr Cary said they found no deep injury underneath the discolouration on the right cheek whereas Dr Offiah's report confirmed a soft tissue injury in that location.
42. The contents of the discussion between the experts is a source of much information and the discussion between the experts casts their subsequent evidence into perspective, in particular the extent to which their final views have been informed by the views of the others. Following the meeting their joint views were summarised in Tabular form. (Appendix B). Drs Offiah, Cleghorn and Kapoor did not participate in the meeting and so their views are either not incorporated or are included through the mechanism of Dr Offiah and Dr Cleghorn both subsequently answered the questions posed in the meeting.

### **Expert Medical Evidence**

43. Dr Cary provide a preliminary post-mortem report and after all the other fields (save Dr Kapoor) had reported he provided his final report. He also participated in the experts meeting and gave oral evidence on the 7<sup>th</sup> July. His expertise is well evidenced, and he was ready to acknowledge the extent to which he relied on other specialties in reaching his overall opinion. He also recognised that his role in drawing together all of the various opinions was like putting the jigsaw together and that in the criminal arena he might have both a gatekeeper function but also at trial a role more akin to a determinative one on the cause of death. In its totality (and of course in summary) his evidence appears to me to be as follows.
  - i) He conducted the special postmortem with Dr Liina Palm and he identified that this was a process he had helped to initiate and that he focussed on forensic issues and Dr Palm as a paediatric pathologist to look at natural conditions or congenital abnormality. The post-mortem was conducted between 10 AM and 15:00 hours on 3 June 2020 at Great Ormond Street Hospital.
  - ii) The old scarring from the burns was noted; Dr Cary observed he was concerned about how they had been caused but deferred to the views of the burns experts. Some non-burns related scars were present, but they were within the parameters of ordinary childhood injury.
  - iii) Recent injury marks were found in the form of
    - a) There are three small petechial marks just to the left of the midline of the forehead up to 0.2cm a piece.

- b) Irregular abrasion upper bridge of nose up to 0.8cm side by side and up to 0.3cm longitudinally, Slight abrasion across the lower outer aspect of the right nostril 0.3cm longitudinally and 0.2cm wide. Faint grey discolouration over the posterior right cheek. there was no evidence of deep injury beneath this
  - c) Cluster of petechiae over the inner third of the right collar bone up to 1cm side by side and up to 0.8cm longitudinally.
  - d) Slight healing abrasion over point of left elbow superficial 0.2 x 0.2cm.
  - e) No laceration or abrasion to the rear of the scalp was noted. A minor abrasion might have healed.
- iv) The neurosurgery scar running from the high right frontoparietal region to the right tragus does not impinge on the injured area at the back of the head although the operation and the movement of the scalp during the operation has caused sub-scalp bleeding. A separate area of sub-scalp bleeding in the right frontal area is noted; I think Dr Cary considered this might be linked to or affected by the operative intervention and how the scalp was moved. A diffuse sub-scalp haemorrhage over the occipital region running to the superior parietal region overall 11cm by 6cm more intense on the left than right; Associated with the impact to the back of the head.
- v) Then there is an occipital skull fracture running upwards about 1.2cm to the right of the midline from the right side of the foramen magnum. This fracture continues by curving around and passing into the posterior part of the right parietal bone, producing a flattened sigmoid shape. Overall, the fracture measures 12cm long. The evidence of Prof Mangham confirms an older fracture and a 'refracture' which also includes virgin bone meaning that this element of the fracture would require the same force as required to fracture unbroken bone. If it was purely refracture less force would be required.
- vi) The brain shows a small amount of residual subdural haemorrhage on the right side superior early. The spinal-cord shows subdural haemorrhage throughout its length.
- vii) There was no evidence from dissection of any deep injury (bruising) beneath the discoloured area of the face and no evidence from the points of the shoulders, outer aspect of the hips, elbows or knees of bruising to any prominences.
- viii) Slight area of subcutaneous bruising in the sacral region in the midline up to 2.5 cm longitudinally and up to 1 cm wide and some streaky bruising running down the right digastric muscle and over the end of the right sternohyoid muscle. The neck area is also a protected area so not likely caused from a fall downstairs.
- ix) There is no evidence of any natural disease or congenital abnormality that caused or contributed to death nor any toxicological cause or contribution to death. The cause of death is severe head injury.

- x) This head injury is characterised by the presence of a space-occupying subdural haemorrhage and extensive right occipital skull fracturing. In my opinion these findings are indicative of a substantial blunt impact at the back of the right side of the head. There is no evidence of any impact related laceration or patterned injury, making weapon type impact less likely, although this cannot be completely excluded. The absence of a laceration or split in the scalp makes an impact with the radiator unlikely as the sort of force that would be involved to then cause the skull fracture and brain injury would be expected to split or abrade the skin significantly which was not apparent at the post mortem. Whilst a minor abrasion might have healed a significant one would be expected to be present. The presence of blood noted by Dr Bokhari in the hair or pillow which he linked to a boggy or bloody swelling may not have come from the back of the head but come from her nose or mouth and tracked back into her hair.
  
- xi) An absence of bruising on prominences such as knees, elbows and shoulders makes a fall down the stairs implausible. Clothing may protect more from abrasions but not from bruising. The injuries noted to her face in the photo taken at home could be a couple of days old and are more consistent with a hand on the face (grappling) and nails scratching rather than a fall downstairs as they are in protected areas. Similarly, the abrasion on the collar bone is in a protected area and less likely to be caused in a stair fall than injury to the prominences. At this age young children falling on the stairs tend to tumble (because of their height and low centre of gravity: Z was 0.9m (75<sup>th</sup> centile and 13kg)) and progressively dissipate energy. In the course of such tumbling bruises and / or abrasions tend to be seen on the bony prominences. In my opinion this is the sort of injury which results from direct impact such as through being thrown to the floor or forcibly dashed up against a wall or some other upright structure. Whilst from a purely radiological or neurological perspective the injuries sustained can be explained by a fall the overall constellation does not fit.
  
- xii) He accepted that not all falls downstairs would be tumbling falls although emphasise that matchstick falls were more likely with an adult than with a toddler of Z's height and weight. He also accepted the possibility of a fall midway downstairs. A free flight from top to bottom with no dissipation of energy on the way down fits but that might fit with an adult fall but unlikely with a child fall. A trip whilst running ½ way down is conceivable but injury to the front of the face and skull would be more likely; this is not a referred injury to the back of the head. It is doubtful that a trip part way down with free flight and no contact until hitting the bottom would give sufficient time for the degree of rotation to impact the back of the head.
  
- xiii) It is possible that an unwitnessed fall could take place in a way which we cannot predict. Fatal accidents to children in the home are incredibly unlikely whilst stair falls are not and do not usually cause serious injury in children and a fatal injury exceedingly rare although that does not mean impossible. The case studies do show a range of outcomes in stairway falls and in some there are not visible soft tissue injuries. However, we can look below the skin for bruising under the skin. Experience tells us unusual events occur. Adults are more likely to suffer serious injury as their height means they are more likely to fall from top to bottom without dissipating energy on the way down by impacting on the

walls or stairs themselves. He also considered that the earlier serious head injury indicated two exceptional events.

- xiv) There is also evidence of an older skull fracture described by Professor Mangham and timed as having occurred between 4 and 7 days prior to death. This older skull fracture showed evidence of re-fracture which would be consistent with being the result of the more recent impact head injury causing death. In my opinion it is likely that these older signs of head injury were also the result of substantial impact.
  - xv) The presence of an older humeral fracture indicates that there has been a further significant injury episode. Such a fracture would require significant twisting forces to be applied to the right upper limb. As Professor Mangham points out this injury episode may also have been associated with the causation of the fracture to the spine of the right scapula described radiologically by Dr Offiah. A fracture of the scapular spine tends to require direct impact for its causation, and this could be an example of another inflicted impact from being thrown to the floor or against some upright structure. A trampoline can be dangerous and cause more serious injury as it magnifies the amount of energy involved because falls are from a greater height than usual with a child. The injury to the humerus and scapula are separate in the sense that the rotational forces which caused the humeral fracture cannot be transmitted through the joint to cause that sort of fracture to the scapula. Both injuries would be expected to cause pain; the upper arm would be used less and the scapula would cause pain when lying on it.
  - xvi) The following was agreed in relation to the published research:
    - a) Toddlers under the age of 4 were most likely to suffer head injuries from a stair fall;
    - b) Head and neck injuries were the most common form of injuries suffered;
    - c) In two of the three studies, only 12% and 55% of falls produced observed soft tissue injuries/abrasions or contusions;
    - d) In one of the studies, 22% of head injuries were significant; and
    - e) There was no clear difference in significance of injury between those toddlers falling down a full flight of stairs (11 or more) and falls from lower levels including up to 4 steps.
44. Dr Palm conducted the postmortem addressing the paediatric pathology side. One of the matters she reported was that microscopic examination showed the presence of haemosiderin pigment in the sacral subcutaneous bruise (plentiful) and in the right digastric muscle (sparse) indicative of at least 48 hours before death. No haemosiderin deposition was detected within the submandibular gland.
45. Dr Al-Sarraj provided his report in September 2020, attended the experts meeting and gave evidence on the 6<sup>th</sup> July. The totality of his evidence seems to me to be as follows.
- i) Histological Findings

- a) Evidence of surgical intervention of craniotomy in the right dorsal dura.
- b) There is remnant subdural haematoma mixed with surgical material used for haemostasis. Histological examination of the subdural haematoma shows recent bleeding composed of well-preserved red blood cells with no evidence of macrophage infiltration or haemosiderin pigment deposition, therefore consistent with recent subdural haematoma of less than 48 hours duration.
- c) Fragments of thin extradural haematoma over the left dorsal dura. Histological examination shows recent bleeding composed of well-preserved red blood cells with focal neutrophil accumulation but with no significant macrophage infiltration or haemosiderin pigment deposition therefore in keeping with extradural haematoma of less than 48 hours duration.
- d) Extradural haematoma over the infratentorial dura. Histological examination shows mixed old and recent bleedings. The old bleeding shows healing process forming spindle-shaped fibroblasts with dense macrophage infiltration and haemosiderin pigment deposition. The appearances therefore are consistent with extradural haematoma of several days or more duration. This old haematoma is mixed with recent extradural haematoma composed of well-preserved red blood cells.
- e) Small amount of recent subdural haematoma in the thoracic segments of spinal cord composed of well-preserved red blood cells consistent with subdural haematoma of less than 48 hours duration. This is most likely extension of large intracranial subdural haematoma but he was not confident in this regard.
- f) Histological examination also shows minute microscopic accumulation of macrophages in the subdural space in a few locations of thoracic segments which raises the possibility of small minute old subdural haematoma.
- g) Brain swelling and evidence of herniation of right uncus. Histological examination shows necrosis and haemorrhage extending to the hippocampus.
- h) Contusions in the following areas: a. Dorso-lateral surface of right parietal lobe (at the level of splenium) associated with subarachnoid haemorrhage. Histological examination shows recent bleeding in the cortex with no reactive changes in the surrounding brain tissue. Therefore, the appearances are consistent with contusions of less than 48 hours duration. It is possible that this location is associated with the herniation and secondary damage to pressure-effect at edge of incised dura. b. Inferior surface of left frontal and temporal lobes. Histological examination of these contusions shows relatively older contusions. There are reactive changes, necrosis of neural tissue, macrophage infiltration and proliferated blood vessels. Therefore, the appearances

are those of contusions of a few and probably several days duration, most likely more than 5-7 days.

- i) Small haemorrhage in the mid and posterior parts of corpus callosum. This is confirmed by histological examination which shows vacuolation and intense axonal injury. The appearances are consistent with vascular damage caused by pressure-effect and shifting of brain tissue from one side to another.
  - j) Dusky discoloration of right calcarine cortex (occipital lobe). Histological examination confirms haemorrhagic infarction. Small haemorrhages in the midbrain and pons involving area around substantia nigra in the tectum and tegmentum and in the midline position. These are associated with vacuolation and intense accumulation of BAPP indicating axonal injury and consistent with dural haemorrhage caused by caudal displacement of brainstem due to increase in the intracranial pressure.
  - k) Widespread axonal injury detected by formation of axonal retraction balls in the internal capsule and middle cerebellar peduncle and widespread accumulation of BAPP throughout the brain seen in two different patterns: a. Ill-defined areas with granules and filaments consistent with ischaemic damage to the axons and confirming the ischaemic damage to the brain described earlier; b. Well-defined rounded and fusiform globules and thickened, beaded filaments which raise the possibility of additional damage to the axons due to trauma.
  - l) Mild and diffuse increase in number of activated microglia cells.
- ii) Brain examination confirms brain injury which had caused a large subdural haematoma. This had caused significant pressure-effect on the brain requiring surgical intervention of craniotomy to evacuate the subdural haematoma. The large subdural haematoma had caused increase in the intracranial pressure leading to brain herniation, shifting of brain tissue from right to left haemorrhagic infarction in the right occipital cortex and caudal displacement of brainstem leading to brainstem haemorrhage.
  - iii) The increase in the intracranial pressure due to pressure-effect on the brain had also been further complicated by ischaemia (damage to the brain tissue due to lack of oxygen and blood supply), most significant in the right cerebral hemisphere but also present in other parts of the brain.
  - iv) The neurosurgery had affected to some degree the ability to analyse the subdural haematoma and may also have affected the ischaemic damage and some other aspects of his findings but where he had drawn conclusions as to the probable cause this took that into account.
  - v) There are recent contusions in the dorso-lateral aspect of right fronto-parietal region. This is demonstrated in the naked eye examination of the brain and also confirmed by microscopic examination. The appearances are consistent with small and localised damage to the cortex of the right fronto-parietal area of



around 48 hours duration. It is possible that this could have been caused by direct impact injury. The other differential diagnosis is localised brain damage due to pressure-effect of incised edge of dura associated with herniation of brain tissue caused by increase in intracranial pressure.

- vi) There is widespread accumulation of BAPP in the brain indicating axonal injury. This appears to be of two different patterns. The majority is seen consistent with ischaemic damage to the axons and confirms presence of ischaemia described above but there are other patterns raising the possibility of traumatic damage to the axons seen in the corpus callosum, internal capsule, cerebral white matter, middle cerebellar peduncle and possibly pons. The possibility of additional traumatic damage to the axons supports severe traumatic brain injury which could be in keeping with traumatic diffuse axonal injury (DAI). The presence of axonal retraction balls (demonstrated in H&E stain) in at least two locations supports traumatic damage to the axons. However, the possibility that these are also caused by generalised ischaemia cannot be completely excluded. The traumatic nature of them is 75-80% likely.
- vii) The abovementioned features of recent traumatic brain injury which had caused the large right sided subdural haematoma, left sided extradural haematoma over left dorsal dura, possible contusions in the right fronto-parietal lobe and widespread axonal injury (damage to the brain structure itself) are all consistent with recent injury. There is mild and diffuse activation of microglia cells throughout the brain and spinal cord. Therefore, the appearances are in keeping with injuries of slightly more than 48 hours duration and timing of 54 hours survival (as indicated in clinical history).
- viii) In addition to the recent injuries described above, there are features of older traumatic brain injury. There is an extradural haematoma associated with the older skull fracture. In addition, there are contusions in the inferior surface of frontal and temporal lobes which on histological examination show features of a few to several days duration and most likely more than 5-7 days. Prof Al-Sarraj emphasised timing was not precise and he preferred a few to several days as giving numbers tended to lead to too close a focus on the number. He noted that there is no research on the effect of brain injury/ICU on the healing process and that the timing of an injury was in statistical terms more likely in the middle of the range but not knowing the shape of the bell curve made it imprecise and relying on the range better reflects the uncertainty in timing. Outside the range it eventually becomes so improbable as to be impossible or inconsistent. Delayed healing might have affected the acute injury but not the older one. There is also thin extradural haematoma over the infratentorial part of dura which also shows features of old healed bleeding of fibroblasts with macrophage infiltration and haemosiderin pigment deposition. There are areas of calcification. The appearances are difficult to time with precision but some of the appearances could be of a few to several days duration and therefore in keeping with timing of old contusions in the frontal and temporal lobes described above but there are other features such as the calcifications and bone formation which suggests older head injury. Nevertheless, the features of calcification and bone formation could be part of evolution and growing of dura in relation to the skull rather than being part of old bleeding.

- ix) The pathological findings show clear evidence of two distinct events; although the range for timing purposes may overlap there is no histological overlap but two distinct events where the healing processes in one individual show different stages. There is no continuum where you can have an overlap but two distinctly different events occurring. For the more recent injuries you can see well preserved blood cells where the outer shape and intensity are clearer, and they are well preserved whereas older blood cells have lost their clarity of definition and intensity.
- x) The older injuries to the lobes of the brain are consistent with contre-coup injuries sustained following a blow to the back of the head with the brain moving inside the skull and being injured in the frontal region.
- xi) The mechanism of recent head injury which had caused large subdural haematoma is likely to be an impact-related injury; references in the early report to the possibility of an instrument being involved was an example of a possible cause only. The subdural haematoma is considered as traumatic; no natural disease or other explanation was found.
- xii) I have noted Dr Cary's provisional view that there are no contusions correlated with falling down stairs (such as abrasions in elbows, shoulders and knees) which would imply that the impact is most likely intentional direct impact on the head. The presence of recent extradural haematoma over the left dorsal dura supports severe direct impact on the left side of the head. However, impact on the back of the head which could have caused the skull fracture in the occipital lobe (depending on timing of occipital lobe fracture) is another possibility.
- xiii) The nature of the trauma involves significant energy and acceleration and deceleration forces with probably rotational force. The probable traumatic damage to the axons supports the high severity of head injury which is less likely to be caused by tumbling down the stairs. Overall these aspects of the axonal injury (which were cross-checked in evidence at the suggestion of Mr Jayamohan) were in Prof Al-Sarraj's view trauma related. Their significance was that axonal damage in these compartments of the brain which are the best protected are consistent with high energy events like car crashes and falls from significant heights (over 3-4metres) but might also be found in accelerated falls (for instance from being punched or falling whilst running) or assaults with an implement.
- xiv) The published papers on injuries to children from falls, including in stairways (which are epidemiological rather than specific case studies) show children rarely suffer serious injury or death from a fall down stairs although of children toddlers are the most likely group to suffer a serious injury or (in the Behera paper) death. In the Sheffield paper only, children dropped on stairs suffered a skull fracture. The paper which identifies a number of deaths to children being associated with stairway falls does not identify whether the death was caused by head injury (although it was the commonest cause of death in that study) and one questions the reliability of the report that it was a stairway fall which led to death. Stairway falls rarely result in serious injury or hospitalisation let alone death. A tumbling fall down stairs is not likely to generate that energy, but some other fall might and if the head struck an object with a small surface area which

might have concentrated the energy of the fall it might. That would need to be cross-referenced with the findings on the skull and scalp. He accepted in cross examination that the research papers painted a more mixed picture than that which had been depicted during the experts meeting and that there were examples of children with no soft tissue injuries or abrasions after a reported fall downstairs. He also accepted that one of the papers included 7% of the deaths arising from reported fall stand stairs.

- xv) As with all childhood traumatic brain injuries, further critical correlation with autopsy findings, clinical information, eye examination, neuroradiology examination and histological examination of fractures are all essential before final conclusion.
46. Dr Malcolmson, consultant Paediatric and perinatal pathologist provided a report following a macroscopic examination of Z's eyes. He accepted that his was only part of the picture and that there was a gap in the science when it came to drawing conclusions about the precise presentation within the eyes in the context of a possible fall downstairs.
- i) There is very prominent optic nerve sheath haemorrhage bilaterally within the subdural pseudospace surrounding the optic nerves, associated with relatively mild bleeding within the substance of the dura and the adjacent orbital soft tissue. The subdural bleeding is especially prominent immediately posterior to the globes where focal subarachnoid haemorrhage is also noted. There is no obvious haemorrhage within extraocular muscles or non-optic intraorbital cranial nerves.
- ii) The retinae show occasional (more rarely in the left retina), small, intraretinal haemorrhages, focally involving the sub-internal limiting membrane (subILM) zone, the nerve fibre layer (NFL), plexiform layers and nuclear layers. Such haemorrhages are noted in the mid- and far peripheries with at least one haemorrhage in both eyes present at the ora serrata. A subretinal haemorrhage with focal retinal detachment is noted in the right eye.
- iii) There is haemorrhage at the optic nerve / scleral junctions in the regions of the vascular circles of Zinn and Haller bilaterally.
- iv) No evidence of congenital or other significant natural disease processes affecting the eyes either from his examination or from Dr Palm.
- v) The eye pathology findings in this case can be summarised as showing a small number of retinal haemorrhages in multiple retinal layers, predominantly in the mid- and far peripheries of both eyes. In addition, there is retinal oedema near the posterior poles, short of retinoschisis but associated with focal minimal haemorrhage on the right. Further, there is severe bilateral optic nerve sheath haemorrhage and haemorrhage at the optic nerve / scleral junctions. There is minimal recent haemorrhage within orbital fatty soft tissues around the optic nerve sheaths but no obvious haemorrhage within extraocular muscles or non-optic cranial nerves within the orbit.

- vi) No deposits of haemosiderin (a blood breakdown product) were detected in the retinae, optic nerve sheaths or orbital soft tissues. Accordingly, the eye pathology findings have been of relatively recent onset. A lack of haemosiderin deposition is consistent with an elapsed survival period of less than 2 to 3 days from the index incident to death. There is no study within this field which bears upon Prof Mangham's view that bone healing can be repressed/delayed by severe brain injury and intensive care.
  - vii) The pathological features present in these eyes are compatible with acute, severe traumatic head injury associated with a brief survival period of up to around 2 days or so. A pattern of relatively few, small retinal haemorrhages and more prominent bilateral optic nerve sheath haemorrhages is more compatible with blunt force impact trauma to the head rather than being especially supportive of an inertial / angular acceleration-type mechanism of injury. The haemorrhages are not from blood tracking into the eye either from the SDH or from the operation. The structure of the eye would not permit this. The haemorrhages are from the energy of the impact rupturing the vessels which serve the eye.
  - viii) These sorts of injuries are associated with very high energy incidents; head-on collisions, t-bones, rolling over. They are not particularly indicative of accidental or non-accidental trauma although are less consistent with a low-level fall, including down stairs, unless some exceptional component is also present which takes it out of the expected energy in such a fall. The studies (such as they are) suggest that children rarely suffer very serious head injury of this sort or die from stair falls. The fact of eye injuries and their pattern in this case are less consistent with a fall down stairs; low level falls rarely associated with retinal haemorrhage and when they are they are at the posterior pole, few in number and superficial which is different to those found here. The optic nerve sheath damage in particular was indicative of high energy traumatic injury. In 14 years he had come across a handful of cases where injuries of this sort had occurred and were said to have occurred in a stair fall but there were features of those cases which called into question whether it was a stair fall. He accepted there was a need to be cautious about making assumptions as to mechanism as rarity of events did not mean they did not happen. Exceptional circumstances could be found in the speed of the impact or an impact not on a flat surface but a pointed surface which would increase the force on a small area of the head rather than it being dissipated on a flat surface. A knob or sharp edge of a radiator might fall into that category, but Dr Cary would be better placed to advise.
  - ix) The fact that there is no evidence in the eyes of an earlier injury is not inconsistent with an earlier injury (skull fracture and sub-dural haematoma – if they are found to exist) as these sorts of injuries to the eye are associated with very high energy impacts and one can have skull fractures and SDH without associated eye injury. Skull fractures are not uncommon in domestic accidents.
  - x) The location of the eye injuries and their symmetry across both eyes does not tell us much about where the point of impact was.
47. Mr Jayamohan, consultant paediatric neurosurgeon provided 2 reports, contributed to the experts meeting and provided a short addendum report following that. He gave oral evidence on the 6<sup>th</sup> July. Taken in its totality his evidence is as follows.

- i) The clinical findings of this child were of very significant raised intracranial pressure on admission to hospital in a coma with sluggishly reacting pupils, growing dilation and then fixed pupils bilaterally, flexing and then posturing and at KCH she is non-reactive. She was immediately intubated and transferred to KCH within 2 hours. There is evidence of continuing neurological deterioration after admission.
- ii) The pattern of deterioration is not a straight-line but variable. In general terms if all the sub-dural collection seen on CT scan on admission was acute one would expect her to be immediately unconscious, not screaming or inter-acting, possibly vomiting although not all do if they are immediately unconscious. If the subdural collection represents acute bleeding into a pre-existing subdural collection then the deterioration would likely be a more progressive one where she might have had a reduced level of consciousness (and being clearly unwell) rather than being immediately unconscious, might have cried or screamed for a period of time (more likely to be minutes and unlikely to be half an hour) as her level of consciousness reduced, getting quieter and quieter may have begun vomiting immediately or at some later point and lasting over ½ hour. The observations as to her state at her appearance at hospital would tend to support the event occurring later in the window 9.09am – 10.52am.
- iii) The cause of this raised intracranial pressure can be seen on the initial scans. There is a large subdural collection over the right cerebral hemisphere with midline shift and the beginnings of ischaemic injury first affecting the right and then both cerebral hemispheres. The majority of the ischaemic damage is likely to be acute rather than operation related although some proportion might be. The scalp swelling seen at the back of the head is overlying a significant occipital skull fracture and the occipital bone is the strongest one over the skull vault.
- iv) The fact that the subdural collection was evacuated during the neurosurgery reduces our ability to identify what it was made up of and samples do not appear to have been collected for testing. It does not appear from the notes of the operation or from the appearance of the CT scans that there was an ongoing bleed (creating hyperacute blood). From its appearances on the CT scans this is most likely a mixture of fresh (acute) blood, very clearly seen at the top of the head in small separate discrete areas, but the majority is bleeding into an already present subdural collection. The subdural collection is not likely to be from some earlier subdural haematoma rebleeding as there is no evidence of membranes from the operation which might be the source of rebleeding. Nor is it likely to be from cerebro-spinal fluid as there is no evidence of an opening or tear of the arachnoid membrane which would be necessary for CSF to appear in the subdural space and in any event would have to occur against a pressure gradient. Nor is it likely to be an acute traumatic effusion; its size was inconsistent with this in his experience. Whilst not entirely ruling out other possible causes which might be consistent with a single injury he was clear that the most likely explanation for the subdural collection is an acute bleed into a pre-existing subdural haematoma. The appearance of the CT scan shows gradation from the acute blood (white) to the greyer colour which is blood which has begun to break down becoming less dense as it turns to liquid and the fresh blood can sink into it.

- v) Overall the evidence supports the conclusion that the subdural collection seen on CT scans is comprised of both fresh blood (radiologically less than 10 days old) and chronic subdural blood (older than 2 weeks old) which is distinguishable by the appearance of the fresh blood in the older collection.
- vi) Subdural haematomas may resolve and disappear as the liquid is reabsorbed into the body or it may calcified giving the appearance of a second skull but without neurological consequences. They may grow membranes which can re-bleed. However, they may also remain present drawing liquid into them with pressure slowly increasing and causing minimal if any symptoms. If the pressure slowly increases, there may be slowly emerging neurological symptoms. The human brain however may simply accommodate a subdural collection without any neurological compromise. The subsequent acute bleed into the subdural space with the sudden changes which may have accompanied it and then led to the sudden rise in intracranial pressure and Z's collapse. Had the previous subdural collection not been present the acute bleeding may have had less of an effect.
- vii) Dating the chronic subdural haematoma from a radiological perspective is difficult; all that one can say is that the CT scan appearance suggests it is older than 2 weeks, but it could be much older – dating back to the time Z was in Afghanistan. This would therefore date in the appearance of the majority of the blood as being a few weeks old in order for it to become liquid enough to see that appearance. This would be in keeping with a previous injury causing an old subdural blood clot, and again I am minded to consider the older history, in particular the potential 2m fall. While I would have expected Z to have shown some symptoms at this stage, they are not always present.
- viii) The amount of area the CT scans seem to show as being attributable to acute or chronic bleeding is not readily translatable into the actual volume is present in the skull. The fact that the brain expanded quickly back into the cavity after the subdural haematoma was evacuated in neurosurgery is more supportive of the brain having been compressed as a consequence of the acute blood rather than the brain having been compressed by a chronic subdural collection. In the latter scenario it would be expected that the brain would have adapted to the collection and would have taken longer to expand and fill the space vacated by the subdural haematoma. In addition, the amount of space seemingly taken by the subdural collection is likely to have resulted in clear and obvious change to Z's neurological functions. This also would support a significant volume of the subdural collection being acute.
- ix) Z's head circumference (75<sup>th</sup> centile) is less consistent with her having sustained a head injury leading to a significant subdural collection although the absence of any records of her head circumference from Afghanistan is a limitation on what one can infer from this. If she had a chronic significant subdural collection it would likely have caused her skull to grow accordingly particularly if it occurred prior to 22 months when the skull bones in a child are becoming fused. Between 18-24 months the sutures are becoming sticky. If it was after 22 months the bones are more fused so there is less likelihood of the head size being affected.

- x) The extradural haematoma is associated with the earlier fracture. The fracture and haematoma and the lobe contusions identified by Prof Al-Sarraj (if they are linked in timing terms) would not necessarily have resulted in neurological consequences for Z albeit it would have been a significant event involving significant forces to fracture the skull. After a period of distress associated with the impact causing the fracture, she might have simply been quiet and unless the fracture was pressed, she would not necessarily have demonstrated any obvious pain or other behavioural change.
- xi) Overall, there appear to be three different ages of head injury supported by the radiological clinical and pathological findings:
  - a) Old subdural blood greater than two weeks old but potentially dated at 5 to 10 weeks or even older.
  - b) Skull fracture and extradural blood that is 5 to 7 days old. Frontal lobe contusions (to be dated by Prof Al Sarraj) of a few to several days old.
  - c) Skull fracture/re-fracture and fresh bleeding into the extradural space and bleeding into the right subdural space. In addition, there is evidence of axonal injury to the structure of the brain. Some of this is linked to ischaemic damage arising from the swelling to the brain cutting off the blood supply and some also may be consistent with the neurosurgical intervention. There also appears to be axonal damage arising from trauma subject to Prof Al Sarraj confirming this.
- xii) A fall from 2 metres could explain the chronic sub-dural haematoma. The mechanism for the skull fracture and the extradural haematoma is a significant impact event sufficient to break the strongest bone in the skull, the occipital bone.
- xiii) The most recent injuries are caused by some form of traumatic impact of a significant sort involving significant energy. It could be accidental or non-accidental. A tumble down stairs will dissipate the energy so the impact at the bottom is lessened but a fall could occur in a way which doesn't dissipate the energy. A throw would involve significant energy not being dissipated until impact but that is not to say that is a probable cause; it is one of a number of possibilities. A fall downstairs could involve rotational elements and could generate sufficient force on impact at the foot of the stairs to cause this injury depending on precisely how it happened and could cause traumatic axonal injury where the impact has caused tearing of the nerve fibres. You can get skull fractures from a standing fall in infants. It could not be ruled out, but all of the picture must be brought to bear.
- xiv) The evidence does not point to a shaking type event or any condition which might explain any of the findings.
- xv) The account given by the parents of the diminishing consciousness, vomiting are typical of raised intracranial pressure.

48. Mr Harish Kapoor, a consultant orthopaedic and trauma surgeon was instructed to give an opinion in respect of issues relating to the likely mechanisms for the causation of the fractures to the right humerus and right scapula, Z's likely presentation thereafter and the likely awareness of the parents. Mr Kapoor has extensive clinical experience over many years of paediatric trauma. He was instructed because the experts meeting identified a need for input as to the mechanisms for the humerus and scapula injuries. Of all of the experts he was perhaps the most emphatic in his evidence and was somewhat defensive when challenged by counsel. However although his evidence might have benefited presentationally from a more detached delivery ultimately one cannot escape from the depth of experience that he brought to the case. I do not think his evidence needs to be approached with profound caution as submitted by the mother but rather it must be fitted into and judged alongside all the other evidence. It also seemed to me that in its content his opinions were objective but most importantly he was very clear in his conclusion that they were inconsistent with the explanation given by the parents and consistent with an abusive event.
49. He provided a report and gave oral evidence on 9 July. The salient points of his evidence appear to me to be as follows.
- i) The radiology images confirm a spiral fracture in the lower part of the right humerus. It is a complete fracture. It requires a significant twisting/torsional force to the arm. The treatment for the fracture would likely have been a cast to immobilise the fracture but some might have simply used an underclothing sling to immobilise.
  - ii) The radiology confirmed a healing fracture to the spine of the scapula extending into the body with callus formation obliterating the fracture line. It would usually be treated by immobilisation via a underclothing sling.
  - iii) The scapula is both a strong and a well-protected bone as the muscles act like cushions. It thus takes a lot of energy to fracture a scapula and they are rare accounting for 3 to 5% of shoulder injuries and being associated with high energy mechanisms. Motorcyclists being thrown from bikes or riders from horses were common victims of this sort of injury; in children it is very rarely encountered. Being impacted on the ground or a direct impact hit to the scapula could involve sufficiently high energy to cause this. This sort of fracture has a high specificity for likely abuse. The only other injury with a greater association with abusive causation is posterior rib fractures. Scapula fractures along with fractures to the spinous processes and sternum have the next highest association with abusive causation.
  - iv) The radiology images confirm multi-laminated periosteal reaction in the humerus with a spiral fracture line which is nearly on the way to filling up but still visible on x-ray. The morphology of the fracture is still visible; thus the spiral nature can be seen and has not disappeared through complete healing. The fracture appears 4 to 6 weeks down the line with the range of opinion up to 12 weeks. Timing is inexact but a range can be estimated. Pathology can allow you to see how the bone is getting converted from lamellar bone to trabecular bone and the pathologists time ranges are within his range.



- v) Looking at the callus formation and healing in respect of the humeral fracture and the scapula fracture they appear of similar age. Whilst dating involves a range rather than identification of a precise date which does mean that these injuries could have been sustained separately the appearance of the healing stage reached in both points to them likely being part of the same event.
- vi) Mechanism: the likely explanation could be a violent twisting force applied to the arm and the child impacting against a hard surface likely wall or a floor. The most common fractures in children from trampoline falls are transverse fractures or compression type fractures. Mr Kapoor had not come across a spiral fracture arising from a trampoline accident although trampolines were a common source of child injuries. He accepted that trapping the arm on a part of the trampoline might lead to a rotational force being applied to the arm and thus a spiral fracture resulting. He did not consider that a spiral fracture of the arm and the fracture to the spine of the scapula could be a consequence of a fall on the trampoline because a child of Z's size and height would be unlikely to generate a force capable both of fracturing her scapula and her humerus. He did not consider that for Z a fall from a trampoline onto a hard surface could be from a height sufficient to fracture the scapula which requires a considerable degree of energy or force. For an athletic teenager using the trampoline to generate significant height a fall onto a hard surface might generate sufficient force to fracture the scapula. If the arm were trapped on the way down it would reduce the energy making the scapula fracture thereafter unlikely. He could not envisage a means by which the scapula fracture could be sustained first with the spiral fracture of the humerus following.
- vii) Consequences.
  - a) A complete fracture of the lower part of the humerus would be expected to be extremely painful when the fracture occurred and thereafter during normal handling and movement. The pain would be at its peak over the first two or three days as the healing process began and then would slowly tail off over the next three weeks or so. By about week four the healing process would have knitted the bone together and the pain would have disappeared or been negligible. The area around the fracture site would be swollen fairly rapidly after the fracture and bruising would be likely to emerge and be visible within two days. The bruising would most likely be above the elbow as the complete fracture would bleed into the surrounding tissues. The blood might track down via the cubital fossa which joins the upper and lower arm, and so bruising around the elbow or the upper part of the forearm would be possible.
  - b) The fracture to the scapula would be painful on movement. Swelling would be likely as a result of the bleeding from the fracture line. Bruising could emerge but they might be hidden by the layers of muscle.
- viii) Presentation. The humeral fracture would likely be acutely painful in particular to massage or to movement. Crying for one or two minutes is not what you would expect you would expect it to endure for much longer. This is not a buccal or green stick fracture. Most children would present with a pseudo-paralysis picture and would not allow use of or handling of the arm. Pseudo paralysis is

often the presenting symptom in clinics particularly where an accident has not been witnessed. It is often difficult to sleep with fractures as spontaneous movement of the arm or shoulder would trigger pain although children can reach a state of exhaustion where they might sleep through it. They would be likely to avoid sleeping on their side either because of the pain it would cause by lying on the right arm or the gravitational pull on the fractured limb if lying on the left. The most comfortable position would be sleeping on the back. Dressing a child by raising their arms to put a vest on or moving their arms through a sleeve would be likely to be very painful initially and extremely distressing and painful for the 2 to 3 weeks thereafter. The child would be likely to avoid use of the arm for eating, drinking or playing although it is possible that movement only of the lower part of the arm below the elbow with the upper arm remaining static might not cause pain. Active play such as on the trampoline would be avoided as it would cause pain from the erratic movements on the arm or shoulder. The child would probably be transportable in a buggy without experiencing pain. Lifting a child under the arms into a bath or otherwise would be likely to provoke pain.

- ix) A concerned parent would be expected to notice the lack of use which would be obvious and the pain experienced and to present the child for medical help. Hospital departments remained open to deal with such injuries during Covid lockdown.
  - x) Parents accounts. The swelling in the arm mentioned by the father is consistent with the injury but one would expect loss of function. The bruising noted by the mother and father is also consistent with the injury but the stated lack of loss of function is not. Restricted movement in the arm is also to be expected. Massaging cream into the bruised area would have been likely to cause considerable pain.
  - xi) Scientific Papers. The Farrell paper from the Journal of the American Academy of paediatrics is not a very useful guide in relation to this case. It does not deal with multiple fractures, it excludes possible abusive injury, was mainly concerned with less serious injuries and it is a retrospective survey which is the least useful form of paper. He considered that the papers observations that a proportion of children did not cry after the injury were unhelpful as it did not identify what sort of fracture they had sustained. Mr Kapoor reluctantly accepted that it confirms that a small number of serious or unstable fractures (4-5%) had still demonstrated normal use of their fractured limb but he said that was not his experience. He also accepted that if the injuries were sustained on separate occasions, they would fall within the single injury province covered by this paper. However, he was fairly clear that he considered the two injuries were sustained together and noted that that 92% of the children were seen at hospital within a day of the injury being sustained and the presentation at hospital.
50. Dr Cleghorn provided an initial report and a final report. She was unable to attend the experts meeting and her final report in effect endorses the conclusions which emerged from the experts meeting. She did not add in any meaningful way to the conclusions reached in the experts meeting or what she had included in her initial report. She was not called to give evidence.

- i) Subdural haemorrhages are significantly associated with abusive head trauma as are extradural haemorrhages. Subarachnoid haemorrhages are seen in both abusive and accidental head trauma. However, multiple subdural haemorrhages, particularly if bilateral, involving the area between the two sides of the brain, or in the back of the brain are more likely to be non-accidental. Multiple subdural haemorrhages of differing ages are more likely to be non-accidental.
  - ii) It is possible to have a head injury causing intracranial haemorrhage and present with minimal signs, however the recalled event from mother is well over a year before Z presented with her fatal injury. It would be unlikely that an intracranial haemorrhage was still present over a year later and this is unlikely to be the cause of the older haemorrhages present in May 2020.
  - iii) It is possible to fall downstairs and not have any other bruises; trauma can occur without causing bruising. It is also possible that a fall downstairs could result in the head injury. However, my understanding of the intracranial injuries seen in Z is that they were extensive. The research evidence outlined above states that the presence of subdural and subarachnoid and extradural haemorrhages in Z and that there are subdural haemorrhages of differing ages would suggest that her injuries are more likely to be non-accidental from one or more forceful traumatic events.
  - iv) It is possible that she was conscious at home for a short period of time and became more unconscious but most of the research evidence suggests that children who suffer a non-accidental head injury which leads to death will usually deteriorate very quickly following the traumatic event.
  - v) There is nothing recorded in the records I have had sight of to suggest that Z did not show distress at unpleasant or painful stimuli. When she presented with her scalds it was noted that she was in distress and she was prescribed pain relief. She is therefore unlikely to have a congenital insensitivity to pain and would be expected to be distressed if she experienced a traumatic event. Fractures of the arm, as with all fractures, are extremely painful, both when the fractures occur but also during normal handling and movements by the child e.g. when getting dressed. Pain from fractures occurs not only from the episode but also from movement of the broken areas against each other. With fractures of the limbs, immobilisation of the limb through a cast is often enough to reduce any painful sensation. I am not aware that Z presented at any time to health professionals with concerns about her arm - if this is the case then as she would not have had any cast put on and so I would expect that she found manipulation of her arm painful until the ends of the fracture became sufficiently stuck together. However, as it would have been painful for Z to move her arm following the fracture (as outlined above), I would expect that parents would have noticed, either that Z was not using her arm in the days after the injury or was in pain and distressed when her arm was manipulated for example when dressing.
51. Professor Mangham, consultant histopathologist was instructed to examine two specimens and to advise on the presence or absence of fractures and if present to give an estimate of their age at the time of death. Taken together his written report and his oral evidence provide the following opinion.

- i) Macroscopic and x-ray examination shows an obvious full thickness fracture measuring 60mm and crossing the occipital/parietal suture with slight displacement.
- ii) Macroscopic and x-ray examination of the distal humerus shows an undisplaced/minimally displaced spiral fracture with callus formation.
- iii) Histological examination is regarded as the gold standard because it enables microscopic examination of the healing response at cellular level. It showed the following.
  - a) Section A1 (see marked x-rays) shows a complete fracture running perpendicular to the skull surfaces. Evidence of a variety biochemical responses indicate that the fracture occurred between 36 and 72 hours prior to death. As it appears the fracture occurred at the same time as a significant brain injury which would have impacted upon the body's response to the fracture, together with the intensive medical treatment there is a delay to the healing process and so the timing of the fracture can be extended by 12 hours and so the fracture is likely to have occurred between 48 and 84 hours prior to death.
  - b) Section A2. As A1 save the bone either side of the fracture has separated.
  - c) Sections A3-5. Shows a comminuted fracture involving and running alongside an accessory suture. Early new bone formation and other biochemical responses indicate this fracture occurred between four and seven days prior to death. The timeframe is not extended by delays in the healing process as it is not suggested that there was a significant brain injury at the time and intensive medical treatment did not commence until 27 May. There are features suggestive of a re-fracture at this site which would be in keeping with the more recent fractures seen in the vicinity.
  - d) Complete, non-displaced spiral fracture involving the distal meta-diaphoresis. A relatively mature healing response is evident with bony callus and reunion. The appearance indicates the fracture occurred between five and 10 weeks prior to death.
  - e) The bone away from the fracture sites appears normal.
- iv) The near overlap between the ranges 48-84 hours (Fracture A1/A2) and 4-7 days (Fracture A3-5) do not support a possible single event. The ranges can be represented by a bell curve where the timing of the fracture is most probable in the middle of the range reducing to the lowest level of probability at the edge of the range. Although mathematically the ranges might overlap at the lowest level of probability the histological evidence demonstrates that the nature or stage of the healing processes at the fracture sites are distinctly different and so they occurred at different points in time. We are not identifying points in time but ranges.

- v) The skull fracture and re-fracture would have been caused by blunt force impact. There is no evidence of a penetrating injury. The nature of bone is such that an earlier impact would not have left the unfractured skull vulnerable to fracture with a lower level of force or energy involved than would be involved in re-fracturing an existing fracture. Although bone heals at a sub-macroscopic level and so one can theorise that bone might be weakened at a sub-macroscopic level it is not accepted that bone can be weakened in the way that metal can. The skull fracture at A1/A2 was of virgin bone and would require the same level of force as was required to cause the earlier fracture at A3/5. The occipital bone is one of the stronger bones in the skull, the parietal bone is not so strong. The impression is that the more recent fracture line propagated to the point it met the previous fracture site and then either because it met an edge or because the energy was dissipated because the existing fracture had more give and could absorb energy it terminated there.
  - vi) The spiral shaft fracture to the humerus indicates that there was a twisting element to the causative force. This fracture would have been caused by significant force. The twisting force can arise from the limb remaining static and the body moving around it as in skiing injuries. It may be reasonable to assume that the fracture occurred at the same time as the described right scapular fracture and this would help with the interpretation of the mechanism of causation of these fractures.
  - vii) The conclusions as to timing from the neuro pathological examination and from the bone radiological examination come to very similar timings which gives great confidence in the conclusions. They were reached independently and overlap closely in their ranges.
52. Dr Offiah a consultant paediatric radiologist provided two reports and gave oral evidence. He was unable to attend the experts meeting
- i) The neuroradiological imaging undertaken on Z on hospital admission to Darent Valley Hospital on 27 May 2020 demonstrates acute/recent (subdural) blood mixed with non-acute (ie. non- contemporaneous) (subdural) blood overlying the left and the right side of the brain (the left and the right cerebral hemispheres and the left and right cerebellar hemispheres). Such bleeding can cause mass effect on the underlying brain tissue within the confines of the closed "box" of the skull and, as a consequence, such mass effect can compound the original primary brain insult with secondary deleterious effects such as compromise of normal blood supply to brain tissue, ultimately with a depletion of necessary oxygen and nutrients to brain tissue and subsequent devitalisation of various parts of the brain (ie. parts of the brain begin to die). Where there has been haemodynamic/circulatory collapse, the primary brain insult is further compounded similarly by compromise of blood supply to an already compromised brain. This compromised blood supply to the brain is evident on the initial CT head scan performed on Z on 27 May 2020 with severely compromised blood supply to a large part of the right side of the brain at the front and the back and to some of the left side of the brain at the front - these areas of the brain have started to "die" because of this reduction in blood supply caused by brain shifts (so-called mass effect) caused by the large right subdural haemorrhage. There is also evidence of reduced blood supply to a part of the

brain stem (called the midbrain) and some bleeding into the right side of this part of the brainstem because of the diminished blood supply caused by the brain shifts associated with the large right sided subdural haemorrhage.

- ii) There are very small areas of acute cortical haemorrhagic contusion evident affecting some areas of the left and right cerebral hemispheres, particularly the frontal and sub-frontal regions and some of the temporal lobe parenchyma (particularly on the right). These features look suggestive radiologically of acute contre coup brain injury on a background of non-acute, pre-existing intracranial trauma and skull fractures.
- iii) Bleeding in the right frontal lobe of the brain (ie. within the brain tissue itself) seems to represent a post-surgical episode of bleeding associated with the neurosurgical intervention and was not present pre-operatively.
- iv) There are extensive skull fractures affecting predominantly the back and the top of the back of the skull of Z on the initial CT scan performed on 27 May 2020 at Darent Valley Hospital. The radiological appearances of these skull fractures affecting the back of the skull look complex and look predominantly like non-acute fractures which are on the opposite side to an epicentre of significant acute/recent scalp injury on the left. It is difficult to unequivocally identify radiologically acute fractures of the skull although it is possible that there may have been some acute disruption of some of what look like non-acute fractures as well as some acute disruption of some of the developmental ossification lines and sutures of the occipital skull. The presence of non-acute looking localised extradural and peri-cranial haemorrhagic changes associated with some of the non-acute looking right occipital fractures also seems radiologically highly suggestive of a predominantly non-acute (subacute or chronic) cause of some of the skull fractures. Radiologically, the skull fractures - probably predominantly non-acute - look consistent with a blunt traumatic causation and therefore, in my opinion, highly suggestive of non-contemporaneous blunt traumatic impacts to the back of the head at separate different time-points. The presence of an early type of "growing fracture" appearance of some of the right occipital fractures radiologically as well as diastasis of the sagittal and coronal sutures suggest that the intracranial pressure may have been abnormally raised for longer than an acute period of time and supports the radiological impression of a component of chronic right subdural haemorrhage ie. a component of pre-existing subdural blood which had been present for more than a short acute period of time.
- v) There is an approximately 6 cm acute/recent right parietal scalp soft tissue haematoma (i.e. scalp bruising and swelling) demonstrated at the vertex. This is associated with an approximately 2 cm recent/acute-looking abrasion/contusion of the overlying skin of the right parietal scalp. There is an approximately 10 cm left parieto-occipital scalp soft tissue haematoma associated with an approximately 1.3 cm area of cutaneous soft tissue injury (which is somewhat age-indeterminate but could be recent) affecting the left parietal scalp skin. There is extensive predominantly right-sided lower occipital but predominantly suboccipital acute/recent scalp soft tissue haematoma present. There are old healed lacerations 2.3cm and 4cm in length.

53. In his second report which addressed the questions put to the experts meeting he concluded as follows:
- i) Injuries identified
    - a) Acute skull fracture
    - b) Acute sub-dural haemorrhage
    - c) Older skull fracture
    - d) Multifocal areas of soft tissue injury to the scalp of different ages
    - e) Older subdural haemorrhage to the right side of the brain into which acute sub-dural bleeding has occurred
    - f) Spiral fracture of the right humerus
    - g) Fracture to the blade of the right scapula
  - ii) Timing/Ageing of injuries
    - a) Skull fractures: one acute (less than 2 days old); one at least 3 days old
    - b) Acute bleed most likely sometime between 17-27 May, possibly 25 -27 May bleeding into an older sub-acute SDH
    - c) Separate sub-acute intracranial extradural haematoma related to older sub-acute occipital fracture.
  - iii) There is evidence of healed scalp laceration consistent with an injury to Z in Afghanistan.
  - iv) The acute injuries could be explained by a fall down stairs but this does not explain the subacute SDH and EDH. They are consistent with blunt force traumatic mechanism with multifocal sites of acute head injury. The older injuries would be consistent with a blunt force traumatic mechanism.
54. The salient points which emerged from his oral evidence seemed to me to be these:
- i) He emphasised that his evidence was one part of a multidisciplinary picture. He emphasised that Prof Mangham's histopathological evidence in relation to the dating of the skull fractures was the gold standard. He did not necessarily agree that the pathology reports trumped the CT scans in respect of soft tissue injuries particularly when they are older and healed or healing. He was confident that the soft tissue injuries he had identified were there notwithstanding any contrary opinion of the pathologists.
  - ii) In relation to the neuropathology reports he noted that one had to bear in mind that the samples and the investigation arising from them post-dated operative intervention. The CT scans showed the picture prior to operative intervention.

- iii) He acknowledged the difficulty in dating subdural haemorrhages and that research confirm that even the estimates or windows could be affected by many factors as Mr Woodward-Carlton reminded me he said “It is an estimation and a range – it is never going to be a smoking gun.” However, he also emphasised that this was not a case where dating the injuries or evaluating the number of separate incidents causing injury was reliant only on the subdural haemorrhages. In this case the presence of soft tissue injuries to the scalp, fractures to the skull and extradural haemorrhage in the region of the fractures enabled a more confident opinion to be reached as to timing and number. He was confident there were one than one event. However, they did not indicate to him whether it was accidental or non-accidental events which caused them, including the soft tissue injuries.
- iv) He thought a fall down stairs could have caused the injuries but emphasised multiple blows on a hard surface i.e. falling down hard on uncarpeted stairs or a nonaccidental cause.
- v) He concluded that the acute skull fracture was up to 2 days old at the time of death and that the subacute fracture was at least three days old. He confirmed that his initial report identified the probability of an earlier fracture which had been re-fractured and that this opinion had been other reports and the minutes of the experts meeting. He accepted that dating skull fractures was more complex than long bones. Although he acknowledged it is not his expertise the evidence showed Z was acting normally on 26<sup>th</sup> May when seen by the health visitor
- vi) The soft tissue injuries looked as if they were of different ages – but they could have merged into one. Although identified distinctly on the 3D imaging they could have been associated with one event. The association between the location of the soft tissue injuries and the internal injuries to the skull or brain are not necessarily linked to each other.
- vii) He emphasised that the visible size of a subdural haemorrhage on a CT scan could not necessarily be transposed into the effect on the neurological functioning being directly proportional to the visible size. The CT scan showed an area of acute bleeding and a larger area of sub-acute which was likely different in age although it could be other fluid CSF mixing. However, although on its own the SDH might be consistent with one event the other injuries were not. It was not like a shaken baby brain injury.
- viii) He accepted that had there been an earlier skull fracture that had re-fractured this could be caused by less force particularly of the fracture was growing fracture where the force of the intra-cranial abnormalities internal pressure on the fracture which slows its healing.
- ix) In relation to the scapula and the humerus fractures they looked older because of the convincing evidence of healing. The fracture to the humerus was a complete fracture with an element of rotational force but not displaced. The scapula fracture was not to the tip but was to the face and would have required substantial blunt impact trauma. He would not rule out the possibility that a fall on a trampoline with the arm being caught might provide a mechanism which



could have created the complex forces needed to cause them but would defer to a trauma specialist clinician. He expected they would have had a significant impact on the child and would have been readily evident to a carer.

55. Dr Burge, consultant plastic surgeon
- i) In my opinion the injuries are highly consistent with this scenario (i.e. could have been caused by the trauma described, and there are few other possible causes).
  - ii) The injury pattern is seen frequently in low- and middle-income countries (such as Afghanistan) and is not uncommon in the UK in deprived and/or chaotic households.

### **Expert evidence relevant to the Fathers Evidence**

56. The father undertook a cognitive assessment with Dr Crimes, a consultant psychologist [E100]. His conclusions were as follows.
- i) Any interpretation of psychometric instruments should be treated cautiously and, where possible, further validated with other psychological/behavioural evaluation/observations.
  - ii) An interpreter was required and made reference to minimal education. These factors can affect the reliability of the scores generated by psychometric testing but Dr Crimes remained confident that the scores elicited were valid and within the accepted parameters. This was specifically addressed by him as a consequence of me seeking clarification as to the extent to which conducting assessments via an interpreter, educational limitations and social and cultural factors impacted upon the psychometric tests applied by Dr Crimes.
  - iii) The full-scale IQ of 64 placed the father's functioning in the first centile, extremely low meaning that 99% of his norm group would score above these scores.
  - iv) Broken down further, his verbal comprehension was borderline, his perceptual reasoning borderline, his working memory extremely low and his processing speed extremely low. He observed that the father might well exhibit problems in relation to more complex letter and word recognition and in reading speed and fluency although given that the father has said he had no formal education and was illiterate I am somewhat perplexed as to these references and the absence of any reference to the father's stated inability to read and write.
  - v) Various other potential problems were identified such as a tendency to become easily distracted by surroundings, poor attention and listening skills word finding difficulties or understanding information without visual and concrete clues or difficulty in understanding abstract concepts. He was expected to show minimal capability across attention to detail, negotiation, planning and organisation.

- vi) Advice was given as to managing questioning the father.
57. Intermediary Assessment identified the assistance that the father would derive from the use of an intermediary as without one he would be unable to attend to and process information presented throughout the hearing including evidence given by others, make informed decisions to instruct his legal team or to retain key information.. In particular the following difficulties were identified
- i) Father has marked communication difficulties which are exacerbated by his apparent anxiety about the court case (see Appendix 1 for full assessment findings). 2.2. His ability to actively participate in these proceedings will be affected by: Difficulties retaining verbal information - Father was unable to retain details of verbal information presented to him if it was not 'chunked' into smaller passages of speech (see section 17).
  - ii) Attention and concentration - He may lose focus when too much information is given in one sitting and when the information given is complex (see section 14). Limited auditory working memory - Father was not able to follow instructions which exceeded 4 key words (see section 15). Limited receptive vocabulary - Father showed inconsistent understanding of low-frequency (less commonly used) terms (see section 16). Expressive language - Father had significant difficulties staying on topic and switching topics. He did not always answer the question asked and required structured questions to provide more information. At times his speech was quiet, and he required prompting to repeat himself (see section 19). Dates and time - Father had difficulties providing adequate information with regarding to past events (see section 20). Literacy - Father reported that he is unable to read or write (see section 18).

### **Evaluation and Findings**

58. In reaching my conclusions I have sought to draw together all of the strands of evidence I have pored over in the course of the previous five weeks. It is axiomatic that it is for the local authority to prove their case on the balance of probabilities. It is emphatically not for the mother and father to prove their case on the balance of probabilities or that they are innocent. They do not even need to provide an explanation although have chosen to do so.
59. The facts which emerge from the chronological survey which I have undertaken in the appendix to this judgment and the findings which I make therein form a core component of this judgment and are part and parcel of it. They provide a significant number of the pieces of the jigsaw which must be sorted and fitted together in order to create the non-compartmentalised and broad survey of the evidential landscape which is the fundamental purpose of this fact-finding hearing.
60. The medical evidence is also a core component, but I think it is fair to say that there is no part of the medical evidence that is determinative on any of the hotly contested facts in this case. There are some respects in which the medical evidence is more or less consistent with one outcome or another but even where that is so those sections of the jigsaw must still be incorporated within the overall structure in order to determine the final picture which can be discerned. I accept the submissions made on behalf of the mother of the caution that the court must exercise in the weight that it ascribes to the

opinions of the experts. It is a risk in a complex case such as this to identify an anchor, such as an assertion that clinical practice and research identifies that accidental child fatalities in the home in particular from falls down stairs are vanishingly rare, and to hang everything else from this. We know that sometimes such anchors are unreliable. One must also always bear in mind that the state of scientific knowledge or medical knowledge is not complete or absolute and that today's certainty may be unpicked by advances in understanding in the future. On the other hand, recognising that fact does not mean that the expert evidence is to be treated somehow with caution. Of course the more towards the margins of medical understanding and the more an opinion is an isolated one may reduce its weight or indeed cause the court to discard it but always the court is looking to place all of the evidence into the broad survey of the landscape that it undertakes and to attribute to it the significance it merits having regard to all that surrounds it. The medical evidence is one part of the picture and must be added to all of the other evidence. In reaching a conclusion on the balance of probabilities self-evidently there is room for pieces of evidence which are not consistent with that conclusion. If there are sufficient pieces of evidence which are not consistent with a conclusion the logical consequence is likely to be that an alternative conclusion is indicated on the balance of probabilities.

61. My conclusions as to the credibility of the parents are of course also an integral part of the evaluation of the landscape but although in respect of issues of domestic abuse those conclusions as to credibility may be of very considerable importance in my findings they are less so in respect of how the injuries are sustained albeit still important. In one respect lies told by the parents are of potentially considerable significance applying the modified Lucas direction.
62. Before turning in more detail to my analysis there are a number of issues which are of broader relevance to my evaluation of the factual evidence. I shall look at those first.

#### Interpretation issues

63. The parents both originate from Afghanistan and say they speak Dari (identified in the 1964 constitution as the official language of Afghanistan) as their first language and in particular they speak a dialect of that; Hazaragi. A significant element of the parents' case has been that there has been significant misunderstanding by authorities of what they have said because Farsi interpreters were used rather than Dari interpreters and that even Dari interpreters did not have a full understanding of their Hazaragi dialect. The various authorities who interacted with the parents certainly accepted that Dari was the proper language for any interpreter to use and the interpreter of the covert recordings emphasised the importance of an Afghan Dari interpreter being used. As the chronology demonstrates there are various occasions when the parents themselves are noted to have requested a Farsi or Dari interpreter which would suggest that they expected to be understood by and to understand a Farsi or Dari interpreter. The father's asylum application was dealt with using Dari interpreters and no specific dialect was recorded [W3]; the forms record considerable detail about language, dialect and understanding as do the later forms completed by the mother which identify 'Farsi Dari' as her language and Farsi as A's and the mother stating the father speaks Farsi Dari well which they speak to each other. The mother, when arrested was recorded to say her language was Dari Farsi. The father's witness W1, who comes from the same region as the parents told me that Dari and Farsi and Persian are all the same language. A similar message was conveyed by Dr Raouf and

Dr Bokhari and during the incident on 28 June 2019 the body worn video footage shows the mother speaking with the Farsi interpreter who establishes that they are able to understand each other and tells PC Parker that ‘we are ready to talk’. This is one example of several depicted in the chronology where before speaking to the parents individuals from various authorities seek to establish which language they should communicate in, secure an interpreter (usually in Dari but occasionally in Farsi) and are able to communicate in an apparently understandable way. The documents submitted in relation to the father’s claim for asylum also confirm the close linguistic connection between Dari- Farsi and Afghan Persian and the transcript of the police interview has the interpreter confirming the parents are Afghan Farsi. The mutual intelligibility and common linguistic framework of Dari-Farsi-Hazaragi which emerges from the evidence given in this case would appear to be confirmed by what is in the public domain about the languages such as:

- i) Chapter 13, Sociolinguistics in the Iranian World from the Routledge Handbook of Sociolinguistics Around the World (Routledge, 2009) On p. 140 the dialects are described as ‘mutually intelligible’.
  - ii) Chapter 4, Persian, Farsi, Dari, Tajiki: Language Names and Language Policies from Language Policy and Language Conflict in Afghanistan and Its Neighbors (Brill, 2012) by Brian Spooner. The final sentence (p.22) describes Farsi and Dari along with Tajiki as ‘forms which differ similarly to the modern English of Australia, England and the U.S.’
  - iii) The SOAS website guide: <https://www.soas.ac.uk/nme/persianiranian/farsi/>; ‘The Persian spoken in Afghanistan is known as Dari. The dialectal variation between Farsi and Dari has been compared to that between European French and Canadian French’.
  - iv) X v The Secretary of State for the Home Department 01-03-0247 where the adjudicator says at para 6 ‘*Dari which along with Pushto is one of the two official languages of Afghanistan. It is the Afghan dialect of Farsi and the two languages do not differ greatly.*’
64. It is right to note that Dr Raouf said he did not understand the father’s language when he spoke to the mother but by implication he did understand the Farsi the father spoke to him and it is also right to note that when the mother was arrested on 27 May there was an issue about understanding although this seems more to have been the position of the phone than the language itself. Thus whilst I am prepared to accept that there are likely to have been occasions when the parents will have encountered some degree of difficulty in understanding and being understood when spoken to when using a Dari interpreter who was not a user of the Hazaragi/Hazari dialect and when using a Farsi interpreter I do not accept that any such difficulty was such as was likely to lead to a misunderstanding of the essential content of the discussion - still less the huge difference between them that the father and mother describe or suggest is the explanation for things they do not accept they said. The examples given by the mother in her submissions do not in my view come close to displacing the considerable weight of the other evidence which supports the broad accuracy of what was said by the mother and father at critical moments. Likewise, misunderstandings of words like car-seat or pushchair I accept support the notion that there is room for a degree of misunderstanding but I do not accept the submission of the mother or father that

difficulties in communication led to misunderstandings and profound and negative conclusions being drawn inappropriately. Whilst I acknowledge the possibility that once a narrative of domestic abuse is created it can potentially influence subsequent actors the overwhelming evidence from what the mother said but also her demeanour and visible injuries together with other evidence satisfies me that accounts given by the mother in relation to domestic abuse and other matters were broadly accurate and the gist of what the mother sought to convey was accurately conveyed This is more Professor Higgins ‘There even are places where English completely disappears; in America they haven’t used it for years’ than a real and significant problem in communication. PC Hewitt identified that there had perhaps been some words which had had to be focused on to ensure they understood but this would appear to be consistent with what is known of the difference between Farsi and Dari. I also accept that there is room for differing understandings of the use of the English expressions, arguments or fights. Ultimately this does not assist the father because he asserts that the arguments he and the mother had whilst in England was the sort which involves differing points of view rather than shouting or physical violence and the evidence is overwhelming that the father shouted at the mother (it can be seen and heard on the BWV of 28 June immediately before the father is taken away). So, whilst there may have been scope for difficulty in understanding accent or particular words or phrases, the integrity of the interpreters and the methodology deployed by, for instance the police and other workers in repeating back to the mother and father what they had said in order to ensure the information had been relayed and received accurately, would have in my view reduced the scope for misunderstanding to a minimum. I do not accept that there has been a serious communications breakdown which undermines the reliability of what the parents or A are recorded to have said in respect of the central matters with which I am concerned. This in particular relates to what the mother has said about domestic abuse and what the father said at the Darent Valley Hospital on 27 May 2020 about him receiving a telephone call from the mother whilst at Tesco’s. I shall return to my further reasons for these conclusions later.

### The Parents

65. The mother and father both attended to give evidence.
66. The mother’s evidence was delayed by her exposure to Covid and so she gave evidence after the father. During the earlier part of the trial they prioritised attending contact with the children rather than listening to in particular the evidence of the doctors or some of the other witnesses of fact. This was discussed in advance and I entirely understand why the parents prioritised their time with the children in particular given the complexity of the medical evidence and accessing it via interpretation. Although as I have said I placed little reliance on the covert recordings what does emerge from it is the parents fear that they may be separated from their children and the importance of their relationship with their children which they emphasised in evidence. I certainly do not hold it against them or infer any disrespect to the court or the seriousness of the task that is being undertaken.

### The Mother

67. The mother gave evidence over the course of two days. She used a Dari interpreter throughout and her lack of understanding of English was far more apparent than the fathers. That is hardly a surprise given that the father has lived here alone for four

years prior to the mother's arrival and that following her arrival her interaction with the English community was very limited because her life was very much focused on the home. She had only a few English lessons before her commitments at home caused her to give them up. She clearly understands a little English. She told me that she was educated and had some exams and I thought her ability to understand more complex and abstract questions was more evident than the father's which may be a reflection of her greater intelligence. I thought also she was clearly more sensitive and reflective than the father, far less combative in her evidence and less driven by an underlying narrative of conspiracy and injustice which all enabled her to think in a more open way about the questions she was being asked. In a sense this worked to her disadvantage because she demonstrated far less 'chutzpah' or brazenness in her evidence than the father and thus came across as far less assured or confident in her evidence. As it happens this was entirely appropriate given the weight of contemporaneous evidence of what she, A and the father had said or done which was entirely inconsistent with the account that she was seeking to deliver in court. If one were to take an overall impression of the mother, it was one of resignation or defeat in comparison to the father who was combative to the end. The mother struggled with her emotions frequently throughout the course of her evidence. At times she cried openly, at others she was clearly on the verge of tears and suppressed it. These were particularly evident when she was being pressed about Z or the children and in particular when looking at photographs. She came across as far more empathetic to their situation and their experiences than the father and in the main to Z's experiences. I was concerned though that the mother sought to draw parallels between Z's injuries and injuries sustained by the other children. One example was the parallel she drew (although the father also drew it) between the injury Z suffered to her arm and the alleged injury A was said to have sustained during the incident on 25 August 2019. There is no suggestion A suffered anything other than perhaps a sprain whereas Z suffered a complete fracture of her humerus and a fracture to her scapula. She also appeared to say that the scratches and bruises that the children had sustained in foster care were worse than the scratches and bruises that Z had sustained; which seemed a remarkable parallel albeit she said she had not known about the skull fractures or the arm fractures. She said that the fracture to the humerus was small and the doctors had said it could only be seen on a microscope which rather ignored the fact that it was a fracture through the whole bone and would have been exquisitely painful for a significant period of time. I shall return to the implications of this later. In terms of the mother's demeanour in the witness box there were two particular segments which may be of significance in that her presentation was quite different to the rest of her evidence. When the allegation that she or the father was responsible for the injury that killed Z she looked down into her lap and refused to make eye contact with anybody until she looked up when Ms Cook emphasised that if it was not the father it would be down to her. When she was questioned over whether the father hit Z before he left and when she was then speaking of Z's condition when she was in the bedroom and changing her she also changed and looked into her lap and would not look up. I remind myself of the dangers of reading too much into demeanour in the witness box. On its own I doubt that much significance could attach to it. When it is placed into the overall evidential landscape perhaps it might add some value. Curiously the only moment at which the mother smiled was when I asked her what the worst terms of abuse were in Dari and she declined to articulate them but the thought of them and perhaps expressing them to me seemed to lighten her mood momentarily. She also demonstrated a tendency to hyperbole – she said conditions in England were worse

than in Afghanistan which seems a little surprising given that she and the father were at risk of being stoned to death by her family or being killed by the Taliban and that she moved 30 times during the 4 year (once every 6 weeks) absence of the father in order to avoid detection. Ultimately taking account of her other concerns about her experiences in England I suspect this hyperbole was a reflection of self-pity at what has happened rather than any general tendency to exaggerate. Her propensity to frankly lie is a different matter.

68. There were numerous aspects of the mother's evidence which were inconsistent in what she said in court but most particularly with what she had said to authorities and also between her police interviews and her subsequent statements. That is part of the problem of telling the truth and then seeking to resile from it alternatively of telling lies and then seeking to tell the truth. Of course, the evidence of the mother's demeanour and visible injuries together with what was seen and heard by neighbours (in two different locations) and A all support the truth of the mother's initial accounts of domestic violence and abuse. Others abounded though, ranging from the minor examples of telling Miss Gavin she had a good bedroom time routine through to her saying she was giving A a bath at around 10 PM the night before his first ever day at school through to failing to mention an alleged 2 to 3 m fall from a stable roof in her police interview when questioned about possible incidents in which Z had been injured. The inconsistencies between her oral evidence (and her most recent statement) and what she had previously said to police, social workers or the British Red Cross were legion. When challenged she repeated what became a mantra to the effect that she had told them about disagreements she and the father had when they were young and in Afghanistan or Iran, but they had misunderstood her. In particular in relation to W2, the inconsistency in her approach was particularly acute. She said that she had treated her like a sister in opening up to her but in disclosing such matters W2 was a traitor. Of course, one might expect a sister to tell another sister of violence and abuse that a husband was perpetrating, and one might usually expect a sister to do something about it. Thus, it was entirely consistent with the mother's attitude to W2 that she would have told her frankly of her fears about the children being removed from her and her fears of the father's violence. In relation to her allegations made in June 2019 she accepted most, albeit not all, of what she was recorded as having reported but maintained that they were lies fabricated and maintained for a month because she believed at that time that the father had slammed the door on her hand deliberately and it was only after a month when the father returned home that she realised it was not deliberate. The evidence of the fathers and the mothers interactions in the week or so after 28 June demonstrate that they were in very regular contact with each other by phone, that the mother was telling police and social services she wanted the father to come home because the children missed him, that she wanted him warned and given that he was found hiding at the property on 5 July and arrested and imprisoned it seems a reasonable inference that she would have been aware (if it were true) long before a month that the father had not deliberately slammed the door on her hand. Thus, her explanation for making up lies was rapidly dismantled. She said that Z would come to her to complain about one of the boys being mean to her, or if she trapped her finger in the door and yet (relying on Mr Jayamohan's evidence ) she said that if Z had experienced some event serious enough to fracture her skull she might have not said anything and simply been dizzy and stayed quiet which they might not have noticed in their busy household. Her explanation for disposing of Z's T-shirt on 27 May was unbelievable; why would one dispose of a piece of clothing the child was

fond of and was the last thing they were wearing before they suffered a potentially fatal injury because it was a bit too small. If the vomit covered babygro was placed in the bath to be washed why not wash the T-shirt? Instead it was put in the outside bin along with nappy and was the subject of discussion between the parents covertly recorded? On several occasions the mother said that the father was weak and did not have the strength to hit her or to hit the children. One only needs to view the corridor footage from the police station on 28 June 2019 to ascertain how strong the father actually is. This was clearly an attempt to protect the father. Her support for the father's wholly unbelievable account of how he came to sustain two puncture wounds in his shoulder was perhaps the most unbelievable part of her account but there were I am afraid so many parts of her evidence that were inconsistent with other evidence, either her own or from other witnesses and which covered such a lengthy period and such a range of subjects that it is almost impossible to believe anything the mother said and unless it is corroborated by other credible evidence or is consistent with common sense or with her personality as I have judged it to be I am unable to place much if any weight on her evidence.

### The Father

69. The father gave evidence over the course of about two days. The advice had been received from the intermediary and ground rules were established between the advocates and the court to seek to ensure that the father was able to give his best evidence. His team had provided him with a timeline with visual cues to assist him in identifying events that he was being questioned about. We allowed for breaks approximately every hour although in practice the father demonstrated a greater ability to concentrate than perhaps had been expected. Changes of subject matter were headlined. A Dari interpreter was used throughout his evidence. The father accepts that he understands quite a lot of English but he is unable to speak very much. His understanding of English was demonstrated by his answering questions before they had been interpreted to him on occasions and on occasions he spoke in English. This was however quite limited. In the body worn camera footage he is heard speaking in English to the police saying "one second, one second" then shouting "just a minute, just a minute" as they seek to separate him from the children and remove him from the scene prior to arrest. Thus, the father has some ability to understand and communicate in English and although I accept it is far from fluent it greater than he would assert. His ability to deploy the well-known English 'needle in a haystack' metaphor in the context of seeking to locate Z's father which the Dari interpreter was unfamiliar with himself suggests that his facility in English is greater than he asserts. He told me he had studied English for a period of time and had picked up a certain amount through living in an English environment although said that he was limited in employment terms because of his poor capability in English. Dr Bokhari thought he was able to make himself understood in English and what he said through Dr Raouf was consistent with what he had said previously in his halting English.
70. During his evidence he appeared to cope well with questioning in most areas although his ability to deal with abstract or theoretical questions seemed to cause him difficulty and this would be consistent with the conclusions of Dr Crimes and the intermediary. My impression overall was that the measures adopted enabled him to cope well with the process of giving evidence and the content of his answers, the rapidity with which he was able to respond and his capacity to debate or challenge the form or content of



a question suggested a higher level of functioning than his cognitive profile suggests. His capability in the witness box found some symmetry with the descriptions of those who had dealt with him at the BRC, housing and social services who had not identified a man functioning in the lowest centile of the population and I bear in mind Dr Crimes reference to the need also to cross reference those scores with other observations. In particular I was surprised by his memory for names and times. He remembered precisely the times photographs were taken and gave a precise time for how long it took him to walk from the station to the court. He remembered names of local authority workers who have not featured in the case whilst stating he could not remember his neighbour or the social worker who interviewed him about the incident on 27<sup>th</sup> December 2020. He remembered (spontaneously) the dogs barking loudly when Jodie Dillon visited and saw Z through the bathroom window. There was a rather striking contrast with his inability or unwillingness to say how long it took to walk from the family home to Tesco's. His use of language was also very expressive, and he understood and was able to explain what might have been thought to be a difficult topic (for instance the impact of gestational diabetes on the due date for C's arrival). Whilst I am alert to the possibility that some of the vocabulary or even explanations may have undergone some form of finessing through the use of the interpreter I think this was limited because the interpreter was adept at seeking clarification or identifying when he could not understand what the father was seeking to convey. On occasions the father acted out scenes and through his words and actions explained in some detail those events. In doing so he appeared to be doing so spontaneously and superficially one would have got the impression that he was doing so from memory. This perhaps illustrates the difficulty in gauging the reliability of memory purely from demeanour or delivery of evidence. This is particularly so in relation to his re-enactment of the incident when Z suffered scalding burns because on his and the mother's case he was not there until 1-2 hours after it occurred and yet he demonstrated where the kettle was and how the toilet seat was open at the time of the incident. The same was true of his re-enactment and description of the incident in the cell which bore only a passing relation to what is recorded in the corridor and cell videos. Thus it is clear that the sincerity with which the father describes events is of no real assistance in determining the reliability of his account. It is also of note that when the police attended on the 27<sup>th</sup> December 2020 the father was noted as being calm although he had recently been impaled or stabbed and was bleeding quite extensively. He is therefore also adept at putting on a front when necessary. Early on in his evidence the father told me that he considered the case was important because it could establish the truth of what happened and in the course of his evidence he was reminded that the assistance he gave to the court would help to establish the truth. However, the father's approach to giving evidence was far less helpful in reaching the truth than it should have been. At one stage he said that he had a lot to say but was not allowed to say it but later in his evidence (and I assume this was what he was alluding to earlier) said both that he and his wife were victims of a conspiracy between the police and social services to identify him as a perpetrator of domestic abuse and to encourage his wife to leave him. He also said that the purpose of the children being taken into care was supposedly to protect them from harm, but they had suffered more harm in the local authority's care than they would had they remained with their parents. In this regard he identified the number of accidental injuries he had observed on the children whilst they had been in care. Given Z had suffered 17% burns to her body through scalding, a fractured humerus and scapula, a fractured skull and a fractured skull and brain injury which killed her all through accidents (on the parents

account) whilst in their joint care (albeit save for the scalding she was unsupervised by either when the accidental injuries were sustained) in England this seemed to demonstrate a quite remarkable inability to reflect on or be objective about the children's situation. This I think is because he has absolved himself of responsibility for anything and places all the blame on authorities. He said no one was at fault for what happened to Z and seemed to accept no responsibility at any stage in any of his evidence for what happened to Z. On his own account one might have expected him to say if only we had installed stair gates - as they had been advised to do and which they had the money to do- but at no stage did he demonstrate any sense of self blame but only self-justification and exculpation. In in this regard I note that the father's case (and indeed the mothers) is that he was not present in the house at any time that Z is known to have sustained a serious injury whether it was the scalding, the fractures to the arm and scapula, the lost fingernail or the final fatal skull fracture and brain injury. He did not accept she had the slightly older skull fracture because he does not accept the medical evidence. As part of his complaint against authority he alleged that the police had sat on A during the incident in August 2019, had twisted his arm behind his back and had hurt him. He then compared A's response to the painful arm that he had, to Z's response to what we know to be a complete fracture of her upper arm and a fracture to the spine of her scapula. That he was able to do so further suggests a lack of empathy for Z and an ability to reframe that incident in a way to absolve himself of any responsibility. He showed no emotion throughout his evidence save when I asked him to look at the video of 28 June when he became distressed saying that the children wanted him and this show of emotion seemed more about him than the children. He did not evidence any distress in his evidence other than this – given he asserted he loved Z as if she were part of him – this lack of distress was surprising and in distinct contrast to the mother. I acknowledge that the process of giving evidence for some individuals may result in them suppressing these sorts of emotions but throughout the father's evidence there was almost no reference to how any of the children might have felt or experienced events, including the alleged accidents to Z and not even how his children may have felt about Z's death. Whether considered on its own but more significantly in comparison to the mother the almost complete lack of empathy for the children or the mother and the lack of emotional connection with events was significant. It suggested either an inability to feel it or an ability to completely distance himself from any such feelings which potentially has consequences both in terms of how one might act but also how one might reframe events looking back. The theme which seemed to predominate in the father's thinking was the injustice he and the family had experienced, the father's formulation that the family was a victim of a conspiracy and that they had been failed by interpreters seemed to me lay at the root of his rejection of any evidence that was adverse to him. Thus, throughout his evidence there was really no acceptance of any factual matter which might reflect badly on him and he reinterpreted events to suit his formulation. This mindset was therefore in practice completely at odds with to seeking to establish the truth; emphatically denying the undeniable with the same sincerity as denying some more nuanced issue or asserting the unbelievable with the same sincerity as something potentially believable further undermines the credibility of the father which emerges from the gulf which separates his account from the witness testimony or documentary evidence produced by a host of other witnesses. One example of many was the father asserted that a white plastic kettle seen next to the mattress in the photographs taken by the police had been put there by social workers and in support of this asserted vehemently that the kettle was seen in the kitchen in other photographs

taken by the police and that the family only had one kettle. He made this assertion in order to distance himself and the mother when the local authority was exploring whether he and the mother had learnt anything or changed anything following on from Z being scalded. In fact in the video taken at 09.09 a metal kettle can be seen next to the mattress and in the photographs taken by the police later that day it is on the oven in the kitchen whilst the plastic kettle appears to have replaced the metal kettle next to the mattress. The father denied conversations with the British Red Cross about mundane matters such as utility bills and sorting out a defective fridge although those were clearly recorded. He said he was unaware that he had impaled himself on scissors which caused him to bleed quite profusely; the photographic evidence showed how improbable this was. He also gave inconsistent accounts in various ways; for instance about whether the incident with the scissors occurred upstairs in the bedroom or downstairs in the kitchen or whether he and wife had swiped each other with stinging nettles or he had accidentally slammed the door on her hand. He was also frequently argumentative, occasionally flippant ('do I have divine knowledge') evasive and insistent when challenged. Frequently he resorted to saying where is the evidence, check it on the CCTV, show me the interpreter, ask the mother, why would I hit my wife or children I love them, I'm not a disorderly drunk or a drug addict or why would I do that rather than answering the question. He comes across from all that I have read and heard and seen as a proud and conceited man who does not like to be challenged, who resents interference and is intolerant of those who disagree with him. Although in the court arena his intolerance and irritation did not manifest themselves in anything other than occasional flashes of annoyance the evidence in total makes clear that he is short-tempered and is capable of changing from outwardly calm to hot anger in moments.

71. I accept that in respect of some of the more abstract questions there were certainly occasions when he did not understand what he was being asked to consider but in respect of other more direct questions his tendency to give long convoluted answers and to repeatedly restate evidence recently given were attempts to evade confronting the question asked. In respect of some incidents his account was so inconsistent over time it was hard to know what his final version was. This was most evident in relation to 28 June incident where his account ranged from the mother and father jokingly rubbing each other's faces with something like a stinging nettle through to the mother walking into a door and injuring her face through to he accidentally closing the door onto her thumb.
72. Overall, therefore the father was a deeply unreliable and unhelpful witness; he emerges from his oral evidence alone as slightly less inconsistent than the mother but only because she at least has told the truth at times in the past. I am not sure to what extent the father has ever given a true account since June 2019. I am cautious about reading too much into his demeanour in court – I certainly do not think one could say that his demeanour and the content of what he said in court is in any sense an answer to the ultimate questions. What could be discerned about his attitudes was of some relevance and of course the content of his evidence when added to the other extensive seams of evidence is of importance. His unreliability does not per se make him either a perpetrator of domestic abuse to the mother or of violence to Z. The answer to those questions are to be found by a broader evaluation of the evidential landscape. The significance of the father's unreliability as a witness is that the weight I can give to

his evidence and how visible it is in the evidential landscape is heavily muted and thus liable to be easily over-shadowed by other evidence that appears more reliable.

### The Parents Relationship

73. The evidence about the parents' early relationship is rather fragmented. What is clear is that the parties committed to the relationship when they were both very young - the immigration papers and others suggest some form of relationship began when they were around 15 years of age and they married when they were 17. The father was a shepherd with no education whilst the mother came from a relatively wealthy family and had been educated. The relationship and subsequently marriage appears to have resulted in a complete fracture of her relationship with her family, with the father being attacked by her brothers and apparently seriously injured. They fled from Afghanistan to Iran and started a new life there where A and E were born. Those facts on their own would suggest a very powerful bond between the mother and father. In particular for the mother to give up what appears to have been a relatively privileged life and to leave behind her family and community to prioritise her relationship with the father was undoubtedly an immense sacrifice and act of faith in the relationship with the father. It certainly narrowed her options very considerably and made her hugely reliant on the father and their marriage. Following E's illness, they returned to Afghanistan where he tragically died. Having undergone that tragedy, the family was then split by the father's decision to flee Afghanistan and seek refuge in the UK. Whilst he was gone the mother and A and subsequently B and Z lived a life effectively on the run from her family and the Taliban moving (according to the father some 30 times in four years ) with the threat of being stoned to death hanging over her. How she managed this financially and emotionally I am unsure, but it must have been an extraordinarily difficult time in her life. She was unable to draw on any support from her family or it seems her old community for fear of discovery and was unable to develop any sort of support network due to the itinerant lifestyle she was forced to lead. I note that there is some evidence from the LA and BRC that the mother may have had some link with a sister and she referred to wishing to visit her mother when she spoke to W2 in Jan 2020. In the midst of this she gave birth to B and raised him alone and subsequently took on Z and thus had sole responsibility for the children for a period of just under four years from July 2015 until May 2019. A was five when the father left and did not see him again until he was around nine years of age. B and Z first met the father in Pakistan in late 2018. When the mother and the children arrived in the UK she appears to have spoken no English and had (as far as I can tell) no friends, family or other links to anyone save for the father and those she came into contact through the father. She was entirely reliant on the father. Having lived the life she had in Afghanistan; the reunification of the family must have held out the prospect of a much better life. I refer to this because it seems to me relevant in terms of evaluating the mother's actions whilst in England. Having coped with what she coped with in Afghanistan from 2015 to 2019 it seems likely that she is a resilient and resourceful mother who on the surface appeared to be capable of safely raising those three children through such a difficult period. When she arrived, the reality turned out somewhat different to the dream. Accommodation was of relatively poor quality to start with, furniture and other possessions were limited, finances likewise. The parents account of harassment would seem to have some truth to it although I'm not convinced that it was quite as extensive as the mother and father suggested in their oral evidence. The log of incidents which was provided to the housing office suggested more

intermittent difficulties. However, in its totality the situation the family, and in particular the mother faced in the weeks following her arrival and subsequently, was clearly one which would inevitably have created great stress and frustration for anyone. Whilst I accept the submissions of the parents as to the difficulties they faced, the conundrum arises of course that the greater the stress individuals are operating under the more prone they might be to becoming frustrated, angry or losing control.

74. There are aspects of the parents parenting and their relationship with their children which are clearly positive; the physical environment and the meeting of the children's needs in many ways are abundantly demonstrated. The photos of the house on 27 May show a house that is spick-and-span, a well-stocked fridge and preparations having been made for the arrival of baby C. Observations of the parents and the children between May 2019 and May 2020 and subsequently during contact evidence love and affection and good parenting. As the mother and father both say why would loving parents hurt each other or the children and I of course bear in mind the unlikelihood of parents who love their children harming each other or the children. It is one piece of the jigsaw. In particular – apart from the alleged fall of Z from a stable roof (which I will make findings on) there is no evidence that whilst the children were in the sole care of the mother in Afghanistan that they suffered any significant injury or accident. The Child Protection Medical disclosed a scar on A consistent with a burn but given that in Afghanistan it seems much cooking is done with a fire such an incident is not surprising. I accept what is submitted on behalf of the mother as to her general capabilities as a mother arising both from the history but also the observations of social workers of her interactions with the children and the absence of any evidence of Z being treated differently. I do not regard the alleged pinch as significant - any more than a smacked bottom might be. I also accept that Z was well cared for when she suffered the burns; although the mothers and father's attitude to have pain was troubling and I shall return to that.
75. Mr Feehan relied on numerous references from the documentary record which show the father behaving affectionately and providing appropriate care for the children and that these observations were a component in the local authority's de-escalation of a risk assessment. A man who loves and cares for his children in such a way is entitled it is argued to have significant weight placed on that when the court evaluates the probability of him behaving in a seriously violent way towards those very same children.
76. The parents themselves acknowledge that in their culture the father is regarded as the head of the household. I have not heard sufficient evidence to understand how the marriage functioned in the period before they arrived in this country. The mother says that when they were living in Afghanistan before the children were born that they had a lot of arguments and that the father can be short-tempered sometimes but not aggressive. She says he slapped her once. The father also said that when they were young and inexperienced they had more arguments. The mother gave an account in June 2019 to various people of a far more violent relationship where she had been whipped with cables, had her head banged against a wall, had feared the father might kill her. What is clear is that they adopted fairly traditional roles in that the mother was the homemaker and child carer and that the father worked. It was he who left Afghanistan in order to begin the process of relocating the family to the UK. When the mother arrived in England with the children it is clear that the father took the lead in almost all dealings with authority when the parents were together. She told police

that the father had the money and controlled it and she also appears to have been reluctant to spend some cash that she did have and had to be reassured by the third party and the PCSO that she could use it to buy food in June 2019. It seems to have been the father who took the children to hospital, or at least Z when she was seriously injured, when there were meetings with authorities around school time it was the father who left to collect the children. Such references as exist suggest the father was responsible for their finances and for shopping and that the mother felt she needed permission from the father to use cash for shopping or to use utilities. She appears to have been responsible for the children and the home whilst the father took the lead on all matters away from the home and it was he who undertook any paid work that the family was able to obtain. Although I was unable to observe the dynamic between the parents at any stage during the court hearing as neither attended when the other was giving evidence the impression that emerges from the witnesses description of the dynamic between them but also that which can be observed from the body worn video of 28 June 2019 and the personalities of the mother and father which emerged from their evidence was entirely consistent with the father being the dominant partner and the mother accepting her subordinate role. The father's personality as emerges from all of the evidence including video evidence and his personality as it emerged over the three days in which he gave evidence is of an assertive, combative, argumentative, confident and insensitive man who expects to be listened to and who rapidly becomes frustrated when he does not get his own way. The mother's personality in contrast seemed to be quite sensitive, to lack confidence, to be far more prone to submit to authority. There were flashes during her evidence of her intelligence and her ability to stand up for herself, but these were limited in her evidence and I think it probable that they would be limited in her relationship. Thus, the picture which emerges from the relationship dynamic is one in which the father would be the dominant partner and the mother very much the subordinate partner.

77. Given the extent of the mother's reliance on the father and the lack of support she had in the community immediately following her arrival and indeed subsequently and given the extent to which she had been able to manage in extraordinarily difficult circumstances in Afghanistan it seems to me that it would take an event of quite considerable seriousness to cause the mother to approach state authorities in the form of police. I do not accept for one moment that a minor argument with the mothers finger being trapped in a closed-door would constitute the sort of event that would lead to this mother leaving the family home and approaching PCSO's Lowe and Hartley and subsequently making the complaints that she did. As is clear from my conclusions in the chronology all of the evidence gathered at that time from what the mother said on repeated occasions, her behaviour and apparent injuries, the father's behaviour, what A said all point to a serious assault which had been preceded by other incidents of aggression and violence to the mother and to A. It would take something of that nature to make **this** mother in her particular situation take that step.

### A Conspiracy

78. Whilst I do not doubt that the mother and father both experienced difficulties in communicating with authorities and indeed that the mere fact of the level of intervention was likely wholly unfamiliar to them culturally I do not accept that the communication difficulties were at the level the parents suggest. All of those who were engaged with the parents took appropriate steps to secure interpretation and to

attempt insofar as it was possible to communicate accurately with the parents. The relatively sophisticated nature of some aspects of the communication including the keeping a log of incidents of harassment and the email communications via the British Red Cross support the conclusion that save for isolated examples communication was effective and that both the mother father and those they were engaging with accepted that it was achieving its purpose. There is no evidence to support the father's assertion of a conspiracy (by which I mean a malign and unjustified plan as opposed to a well-intentioned and appropriate intervention to protect against domestic abuse) by various agencies against the family.

### The Children's Relationship

79. It has been a part of the preparation of the case that the court should not close its eyes to the possibility that one of the other children might have been responsible for one or more of the injuries sustained by Z, although neither of the parents suggest that this is the case. I have considered the possibility that one of the other children might have picked on Z and caused serious injury to her but there is really no evidential base on which consideration can proceed beyond the theoretical possibility. Not only do the parents who are really the only ones who might know if that was something they had either witnessed or suspected give any evidence to that effect (M in particular says A loved Z like a sister and she does not believe he would have harmed her) but from what I know of the children and their relationships with each other intense rivalry is not a feature nor is seriously aggressive behaviour. Ms Jones who worked with the family for 6 months described the inter-sibling relationships as within ordinary parameters given the age difference and she observed nothing which caused her concern. A given some responsibility for looking out for them and generally keeping to himself playing on his phone, sometimes a bit fed up at having to give up things to Z who seems to have been more demanding in some ways. B being more of a handful and having quite bad tantrums to get his own way but he also occasionally having to give up toys for Z and often occupying himself on a phone. Z being an active and inquisitive two-year-old who sometimes pestered her brothers. There is a mention in the covert recording transcript where it appears to record the mother asking whether B hit Z, but I have some reservations about relying very heavily on the covert recordings. There is some evidence from both the parents that B and Z occasionally clashed. The mother said that some of the scratches on Z may have been from B. The father denied they fought but this seems highly improbable given ages they were at and the age differential. For children of this age and the characters that have been described I would have thought rivalry between them for parental attention, toys treats or otherwise would have been entirely normal and to be expected. B in the descriptions of him and in the video comes across as a quite confident and insistent character; pulling the camera back to him away from Z. The mother told DVH that B was missing her a lot as a reason for returning. The father described leaving A and Z in the taxi whilst he collected the mother from hospital and there is other evidence that the father indulged B and perhaps favoured him over A and Z. The video clip on the morning of the 27<sup>th</sup> depicts a very indulgent father condoning bad language and other poor behaviour and it was of course B who went to the shops with the father. However other than some childish sibling rivalry there is nothing to suggest that A or B were physically or emotionally capable of causing serious harm to Z and no one has suggested that they did. I suppose it is at least a theoretical possibility that somehow B pushed Z down the stairs in such a way as to create a freefall but if that were so why

would the parents and A not have said so at some stage since? Given the amount of force required to cause the injuries to Z's skull and brain I do not think that any minor scuffle between them could have led to Z hitting a surface with such force that those injuries could have been caused.

80. For A the situation must have been extremely confusing. Having lived with his mother for four years and having grown up without knowing his father for that same period (save for some telephone or other indirect contact) the reunification of the family and the chance to start a new life in safety in the UK must have seemed like a great adventure. The reality of the father's violence to the mother must have caused huge internal conflict for him. On the one hand he would have wished to protect his mother and indeed seems to have done so but on the other the father was not only the head of the household but was his father who he had just been reunited with and who the mother was obviously devoted to. His willingness to intervene to seek to protect his mother demonstrates his love for her and his courage; that may be relevant when it comes to seeking to protect her or his family unit subsequently. [F37] *A[sic] presents as quite watchful and a sombre boy. He is very well behaved and follows what his parents ask of him and anticipates what help he can give to them and offers and provides assistance without being asked. He is very polite and his mother has been seen giving him gentle reminders to see thank you. He has said he is looking forward to starting school and making friends. A has been quite shy with me and appears to consider carefully his responses to questions*

### Covert Recordings

81. The police carried out covert recording of the mother and father between 29 May 2020 following their release on bail and 7 August 2020. In the usual way the recordings were subject to a public interest immunity application by the police. On 13 May 2021 I made an order that the written translated transcript of the recordings be disclosed. I did not direct the release of the audio tapes for the reasons given in the course of the without notice hearing. My order permitted the parties to seek a transcript of that hearing. The transcript of the covert recordings is admissible as documentary evidence in the same way as other written material is admissible. The transcript does not in any sense provide a silver bullet either in support of the parents' case or in support of the local authority's case. Aspects of it can be relied upon by both parties in support of their positions. To the extent that either side may seek to rely on it the following have to be borne in mind in terms of the weight that can be attributed to any material;
- i) no party has had access to the audio files and thus the parties themselves have been unable to comment on the accuracy of the transcript,
  - ii) no party has been able to obtain their own interpretation of what is said on the audio files,
  - iii) it is clear from the translated transcript that much conversation cannot be heard,



- iv) the Observations made by the translator are observations of an individual who has not given evidence and whose opinions as to what is occurring have not been tested.
82. All of those matters lead me to be very cautious as to the weight that can be attributed to either records of what are said or what might be inferred from for instance whispered conversations. I'm even more cautious about placing reliance on the observations.
83. The early pages of the transcript to convey a sense from what is said of the parties discussing their situation in a way which seems less consistent with a much loved daughter having sustained a dreadful accident than with them focusing on the consequences for themselves and what they said and did and how the police might approach the investigation. However, this is rather diaphanous and there are elements which the mother seems to blame herself, the father seems to blame himself, the parties appear to be genuinely distressed and speak in terms which could be consistent with an accident having befallen Z.

#### Evidence from the Chronology

84. In considering whether the Local Authority has established its case, rather than commencing with Z's death I consider the most informative approach is to consider the matter chronologically and to determine what occurred over the period covered between June 2019 and May 2020 and to make findings which will place relevant events in the factual context as it stood at the relevant time. In dealing with the domestic abuse issue I am satisfied that it is appropriate to take account of the events of 27 December 2020 and surrounding it in reaching conclusions on the nature of the relationship between the parents in the period June 2019- May 2020.

#### Domestic Abuse

85. On behalf of the mother it is pointed out that apart from the incident of 27 December and the alleged pinch there is no evidence that she has any history of violence. Her case is that the original reports of domestic violence and abuse were fabricated or exaggerated and that subsequent reports have been the result of misunderstandings or misinterpretation, that A's accounts were influenced by over-hearing her and that signs of injury arose from other causes, such as gardening or food allergies. She accepts arguments, more vigorous historically than recently and one historic slap.
86. The father's general account is that he denies any domestic abuse, in particular violent behaviour and accepts occasional arguments involving no more than exchanges of different opinions with some historic raised voices arguments. He points out the mother denies it, has given inconsistent accounts, or told identifiable lies (i.e. F was Z's biological father) that there are positive inter-actions observed between them and the mother has regularly been offered the opportunity to leave the father but has declined and that observable interactions between him and the children are inconsistent with them witnessing violence from him to the mother or to A.

87. My detailed analysis is contained within the Chronology and my conclusions on the allegations of domestic violence and the period prior to lockdown are set out below.
88. On the 28th June 2019 the parents got into an argument at home, possibly about the mother appearing to contradict the father at the Job Centre over the use of an interpreter and whether they could be understood. The father became angry at the mother and physically assaulted her by slapping her to the head, including around the ear causing her to experience some deafness and to the body, pulling her hair and slamming a door catching her finger causing an injury to the nail. She sustained other injury including an abrasion to the hand which was not caused by the door and some redness to the face. The children were in the home and A sought to intervene to protect the mother. The father being in a very angry state pushed A out of the way and/or slapped him causing him to hit his head on the wall. The mother left the house in a distressed state and approached the PCSO's to seek support indicating to them that she had been assaulted. The father followed her and when he saw she was speaking to 'police' intervened to prevent her making any report, becoming very agitated and argumentative when he was unable to end the interaction. He was angry and aggressive to the mother and his behaviour was sufficiently alarming to cause the PCSO's to call for emergency support from uniformed officers. In the presence of the police the mother repeated an allegation of assault. During this time the father was calm and remained so until he was separated from the children when he became angry and vocal within a moment, raising the level of distress the children were already seeing at the father being detained. Following his arrest his anger persisted and worsened and he resisted arrest shouting and struggling within earshot if not eyeline of the children.
89. This was not the first occasion that the father had assaulted the mother or A. The precise details of earlier assaults cannot be determined but I am satisfied that the mother's and A's accounts together with her demeanour and her having crossed the Rubicon to approach the police and having regard to the father's short temper and the stressful situations that the family had lived in demonstrate on the balance of probabilities that earlier assault had occurred which had put the mother in a state of great fear at the time and that A had adopted a protective role towards the mother and been slapped around the head and upper body. The evidence suggests that A had taken on a protective role for his mother but also a caring one for his younger siblings, he can be seen shepherding them on 28 June. The picture that emerges of A thereafter is of a quieter child who tended not to be so involved with the parents or the other children but spent more time on his own. This was probably a product both of the age difference between himself and B and Z, but I think also by spring 2020 included an element of keeping out of the father's way.
90. At the police station the father wished to complain about pain in his leg and rushed towards the cell door and prevented DDO Box closing it placing his hands and feet in positions so that the door could not be closed without potentially injuring him. Thereafter the father became frustrated at not being listened to by DDO Box and when the officer insisted he go inside the cell and sought to move him back the father became increasingly angry remonstrating by gesticulating with his arms and foot and shouting and moving out of the cell. DDO Box attempted to calm the father and to get him to return into the cell by gesturing and speaking but as the father's anger continued unabated he sought to push the father back in which led to the father completely losing

self-control, grappling with DDO Box, pushing him backwards out of the cell and requiring the assistance of several other officers to bring him under control and to restrain him. He showed significant physical strength against larger and more numerous opposition, a very rapid deterioration in his self-control and a highly aggressive demeanour which was alarming even to a Detention officer. It took a prolonged period of time thereafter for him to calm down and was handcuffed and ankle cuffed before he calmed down.

91. Following the father's release following arrest the parents were in frequent contact with each other, including the father attending the home with the agreement of the mother, attending appointments and in due course being found by police at the family home as a result of which he was arrested and imprisoned for breach of a DVPO. The frequency with which the order was breached by the father suggests a disregard for the law particularly by the father but also by the mother.
92. Following the involvement of the police, IDVA and social workers the mother realised that having made a complaint the attitude of the authorities was such that there might be significant presence in the family's life and this was not welcome either by her or the father. For reasons likely arising from her lack of a support network, unfamiliarity with the system, and cultural norms prioritising the importance of the husband and the marriage the mother sought to minimise the impact on the family by seeking a solution whereby the father was simply warned and the family was then able to resume family life. I accept that the children, having only been reunited with the father and finding him in ways to be a caring and loving father were worried about his absence and the impact on the mother and wanted the family to re-united. The children wanting this is not inconsistent with them also having witnessed one or more violent incidents from the father to the mother. I do not consider that the mother's actions were a reflection of the lack of truth of the original allegations but were rather a reflection of her realisation of the impact on the family of the allegations and her seeking to find a route to maintain the family unit in the hope that the involvement of the police might have resulted in the father reflecting on his behaviour. Thereafter the parents developed a false narrative around the mother's hand being caught accidentally in the door.
93. On the 25th August 2019 an argument developed between the mother and the father in the front garden of the property which led to the father losing his temper and hitting the mother around the head. W3 sought to intervene and followed the parents into the house where the father was continuing to strike the mother. She intervened out of a sense of public spiritedness and her intervention probably led to the incident de-escalating. When the police attended, the parents as a result of their earlier difficulties which had followed on from the June incident denied that any incident had occurred. Both appeared calm and unruffled. The police acted appropriately in the circumstances – I consider it a counsel of perfection that the interpreter be used to inform the father of his rights. The reformulation of the parents' resistance into the police behaving in an inappropriate way developing into them injuring A by twisting his arm behind his back or sitting on him and possibly injuring Z is not supported by the evidence. The mother was obstructive in standing in the doorway, the father lost control and began resisting arrest, shouting and screaming and gesticulating which led the police to put him on the floor. The children then sought to intervene to prevent the father's arrest. The mother did not seek to deter them. This is likely to be a product of the environment within the household which had been the product of the fathers arrest

and imprisonment which had separated the family so soon after their reunification and the financial and housing issues that this caused. It seems probable, given the parents attitude to the authorities and the fathers conspiracy theory that an atmosphere of distrust of police and others had already begun to develop which had probably been openly voiced and which the children would have picked up on.

94. At some point late at night on 2 October 2019 Z sustained serious scalding injuries. The view taken by the treating doctors at the time and confirmed by the Burns experts instructed within these proceedings are that the pattern of burns was consistent with Z having fallen onto boiling water. The mother's account is that Z tripped over a kettle which was being used to boil water to use in the bath. There is independent corroboration that the family were having problems with the heating system and so it is likely that water was being boiled in the way suggested. It was also the night before A was due to start school and the mother said that he was excited and did not want to go to bed hence he was up late. Although it sounds somewhat surprising that he was being bathed at either 10 PM or 11:30 PM, and although I do not accept the mother's evidence that the children were still struggling to adapt to the changing time zones on balance I am satisfied that he was being bathed late at night prior to his first day at school. Precisely how the accident happened and who was present is a little harder to determine. The father's re-enactment of the accident was highly descriptive and had the sense of his being present but on balance I accept that he was out of the house at the time and was probably working at the pizza place. The alleged discrepancy between Z's arrival at hospital at 1.51pm and the father's account of having got home at 10/10.30 as reported through a Dari interpreter using Language Line is of concern but the hospital records which record that timing, also conclude that the delay was adequately explained. Because of my concerns over the parents' reliability and tendency to reformulate any event which might lead to criticism of them and because of the lack of resolution of the discrepancy in timings I am unable to accept their account in full. Although the injuries were caused accidentally I am unable to resolve the question of whether there was a delay in her presentation caused either by the mother not taking appropriate steps to contact the father or by the father delaying seeking treatment for Z because I do not feel able to accept their account on the balance of probabilities.
95. On the 15th November 2019 a further assault occurred in which the father hit the mother so as to cause a nose-bleed and abrasions to her hand – probably from her falling against some surface. I am unable to determine the cause of the assault; whether it was related to the appointment with Ms Jones I am unsure. I am satisfied that the mother left the property as a result of the assault and was walking the streets. It seems probable that the father kept control of the children who were in the property (B and Z) and may have then left the property to collect A from school. The two youngest children would have been present in the property at the time of the assault and would probably have seen the mother distressed and with injuries given how dedicated to their care the mother was.
96. On 13 January 2020 the father assaulted the mother causing bruising to her arms, cuts on her hand and marks on her neck from where F had pulled her hair. There is insufficient information about her hand to enable me to make a finding on balance of probability. The mother still felt unable to take any steps to address the issue by leaving the father or otherwise and her comment that she could not leave because of

the children suggests priority being given to the family unit at the expense of the emotional well-being of the children. Whether the mother genuinely does not appreciate the impact of violence or abuse on the children or it is a product of her domination by and submission to the father is not clear. I am satisfied on balance that the mother expressed a desire to remove Z to Afghanistan and this was under-pinned by some concern that Z had become a problem of some sort and was either actually or potentially at risk of the father's anger. For the mother to contemplate returning to Afghanistan with all its accompanying risks suggests a high level of concern in her mind about Z. Whether this was because the father had not wanted Z or the fact that she was a cost to him or that she was more of a challenge to parent or she was a girl I cannot determine as the evidence is not sufficiently clear to determine the issue. It seems more likely that something had developed which had given rise to this concern in the mother's mind as she had been clear in June 2019 that it was only A who had been hit by the father. Given the situation of the family at that time (financially and otherwise) the idea of the mother wishing to go simply to show Z to her adoptive father when he had abandoned her to the mother is unbelievable; unless the mother's plan was to hand her back to him for her (Z's) own benefit. I am not able to determine what it was that led to the mother becoming concerned for Z; the main incident regarding Z in the intervening period was her sustaining the serious burns which must have been very difficult for the parents to deal with both logistically and financially although I note they were receiving some assistance from a burns charity. The evidence also suggests that the father was tending to Z's burns his interactions with her were noted to be appropriate. There is evidence that Z was hitting the father whilst her dressings were being changed but this seems an unlikely source of the father becoming aggressive to her. Ultimately the parents' evidence and in particular the mothers account of what happened around the assault on her in January leaves me unable to determine why it was that Z became a source of concern to the mother such that she wished to find a way to take her away from the household.

97. On the 27th December 2020 an argument took place between the mother and father over a prolonged period of time which caused a neighbour to call the police as a result of the mother screaming and crying and the father shouting. The parents account of the occasion is wholly a fabrication and so the cause and its progress is hard to discern. On the balance of probabilities given the history and the nature of the characters I conclude that the father lost his temper and assaulted the mother causing a scratch and abrasion to her neck and the right side of her face; this may have been as a result of him either forcing her down with his hands on her face and neck, or by blows. The scratch to the father's right jaw was I conclude the mother trying to fend off the father as also was the puncture wounds to the fathers left shoulder probably caused by the mother having scissors in her right hand at the time of the father's assault on her and her stabbing with her right hand over his left shoulder. Whether this caused him to desist in the assault or whether the police arrival ended the incident is difficult to determine but given the scissors appeared to have been washed when the police arrived it is perhaps more consistent with the father desisting as a result of the stabbing. It must have seemed to the mother to have been a serious assault in order for her to resist in the way she did or perhaps the effect of the stress of her situation was such that she 'broke'. She was of course pregnant at this point in time and only a few days before I had considered the impact of her pregnancy on the fact-finding hearing. That the father was able to assault her again whilst pregnant, as he had in November

2019 and January 2020 illustrates quite how far his loss of self-control goes. I take note of the neighbours' assertion that rowing had been going on for 5 months.

98. The evidence establishes that the father is also verbally abusive to the mother and occasionally to the children. The mother herself says she is short-tempered although she says this does not convert into abusive behaviour. The evidence from a host of sources shows the father has a very hot temper and will shout or scream when angry. The mother's reports of his using offensive language in November and January and her response to my question support his using offensive language and appearing aggressive and threatening in his demeanour when his temper has been lost even when it does not lead to physical violence. The ease with which B uses rude language on 27 May also suggests it is far more commonly used in the house and far more acceptable than the parents say.
99. The denial by the father is in a sense understandable given he would face potential adverse consequences. The denial by the mother is more troubling and begs the question of whether she will ever be able to acknowledge the violence and the father's character and the ongoing risk he poses to her and the children from violent behaviour. The length of time over which she has denied the violence, the creativity she has gone to in explaining it away and this despite her intelligence is a real worry. I am satisfied that the father has acted in ways to limit the mother's independence of action by making threats to send her back to Afghanistan or to take her documents and by limiting her access to money or her links in the community. The extent to which she has been under his control represent further limitations on her ability to appreciate the father's real nature.
100. The Chronology shows that in Spring 2020 the parents were apparently co-operating with the local authority and had undertaken some work on the impact of domestic abuse. The British Red Cross were expressing considerable concern about the level of risk within the family following the mother's report of 14 January 2020. However the mother and father continued to deny domestic abuse, the mother denied it when seen at the antenatal clinic and they continued to deny it to social services meetings. Injuries seen on Z were explained in the context of a spat between her and B although the more serious bruising and scratching seen in the photographs at J1713 were not shown. The school reported positively regarding the children. The child and family assessment undertaken in relation to C recorded the parents showed warmth to the children and that their basic care was good. Social services regarded the level of risk as reducing and no work close to a level where they might consider removal. However police were called by a neighbour on or about 3 February and on 27 February the family moved to their new property and in March the mother was seen with the injury to her eye, the father was recorded as being unhappy at the ongoing involvement of social services, the school and a health visitor were concerned about the presentation of the mother and on 18 March a doctor at the mother's antenatal clinic recorded an old bruise on her left cheekbone although the mother denied any injury or pain. It seems that the father was doing some work either washing chickens, or at a pizza restaurant or delivering leaflets, A and B were attending school and they were settling into their new home with some help from the British Red Cross in terms of furniture and clothing.
101. Thus as at 26 March 2020 the family's situation was as I find it to have been was one in which domestic violence was a periodic feature of the lives of the mother and

children, where the father's short temper would lead to a rapid escalation of an issue into him losing control, ranging from shouting and screaming abusive language to rage induced physical assaults on the mother which left her with visible injuries and which must have been terrifying both for her and for any children in the house at the time they occurred. I'm quite satisfied that the children at times had witnessed such incidents including in June 2019 (potentially all of them), in November (B and Z) and in January Z. It is also clear that a narrative had been developed in the household to deny that the father was behaving violently and abusively and that a common front was maintained by the mother (save for occasional lapses around actual incidents of violence) and father to social and health services and that the children had some awareness of the potential consequences for the family of police involvement. I'm satisfied that the narrative within the household would have been one of suspicion of police or social services involvement and that the messaging within the household was to portray a positive domestic story and to deny anything which might depict the father in a bad light. I am equally satisfied that the risk the father presented had not been ameliorated by any work done by social services. Although both the mother and the father had undertaken work and had appeared to take on board the domestic abuse messaging neither of them accepted that any domestic abuse had occurred, when in my view a number of quite serious incidents had occurred. This points to the conclusion that their engagement with the domestic abuse work was lip service rather than any real attempt to address the underlying issues; particularly on the father's behalf. Thus the risks of the father flying into a violent rage had ameliorated not at all. Although some of the pressures that had been present in the summer of 2019 had abated in that a new and larger home had been acquired, harassment had been left behind, the children had started school other pressures were also present. Social services were still on the scene, the BRC was very concerned, a new baby was about to arrive, a new home had to be adjusted to and the pandemic was about to strike. As a consequence the children did not go to school although their places would have been open and the father would have been unable to carry out any of the work that he had been doing as a result of lockdown. The family were thus thrown together and were unable to leave their home save for rare trips to the shops or for exercise.

102. It is against that backdrop that the injuries to Z thus fall to be assessed.

#### Injuries to Z

103. In considering the injuries to Za I remind myself both that attitudes to health and safety which are culturally the norm in this country may be quite different to those with which the parents grew up in Afghanistan. I also remind myself that childhood accidents do occur and that lightning can strike twice. Even the most safety conscious parents cannot cater for every eventuality. The fact that Za seems to have sustained several serious injuries does not mean that they could not all have been accidental injuries. Of course as Dr Cary said piling improbability on improbability must lead one to question the overall probability but the mere fact of a number of serious injuries does not lead unerringly to one conclusion or another; it is simply part of the overall picture to be considered.
104. I accept that the observations of the father show a man who all loves his children and that the observations support the conclusion that the children love him and are not fearful of him. That undoubtedly supports the improbability of him behaving violently to them or them having experienced violence at his hands. However, the evidence also

convincingly demonstrates that the father has a very short fuse and that when it blows, he is incapable of restraining his temper or his actions. A person capable of explosive anger followed by a period of restrained behaviour is capable of violence to even those he cares for most, particularly if they are the source of his loss of temper or are in his immediate vicinity when explanation happens. Children who experience such forms of inconsistent parenting might very well demonstrate affection for and lack of fear of that parent if that was their experience for the majority of the time. Isolated outbursts would be confusing for them but that would not necessarily prevent the children loving and interacting affectionately with their father.

105. In her police interview the mother recounts an accident in which some snow and stones were cleared off a roof and fell onto the mother and onto Z. There are photographs which would appear to show Z with a bandage on her head and with the scar. Dr Offiah's interpretation of the radiological evidence also supported the presence of an old lacerations and soft tissue injury in that area and the medical evidence in general was consistent with this sort of event causing a laceration and relatively minor soft tissue injuries. The combination of the pre-existing photographic evidence, the mother's early account of such an incident and her description of the medical treatment which is consistent with the expert evidence in this case leads me to conclude that this was an accidental injury which Z sustained whilst in Afghanistan. It was of a relatively minor although no doubt distressing nature at the time. It was not consistent with the sort of impact that would be required to cause a subdural haematoma which persisted up until its discovery in the CT scans taken on 27 May 2020.
106. I'm satisfied that the combined effect of the medical expert evidence demonstrates the existence of a chronic subdural haematoma or collection. As the mother submits, the fact that it was evacuated during the craniotomy meant that Prof Al-Sarraj was unable to subject the contents to any histo-pathological examination and so that does represent a gap in the analysis. However, Dr Offiah confirmed that in his view the radiological evidence showed a chronic sub-dural haematoma which was older. Mr Jaymohan concluded there was an earlier sub-dural collection which represented an earlier SDH rather than it being from any other cause. The appearance from the scans was of acute blood and older blood which was or had broken down becoming less dense. The older blood was over 2 weeks old but could in Mr Jayamohan's opinion be up to 18 months old although his initial view was in the range of 5-10 weeks. He was of the view that a 2m fall could have caused an SDH and not have resulted in on-going symptoms (he said in the experts meeting there might have been a period of headaches or being unwell but this was non-specific) as the brain could accommodate an SDH and adapt to it. The rapid re-occupation of the skull by the brain at operation suggested the majority of the space occupying SDH was from the acute bleed. Both Dr Offiah and Mr Jayamohan's evidence was to the effect that the appearance on the CT scan of what appeared to be a larger chronic sub-dural collection could be misleading as the acute blood would mix with the older collection. The father's submission that the older sub-dural collection was 'vastly larger' than the 'new' one was not what I understood to be the effect of the expert evidence. The absence of any obvious neurological symptoms in Z and the rapid re-expansion of the brain would both support the probability that the older sub-dural haematoma/collection was



smaller than the radiological images might suggest. Mr Jayamohan thought if she had sustained the bleed before 18 months her skull circumference would likely have been enlarged and if it was in the range 18-22 months that would still more likely show in skull size but after 22 months the sutures would be sufficiently sticky not to be affected. Of course, the smaller the sub-dural haematoma/collection the less the effect on the skull might be.

107. The mother describes in her statement of 27 July 2020 says that whilst doing some housework Z was playing and fell from a 2 m height. In her solicitor's correspondence that expanded on this to say that she fell from the top of a stable and this was repeated during her evidence. The mother says that Z was dizzy and was taken to a doctor but was otherwise well. However, during her police interview the mother made no reference to a significant fall from height. It is submitted on behalf of the mother that during this phase of the interview a focus was on visible injuries and that the mother did not allege that Z had any visible injury after this fall and this explained why she had not mentioned it and that the stress the mother was under was huge in the circumstances of her arrest and Z remaining critically ill in hospital. However the issue is referred to [J711] as a head injury and she is asked 'is there anything else that you can think of that happened to her head?' and she answers 'No I can't think of anything'. In the mother's response to the interim threshold which was dated 23<sup>rd</sup> June 2020 she did not refer to a fall from height having occurred whilst in Afghanistan in response to the threshold allegation that Z had evidence of a separate cerebral bleed. The father did refer in brief terms to a fall in Afghanistan both in his response to the interim threshold and in his statement. The mother's evidence as to the timing of the fall changed significantly. In her first statement she said that it happened just before the family went to Pakistan which would have meant before 10 December 2018. Z would have been 17 months old at the time and so within the range at which Mr Jayamohan would have anticipated some evidence in the form of a larger head circumference to become evident (Z's was on the 75<sup>th</sup> centile so not large for her age). However, in her second statement filed after Mr Jayamohan had given evidence and in her evidence in chief the mother changed the timing, so the accident happened shortly before the family came to the UK. This would have timed it at about 22 months or within the window in which Mr Jayamohan would not have expected evidence of an enlarged head circumference. The local authority submitted that this change was significant and probably driven by a desire to bring the account within the timeframe consistent with the expert evidence.
108. I do not accept that an incident of the nature described by the mother occurred with Z falling 2 to 3 m from a stable and sustaining an injury to her head which might explain the chronic subdural collection. The failure of the mother who was caring for Z at the time in either the police interview or in her first statement, together with the significant change in the alleged timing of the incident and the absence of any evidence of a change in Z's head circumference and the diminishing likelihood of it being that old based on the expert evidence of the chronic subdural collection being timed within the range of 5 to 10 weeks all lead me to conclude on the balance of probabilities that a serious fall in Afghanistan involving a head injury capable of causing a subdural haematoma which persisted in the form of a subdural collection up to 27 May 2020 did not occur. Whilst I accept the mother was under considerable stress in the police interview and subsequently, given Z had sustained a serious head injury and was said previously to have also sustained a brain injury, not to have mentioned what I would

expect to have been the most significant accident in Z's life in Afghanistan is a major omission. Giving due allowance for differing attitudes to child safety the fall of an 18month -2year old 2m from a stable roof onto the ground is by any standards a very significant accident and an almost total absence of apparent injury (abrasion, cut or broken bone) is a near miracle I do not accept any parent would forget when talking of previous accidents in the interview still less when able to consult with her solicitors a month afterwards. The fact that the father mentioned it in very brief terms does not persuade me it was a real event. His capacity for giving false evidence is significant and I struggle to understand how he would not know details of it if it was significant and particularly if it had been an incident which occurred shortly before their arrival in the UK. The idea that Z undertook a major journey involving two flights within a few days of sustaining such a serious fall (even if she only suffered dizziness) would have made it even more memorable. Thus, on balance I do not find that Z sustained an accident which caused a brain injury in Afghanistan which led to what has been called the chronic sub-dural haematoma or collection.

### Humerus/Scapula Fractures

109. The medical evidence establishes that Z sustained
- i) A complete spiral fracture to the lower humerus,
  - ii) A fracture to the spine of the scapula.

The evidence as to when these were sustained is identified as within a range and none of the experts sought to identify a date and accepted that within the range it was difficult to be much more precise as the shape of the probability curve was unknown. What was termed as the gold standard for dating the injury was the evidence of Prof Mangham as opposed to the radiological dating of Dr Offiah or the clinical/radiological dating from Mr Kapoor. Prof Mangham's range was 5 to 10 weeks. Mr Offiah accepted that Prof Mangham's ability to determine timing was better than the radiological perspective and he said from his perspective one would say they were older than 7 to 10 days. Dr Kapoor said they had the appearance of being 4 to 6 weeks into the healing process with a range of up to 12 weeks. All of the experts were agreed that the nature of the injury to the humerus involved a twisting or rotational element. The effect of their evidence was that the force which caused one fracture could not be transmitted through the joint so as to cause the other fracture.

110. The humeral fracture would according to Dr Kapoor require a significant twisting or torsional force being applied to the arm. Injuries usually encountered from trampoline accidents were transverse or compression fractures not spiral fractures. The scapula is strong and well protected and so a lot of energy is required to fracture the scapula; it is associated with high energy mechanisms such as riders being thrown from motorbikes or horses and involved a direct impact to the scapula from impacting on a solid surface. He said it had a high specificity for likely abuse. The appearance of the fractures was similar and so they were likely the same age and could have been sustained in the same incident provided there were two mechanisms. He could not conceive of a mechanism of a fall on a trampoline by a small child like Z combining the rotational force required to break the humerus and the impact force required to fracture the scapula. He thought the occurrence of one would tend to rule out the occurrence of the other.

111. Dr Cary agreed that significant twisting forces would be required for the humerus injury and a significant direct impact to the scapular. He appeared to consider that a trampoline could potentially cause serious injury Prof Mangham confirmed that the rotational force to break the humerus could come from the arm being static and the body rotating around it or vice versa.
112. Dr Offiah was in agreement with the need for substantial blunt impact trauma and thought a trampoline fall might provide the mechanism – however Dr Offiah is less well placed to offer this opinion than Dr Kapoor and expressly acknowledged this.
113. At the experts meeting there was an acknowledgment that the chronic sub-dural collection might be linked with the humeral and scapula fracture and that in terms of mechanism and swing by the arm and an impact of the scapula and head with a hard surface such as the wall or floor would explain all three injuries and would explain the fractures on their own.
114. Dr Kapoor considered that the complete fracture of the humerus would be expected to be extremely painful when it occurred and to continue thereafter during normal handling and movement. He considered the pain would be at its peak over the first 2 to 3 days and would then slowly tail off. He considered normal use would be most improbable and that it would be obvious that the child had a badly hurt arm particularly on movement such as dressing but also would involve movement to the arm. It would usually be treated by a sling or by a cast to immobilise it. His opinion was echoed by Dr Cleghorn, Dr Cary and Dr Offiah. He considered that bruising around the elbow as described by the parents would be consistent with the fracture as would crying. The tenor of his evidence was that in particular the humeral fracture but also the scapula fracture would have caused such pain and limitations that it would have been obvious to a parent that the child had a serious injury. He did not believe that the papers which showed that some children did not present with pain or limitation of movement were helpful for various reasons. Mr Woodward-Carlton is right in his submission that the papers do contain potentially relevant information because one cannot at this stage rule out accidental injury or assume that the injuries occurred together and to the extent that Dr Kapoor relied on those as reasons for placing no weight on the report it is ultimately a question for me and whilst his opinion clearly was that they occurred together and were suspicious of abuse I think it is right to bring them into account. The mother is also right to note that a significant minority of children with fractures did not cry or resolved their irritability within 30 minutes and 16% continued to use their upper limb normally including some with unstable serious fractures. The paper also questions what amounts to delay for the purposes of it being used to identify potentially abusive injury. I accept that the paper identifies what the mother relies on but I consider Dr Kapoor is right to raise the issue of their relevance in this case because Z was NOT presented to hospital and the Farrell paper dealt with children who were presented at hospital mostly within a few hours, with only 8% being presented more than 24 hours after the identified time of injury. Thus, the relevance of continued use of even a seriously injured limb over a matter of hours is of little relevance it seems to be compared to clinical experience of the impact on a child of a seriously fractured limb over a period of days and weeks.
115. The medical evidence is consistent with the humerus fracture and the scapula fracture being sustained at the same time. The medical evidence is also consistent with the chronic subdural collection being within the same window.

116. The parents both identify a fall from a trampoline as a possible cause of the fractures. In her police interview the mother said following a couple of falls she had small injuries on her skin (pointing to her face) and her elbow had a black bruise from falling on the trampoline and trapping her hand about a month before. She said she put some cream on it and she did not complain for long and although her answers were not entirely clear there was no suggestion it significantly impacted on her. In her statement two months later she said that the accident occurred just before she went into labour, that her arm got stuck in the metal around the trampoline, that she cried for one or two minutes and said her arm hurt but it was not swollen then. The following day they noted it was swollen and the father went to the GP. She repeated she put some cream on it and would massage the arm she was fine. In her statement given nearly a year later she said she was not sure of the timing and the next day there was some blueness above her elbow which look like bruising. She said that her arm was painful she was putting it into clothing and that she gave her pain relief. The father's response to the threshold stated that Z fell off the trampoline about two months before (so mid-April), did not express pain and that due to Covid the father did not risk attending the hospital. In his statement he repeated that her arm was swollen and in his later interview he said she had swelling below her elbow, that he attended the GPs and that at home Z was behaving normally and using her right hand to eat and drink and was not showing pain and raising her arm or getting dressed. He described the injury as tiny and not important. He later said that she sustained pain if she lifted her hand above the level of her head. He likened her response to A's after the police were alleged to have hurt him. In their oral evidence they maintained the broad accuracy of their later accounts.
117. On 7 April Ruth Gavin attended the family home. She saw A and B in the garden and B was on the trampoline. She was told that Z was sleeping on the sofa and she looked through the window and Z was on the sofa apparently asleep. On 15 April the mother did not attend an antenatal appointment and when she attended the following week, she was alone. A child in need meeting was not attended by the parents due to technical difficulties but it is right that no concerns were noted as a result of the doorstep visits. On 4 May Jodie Dillon visited and saw B. She was told that Z was sleeping upstairs. Miss Gavin asked her to return. When she did and asked to see Z the father said she was upstairs and appeared to Ms Dillon to be quite frustrated. It appeared that Z was then having a bath and the mother held Z up to the frosted glass window; Ms Dillon noted that she cried out. The mother said that Z said she was naked don't show my body which seems a curious thing for a child of her age to say although one can imagine if she was in the bath she might have objected to being taken out of it. When the mother saw the midwife on 12 May she was also alone. The next time Z was observed appears to have been on the 26<sup>th</sup> of May when the community midwife visited her at home.
118. The balance of the medical evidence tends to point to the improbability of a fall from a trampoline creating the necessary mechanism to cause a spiral fracture to the upper arm and a fracture to the spine of the scapula. The fracture to the humerus would require a significant twisting force. The fracture to the scapula, a strong and well protected bone would require a high energy impact akin to a motorcyclist being thrown from a motorbike or a horse rider being thrown from a horse. The parents account of the consequences of the trampoline accident are simply not consistent with the nature of the injuries that Z sustained. In the early stages they were described as very minimal indeed and the father specifically said he had not sought medical

attention for her. As time has passed and as the expert evidence has become clearer in the nature of the injuries the parents account has developed both in terms of the symptoms that Z exhibited and the actions they took in consequence such that the father now says she had some pain if she moved her arm above her head and that he did indeed seek medical help by attending at the GPs. That of course is not documented. Whilst I accept that the studies show that some children do not respond in typical fashion to fractured limbs the published papers deal with far shorter periods of time that we are dealing with here. A child behaving in an atypical way over a period of up to 24 hours is vastly different to a child with a complete fracture of their dominant arm and a fracture of their shoulder blade behaving in the way the parents describe, even in their later accounts which in no way reflect the likely pain and impact that these injuries would have had over an extended period. The evidence from the relevant experts confirms that eating, drinking, dressing, sleeping, bathing, playing (particular with others) would all likely have been impacted with Z suffering pain and behaving as if she had pseudo-paralysis in her arm in order to avoid aggravating it.

119. Taken in its totality the evidence leads me to conclude on the balance of probabilities that I am satisfied that at some point in the latter part of March or the early part of April that Z sustained a radial fracture to her humerus, a fracture to her scapula and a head injury which resulted in the subdural collection. I'm satisfied that Z would have been seriously unwell as a consequence of these injuries and would have demonstrated serious pain and limitation of movement in her arm for several days and up to 3 weeks following the incident. The consequences of the head injury may have been limited in their extent or overshadowed by the impact of the injuries to the humerus and scapula which would have been very significantly painful for the first 2 to 3 days. Self-evidently the impact of these injuries would have been obvious to both parents who did not seek medical attention for her. This failure is in significant contrast to their approach to seeking medical attention for B and A in the preceding months. Although the intervention of Covid may have deterred some parents from exposing their child to the risk of Covid by attendance at a GP or a hospital, with the injuries that Z had and the likely pain and limitation of movement she was experiencing any reasonable parent would have taken her to hospital. Of course the parents account of the extent of her symptoms is inconsistent with a probable presentation and I am unable to discern any reason for their having downplayed her symptoms and having not taken her to seek medical attention other than that they had something to hide. This amounts to a lie on a material issue without any explanation save that it masks some culpable action. The fact that Z was said to be asleep on the occasions when social services visited and that the parents did not remotely attend the ChiN meeting adds to the evidential picture of the parents responding to the injuries by keeping Z away from those who might question how she came to be injured. Of course one also has to also add in the fact that it is known that the father is prone to rapid loss of self-control and the use of violence, the added pressures of lockdown, that the mother had by her actions in January indicated a concern that Z was somehow at risk. The mother is not by nature violent and nor are the children reported to be or of a size or strength to inflict such injuries. The totality of the evidence satisfies me that it is more probable than not that these injuries were inflicted on Z by the father in a fit of rage probably by grabbing her arm and swinging her in a way which led to her scapula and head impacting against the wall. Even if the mother did not witness the assault on Z she would have been well aware of the impact it had had on Z over the minutes, hours and days which followed and she was complicit with the father in keeping Z from medical

attention and from the gaze of social services. It is likely when Ruth Gavin and Jodie Dillon attended at the property that Z was suffering from the consequences of these injuries. I do not regard their acceptance of the assertion that Z was asleep, asleep or in the bath as a failure on their part. Up until that time the concern was primarily violence towards the mother rather than to the children and the parents had (at a superficial level in my view) been working with the local authority specifically to promote a belief that they need not be concerned with the family with a view to ending LA involvement in their lives.

### Nail Injury

120. Z had at some point injured her finger which led to bruising and in due course her fingernail falling off. The mother says that Z told her she had caught her finger in the door and both mother and father described how the finger bruised and blackened and that was the mother was in hospital giving birth to C the fingernail came off. Dr Cary said that such injuries tended to bleed profusely and the local authority submitted that the failure to take Z to receive medical attention for it was an indicator that this injury also was physical abuse, particularly when one considered that A and B were taken to the GP for apparently minor issues earlier in the year. The local authority pointed to the symmetry with the mother having suffered such an injury (along with others) in June 2019 and pose the question of whether this was a pattern of abusive behaviour by the father. However, in the experts meeting the experts were of the view that trapping a finger in a door was an entirely plausible explanation for this and the medical evidence supported how frequently these sorts of injuries occurred in children. Interestingly the level of detail the father gave about this relatively minor injury in his oral evidence was one of the segments of his evidence when he seemed more spontaneous in his delivery and that tends to support the likelihood that this was an accidental injury that Z sustained and which the parents did not consider needed hospital treatment, they have experienced similar injuries themselves.

### Older Skull Fracture and extradural haematoma

121. The combined effect of the histopathological and the radiological evidence confirms that Z had sustained a comminuted fracture involving and running alongside an accessory suture(A3-5) on the back-right side of the skull in occipital/parietal bones. There is also an extradural haemorrhage linked to the skull fracture and contusions to the inferior surfaces of the left frontal and temporal lobes brain.
122. The histopathological evidence of early new bone formation and other biochemical responses indicate this occurred between four and seven days prior to Z's death; so between the 25th and 22nd of May. The extradural haematoma over the infratentorial dura showed some old bleeding with associated healing processes consistent with an age of several days or more and the contusions to the brain showed reactive changes consistent with an age of a few and probably several days. Prof Al-Sarraj preferred this range whilst Mr Jayamohan was prepared to say 5-7 days of age. The radiological evidence both in relation to the skull fracture and the associated extradural and pericranial haemorrhagic changes support it being non-acute and at least three days old. The congruence of the radiological and histopathological timing gives great confidence to the reliability of the range.

123. The difference in the healing response evident in this fracture and in the injuries to the brain identify them being the subject of a separate event to the fracture identified at A1-2 and the subdural haemorrhage and other injuries as did the differences in the radiological appearances of the various injuries; skull fractures, subdural haemorrhage, extradural haemorrhage, soft tissue injury. Dr Offiah agreed that the soft tissue injuries observed might have merged with each other and been the product of a single event (as the mother submits) but his overall opinion was that the combination of what was observed pointed to two separate events. Although Mr Jayamohan was not prepared to rule out the possibility of a single event, (the father submits his evidence amounted to his acceptance of a plausible case for a single event which is not the overall effect in my view) this was, as was the case with other experts on various issues because medical science is not precise or complete as the law and medicine both accept.
124. The fracture is through virgin bone and requires significant blunt force impact to the back of the head. The occipital/parietal bones are amongst the stronger bones in the skull. The injuries both in terms of the fracture to the skull but also the brain injuries involve significant energy; the brain contusions are consistent with contrecoup injuries sustained following an impact to the back of the head and the brain moving inside the skull. The injury to the left dorsal dura was consistent with an impact to the left side of the head but could also be caused by an impact at the back causing the fracture.
125. However, Mr Jayamohan was of the opinion that these injuries whilst they would have been associated with a period of immediate distress linked to the impact causing the fracture they may not have resulted in neurological consequences. Skull fractures in children are not uncommon, are not uncommon in childhood falls and a child might complain initially and take themselves off but thereafter unless the head was pressed, she may not complain of pain.
126. The father (with support from the mother) submits that this medical evidence does not fit with the clinical picture which emerges from the health visitor notes of how Z appeared on the 26<sup>th</sup> May or the fathers and mothers experience of her in that window; she being apparently well, unafraid of either parent and active. There is nothing in the statement of Ms Pettit who produces Ms Dixon's notes of her attendance on 26 May which give rise to any concerns about Z or indeed anything else. Z and B were happy smiling and showed Ms Dixon to C. B and Z were recorded as being excited and noisy and the father took them upstairs. A does not appear to have been around. It does at first blush seem curious if not improbable that a child who had sustained a fractured skull in the four days or so prior to 26 May and was carrying a chronic sub-dural collection in her skull could appear to behave as normally as happily, as excitedly as Ms Dixon's notes suggest. However against that is the totality of expert evidence that she did indeed have a chronic subdural collection and a skull fracture at that time and the opinion of a consultant neurosurgeon both that some subdural collection can be accommodated by the brain without neurological consequences and that some skull fractures may be associated only with some immediate pain and distress and may then not cause symptoms or be noticeable by a carer.
127. Neither parent identify any event which might have caused a fracture to Z's skull nor do they identify any complaint by Z of having banged her head. The only event which potentially occurred within the period identified by the experts as the window for the

skull fracture is the mother's initial account of Z falling on the trampoline which was said to have occurred just before the mother went into labour. In her police interview the mother said she had fallen and had suffered some marks to her face from stones on the ground but appeared to indicate the front of her face rather than the back of her head which is where the impact would appear to have taken place to cause that skull fracture, extradural haematoma and contrecoup contusions at the front of the brain.

128. The local authority submits that if Z had suffered some sort of fall or other accident which had led to her hurting her head, she would likely have told the mother about it if she were there. It was certainly the mother's case and indeed the local authorities in case in terms of the mother's general capability in terms of meeting the children's needs and her attentiveness to them that Z would have come to her if she had received a serious knock on the head because she sought comfort from her if she hurt herself or was hurt by one of her siblings. It therefore seems highly improbable that had Z sustained some sort of accident which caused her to bang the back of her head seriously enough to cause a significant fracture whether or not it was associated with significant soft tissue swelling that if the mother were around Z would not have sought comfort. The mother suggested that in accordance with Mr Jayamohan's evidence that the Z might simply have taken herself off somewhere and that in a busy household this might not have been noted. Whilst I accept it is conceivable that in some busy households a child might have simply taken themselves off to a quiet place until they recovered, I do not think this is probable knowing what I do of Z and her character. She is described as seeking attention and indeed competing for it quite unlike A who appears to keep himself to himself. It is true that at this time the mother would have been preoccupied with her impending labour and that she was unwell but it all is also the case that the household was in lockdown and they were all living on top of each other in a two bedroom property unable to leave save for obtaining food or exercise.
129. In order to outweigh the combined effect of the expert medical evidence I would need to accept contrary to its combined effect that the chronic subdural collection and/or the skull fracture would be bound to have manifested themselves in neurological consequences which would have been noted by the parents and independent observers including Ms Dixon and thus that the absence of any such observations led to the conclusion that the injuries were not present. Given that the expert evidence is that such injuries can be sustained by a child with only noticeable short-term consequences and without obvious medium to long-term neurological or behavioural manifestations I am satisfied on the balance of probabilities that the evidence establishes that Z sustained a skull fracture, and extradural haematoma and contusions to her brain in the period from about 22 May 2022 to the 25 May.
130. The nature of the forces involved in fracturing the skull in the bones affected is such that it involved a significant blow in the region of the back of the head which would have caused significant distress and pain to Z. I am satisfied that had she sustained an accident she would have complained and that the parents would have tended to her and would have recalled such an event. The mother of course was in hospital from late in the afternoon of 23 May until the father collected her at some point on 25 May. It seems more probable than not that she was anxious to get home for a combination of reasons. Firstly, she would have wished to return to her home and the familiar environment that it represented rather than remaining in a hospital. I have little doubt that the children would have missed her and would have wanted her home. I am also



satisfied on the balance of probabilities that she would have wished to return home because she was aware that the father had a violent temper and that he would be experiencing considerable stress looking after the three children on his own overnight and without her support for the first time ever. Knowing as she did his shortness of temper and how quickly it could be lost when frustrated and knowing the demands of parenting A, B and Z I'm satisfied that she would have been anxious about how he was managing and that she would have wished to return to help as soon as possible both for the children's benefit but also to ameliorate the risk of the father losing his temper. Given my findings as to her nature and her absence from the environment for a significant period of time I do not consider it probable that she was the cause of the injuries to Z prior to her admission to hospital or after her return. Z's appearance on the 26<sup>th</sup> would be more consistent with her having suffered the skull fracture earlier during the range of times identified by the expert evidence. It may have occurred prior to the mother's admission to hospital but on balance of probabilities it seems more likely to have been the result of an incident which occurred after the mother's admission to hospital and whilst the father had sole charge of the children. On balance of probabilities something occurred relatively early in his period in sole charge of the children which caused him to lose his temper and to lash out in a way at Z to cause her to hit her head either against the wall or by falling to the floor with sufficient force to fracture her skull and to cause the internal brain injuries. She would have been significantly distressed in the immediate aftermath but given her age would not have been able to express whether she was dizzy or experiencing any other symptoms and may then have settled over a relatively short period to the extent that it would not have been obvious either to the father or to the other children that she had sustained a serious injury. The father would, I'm satisfied not have told the mother of this and it would not have been apparent to the mother on her discharge from hospital that Z was in fact carrying a skull fracture and other internal injuries.

#### Z's death: Recent skull fracture and subdural haemorrhage

131. Following the consensual withdrawal of life-sustaining treatment, Z was certified dead at 18:22 hours on the 29<sup>th</sup> of May 2020. The consensus of the expert evidence is that she sustained a fracture to the skull in the right occipital/parietal region and a subdural haemorrhage which had bled into the pre-existing subdural collection. In consequence this had compressed her brain cutting off the blood supply and causing ischaemic damage. A craniotomy and subsequent decompressive craniotomy was performed by Mr Hasegawa at Kings College Hospital to evacuate the subdural collection following which the brain had re-expanded and an intracranial pressure monitor was inserted. Subsequent scans demonstrated improvement in terms of the mass effect/compression of the brain but ischaemic change/infarction involving almost the whole of the right cerebral hemisphere with damage to the left cerebral peduncle and further scans showed increased cerebral swelling and spikes of intracranial pressure that were incapable of further surgical intervention. By the morning of the 29<sup>th</sup> May the treating clinicians had all reached the conclusion that continued treatment was futile as Z's death was inevitable as a consequence of the brain damage she had sustained, and that withdrawal of intensive care was appropriate.
132. The medical experts were in agreement that Z's death was caused by the brain damage which was caused by the subdural haematoma compressing and displacing the brain

resulting in reduced blood supply and subsequent ischaemic damage and swelling including displacement of the brainstem leading to brainstem haemorrhage.

133. There was no underlying condition which was relevant to the determination of the injuries she sustained. The presence of a chronic subdural collection may have contributed to the overall outcome as there was less space for the subdural haemorrhage to occupy and to that extent the pre-existing injury may have exacerbated the consequences of this incident.
134. They were also in agreement that there was a recent skull fracture through virgin bone which intersected with an earlier fracture. As the mother points out Dr Offiah accepted that in respect of a growing fracture (by which I understood him to mean a fracture whose healing was affected by swelling inside the skull) it would take less of an impact to re-fracture but the view of Dr Cary and Prof Mangham was that any fracture of virgin bone, even in the vicinity of an earlier fracture, would require the same force as a fracture to a previously unfractured skull and so to the extent that there was agreement that there was a recent fracture of virgin bone rather than a re-fracture the nature of the forces involved were not different.
135. Prof Al-Sarraj's analysis confirmed a recent subdural haematoma and extradural haematoma and spinal-cord subdural haematoma probably an extensional of the intracranial subdural haematoma occurring about 48 hours before death. He also found axonal damage part of which was attributable to vascular damage caused by pressure effect but also traumatic axonal damage which is consistent with high energy impacts. In terms of timing they were consistent with the reported survival time from the approximate time of the injury. Mr Jayamohan was more nuanced in what he would draw from the axonal damage and did not think it possible to exclude potential forces involved in a stair fall from being capable of arising and thus causing axonal damage.
136. All of the medical experts accepted that the evacuation of the subdural haematoma during the craniotomy and the absence of testing of the contents prevented any testing in order to determine the extent to which the contents were comprised of acute blood or other fluid collections or the products of the chronic subdural collection which might have shed some further light on the extent to which there was indeed a pre-existing chronic subdural collection. It was also accepted that the craniotomy itself was responsible for some of the damage found in the histopathological investigations and that the way the scalp was treated during the operation may have affected some of the evidence relevant to the scalp/skull interface but there was clearly a large and diffuse sub-scalp haemorrhage over the occipital region running to the parietal region which was more intense on the left and the right and which was associated with an impact to the back of the head.
137. Dr Malcolmson's evidence of the findings in the eye he accepted were only part of the picture and that there was a gap in the science (because of its rarity) when it came to drawing firm conclusions about the precise presentation within the eyes in the context of a fatal fall downstairs. He emphasised that the presence of bilateral optic nerve sheath haemorrhage and the pattern of retinal haemorrhages and their appearance was consistent with an elapsed survival period of less than 2 to 3 days from the index event. They were consistent with acute severe traumatic head injury consistent with very high energy incidents such as head-on collisions between cars, t-

bones or rolling over or an accelerated fall. In particular low level falls were rarely associated with retinal haemorrhage and when they were they were at the posterior pole, few in number and superficial which were different to those found in this case. Together with the optic nerve sheath damage this indicated a high energy traumatic injury. He accepted the possibility that an impact which concentrated the energy into a small area might exceptionally provide an explanation.

138. The post-mortem and the radiological evidence supported the existence of swelling on left (more prominent) and right side of the scalp possibly blending into one. The presence of swelling on both sides of the head appears less consistent with a strike on radiator knob which would tend to cause contusion on back right side and laceration or splitting of skin although from a swelling point of view this seems not to be of real significance in determining mechanism
139. The abrasion marks seen on the bridge of Z's nose and under her nose were initially identified as possible 'scoop and run' injuries from paramedics or resuscitation but the video of Z at 9.09 does not seem to show them whereas the photo at 10.56 does. Dr Cary thought they had the appearance of being caused by grappling rather than being abrasions through impact with a surface in particular because they were in protected areas and were less likely to sustain impact injuries than other more obvious prominences. Dr Palm identified them as abrasions/scratches. A slight healing abrasion was noted over the point of Z's left elbow and this would be one of the prominences that would be potentially injured during a tumbling stair fall. Although there was significant evidence of swelling under the scalp there was no evidence of any laceration or even abrasion from the post-mortem. Dr Cary said a minor abrasion might have healed but that an impact with something which concentrated the force into a small area such as the radiator knob or edge of the radiator would have been expected to split the skin. This he thought was inconsistent with Z's head impacting on the radiator in such a way so as to concentrate the force from a tumbling fall sufficiently to cause the subdural haemorrhage, axonal injuries and eye injuries.
140. All of the experts reached relatively clear conclusions that the fracture and the subdural haemorrhage and other injuries within the eyes and skull were consistent with being caused within the two days preceding her death. Dr Offiah was perhaps the most flexible in his timings overall but I think this was no more than a generous confirmation of the position adopted by all of the experts that timing of injuries was not a precise science hence ranges were given and that a key component was being able to identify biochemical processes and the stages which they were at. In particular in this case the experts confirmed that given the biochemical processes being observed were within one child observable differences in the stages of healing confirmed the likelihood of different events having caused the injury which was healing.
141. A key component in Dr Cary's analysis was that children of Z's height and weight were likely to tumble downstairs and that as they tumbled the energy of the fall would be dissipated by impacts with the wall on the carpeted stairs such that by the time they reached the bottom (if they did) the impact would involve far less energy and thus would be unlikely to result in serious head injury. He noted the distinction between an adult fall downstairs which he described as a matchstick fall where due to the height of an adult one might freefall from top to bottom and the energy of the height and

weight would all be concentrated on the point of impact which made it far more likely that adults would suffer serious injury including fatal injury from stair falls than young children. He said fatal accidents in the home for children including from stair falls were very rare indeed. He accepted that in unwitnessed events one should be careful about speculating about the precise mechanism and agreed that in relation to research papers they showed that toddlers under four were most likely to suffer head injuries from stair falls (albeit he pointed out rarely fatal), that head and neck injuries were the most commonly noted, that in two of the three studies soft tissue injuries were observed in only 12 and 55% of cases, serious head injuries were sustained in 22% of cases in one of the studies and there was no clear difference in the significance of injury between falls down full flights or partial flights of stairs. Whilst accepting these points, he also pointed out the limitations in the papers and remained of the opinion taking account of all of the various components of the evidence that a stair fall however postulated did not explain the injuries. Prof Al-Sarraj also accepted that in the experts meeting he had overstated what one should take from these papers and that they were more nuanced than he had suggested but he also noted the limitations of the papers in so far as they showed the possibility of skull fractures or death arising from stair falls. Dr Cary thought a matchstick fall was unlikely although it would allow sufficient time for Z to have rotated from face forward face backwards and that a fall from a lower level whilst it might technically allow for a freefall it would be unlikely to allow for her body to rotate 180° so as to impact on the back rather than the front of her head. In particular he also brought into account the improbability of Z having sustained a number of serious accidental injuries.

142. All of the experts were agreed that the nature of the head injury involved a substantial impact at the back of the right side of the head. Dr Offiah and Mr Jayamohan both accepted that a fall downstairs could have resulted in an impact capable of causing the fracture and subdural haemorrhage. Mr Jayamohan said he had operated on children with a sub-dural haematoma from a stair fall and so from a purely neurosurgical perspective he was uncomfortable excluding that as a possible cause. Dr Malcolmson, Prof Al-Sarraj, Dr Cary and Prof Mangham were less supportive of this on the basis that a tumbling fall would have dissipated much of the energy and the dissipated energy impact of the head on a flat surface was not consistent with the extensive nature of the injuries sustained. However when one factored in the possible impact on the radiator knob or some other point which could have concentrated the energy of the fall into a smaller area all of the experts accepted that even in a tumbling type accident the concentration of energy might then be sufficient to cause those injuries. Prof Al-Sarraj thought the nature of the axonal damage was much less likely as it was in well protected compartments of the brain and thus it was much more consistent with very high energy accidents such as serious road traffic collisions or accelerated falls and Dr Malcolmson thought the optical nerve sheath damage and the pattern of haemorrhaging in the eyes was more consistent with a higher energy impact event than even the concentrated point of impact would produce.
143. The other of two key components in Dr Cary's analysis of the mechanism by which the injuries were caused was the absence of bruising from the points of the shoulders, outer aspects of the hips, elbows or knees which would be expected to arise from a tumbling fall downstairs. He accepted that abrasions might be limited if the individual was wearing clothes over those prominences but that would not affect the development of bruising which would be expected to have developed in the 72 hours

of that Z survived after the head injury was sustained. The presence of some bruising in the lower back and in the neck area (which is also a protected area) were less likely to arise from a tumbling fall than bruising to the bony prominences.

144. Mr Jayamohan's opinion was that if there was a pre-existing chronic subdural collection that Z's presentation would have involved a more protracted deterioration than would have been the case if all the subdural haemorrhage/collection was all acute. He said that the parents account of Z's crying, vomiting, eyes rolling, diminishing response and lapse into unconsciousness was all consistent with her sustaining a serious head injury in the morning of 27 May and having raised intracranial pressure. He confirmed that the video of Z taken at 09:09 hours was inconsistent with her having any head injury at that time and that the photograph of her at 10.54 was consistent with her having the head injury by that point. In particular he said that taking account of the later evidence from the two hospitals as to her observed deterioration in the hospitals that in his opinion he thought Z was injured later in that window than earlier.
145. The parents account has been set out in detail in the chronology. The parents' evidence is so undermined by their dishonesty in relation to a host of other matters that it is difficult to give it very much weight. I simply do not know when they are telling the truth and when they are not; for much of their oral evidence I have concluded they have not been honest but that does not mean they are automatically lying about this incident it simply means I am unable to place much weight on their account. Were I to have concluded that they were honest and reliable witnesses the interface between the medical and other evidence would have been rather differently balanced. Nor does the fact that they have lied about other matters mean that they are lying about this, still less that if they are lying about it that that proves that Z was deliberately injured by one or both of them. All of the factual evidence which bears upon events of 27 May must be woven together with the medical evidence, with other relevant evidence including my findings as to the natures of the mother and father in order to reach a determination as to what happened and whether the local authority have proven it is more likely than not that Z's injuries were inflicted and if they were by whom.
146. Overnight on the 26<sup>th</sup>/27<sup>th</sup> May the mother says she was sleeping in the main bedroom with C, B and Z. She said the father was sleeping with A. The father said that he was sleeping with the mother and got up in the middle of the night to change Z's nappy. At some point in the morning the father got up went downstairs and made breakfast which he brought back up to the main bedroom where it was eaten. I'm not sure whether A joined them. At some point after this it seems to be agreed between the parents that the father made some fruit to be eaten as a snack and brought that back up to the main bedroom and the father videos the scene. B seems to have cornered the container and fork and tucks into it whilst Z appears to have eaten some grapes. The video shows her holding up the grapes and smiling and although she does not make any noise or say anything she seems well at this stage; 09.09 AM. She is wearing a light blue T-shirt and dark blue leggings with the top of her nappy hanging over. B takes exception to his father filming Z and pulls the camera back onto himself. The father speaks approvingly throughout even when B is rude. The mother is lying immobile on the bed behind, with C apparently next to her. A is not seen. There is nothing to suggest that anything is amiss. The father's initial statement said that Z and B went downstairs with him and he then sent Z back up when he left. In her interview the mother says she remained upstairs as she was unable to go downstairs. In her

statement she says she went downstairs and the fathers and the mother's account later become consistent in saying that she went downstairs to help him compile the shopping list. Whilst the mother was able to ascend and descend the stairs (I note that when the health visitor visited the day before that the mother was downstairs breastfeeding C on the sofa and she descended on the 27<sup>th</sup>) I do not think that she did so prior to Z's injury. Her initial accounts were that the father had brought breakfast to the main bedroom because she was in pain and found it difficult to go downstairs and the video taken at 9.09 shows her lying largely unresponsive in bed. Clearly the father, B and Z are up and about and on balance it seems most likely that the father and the two children went downstairs prior to going shopping. The evidence of the roles within the house and what the mother says as asides elsewhere suggests that it was usually the father who went shopping rather than the mother and he had of course fended for himself for the four years when he was in the UK alone. I do not believe that the mother in her condition went downstairs to check the fridge and to give the father a list of items to buy; he was perfectly capable and used to doing this himself. At 09.29 the mother seems to have used her phone to add a contact. But what happened thereafter?

147. At 09.46 the photograph of B is taken strapped into the pushchair - he's not smiling for the camera and so in that sense it doesn't appear to be a posed photograph, on the other hand parents take photographs are all sorts of reasons. What happened between 09.09 and 09.46 is unclear; the mother in her police statement says the father tidied up before leaving for the shops. Given the state of lockdown and the limited opportunities to leave the house it seems likely that both Z and B would have wished to go to the shops with the father particularly as it seems likely would have involved a treat. Both the father and the receipt confirm the purchase of treats including I think ice creams and biscuits. Thus on balance of probability after the video was completed and prior to the departure for the shops it was the father, B and Z who went downstairs whilst the mother and A and C remained upstairs. A's absence from the scene may just be his nature but given my findings as to the father's nature I think it more likely that he chose to avoid him and to spend time with the mother when she was alone.
148. At 10.07 the father and B enter Tesco and by 10.25 they have paid and are leaving the store. The journey is less than ½ mile and on foot according to the LA is a 9 or 10 minute walk. The father would not say how long it took to get home but said they did not hurry as B ate his ice-cream. His refusal to give any estimate of time is unusual but he had obviously realised the time period between his return home and the call to his friend was important and so his reluctance I feel was tactical in that he did not want to give evidence to the Local Authority which might be used against him. That is not a form of Lucas corroboration.
149. The mother said in her evidence that Z was developmentally more advanced than B. There is nothing in the photos which would suggest the stairs were particularly hazardous. The carpet appears to be in reasonable condition and they are of even 20cm height and depth and Z was apparently accustomed to going up and down them. When exiting the main bedroom anyone would need to turn to their right and there is a banister on the left-hand wall which the police photos show to be 80cm above the floor/stair level (less where the bannister starts at the top step, more at the bottom). Z was recorded as being 90cm tall so the bannister would be within her reach although I note the mother said it was too high for her interview. There is therefore nothing

about the location itself or Z which would point to a heightened risk of her falling. Nor was there any apparent reason for her to be running at the point the accident is said to have happened – she might have earlier in a possible scramble to beat B to the buggy to go to the shops but if she had run and fallen then why not say so and why the delay in seeking medical help?

150. A's account has been that which has caused me the most anxious consideration because he was 10 years of age and was spoken to within a few hours of Z being injured. The account he gave via an interpreter whilst at the house confirmed a fall although he had not seen it. However he was unequivocal that it was a fall and that Z had sustained her injury whilst his father and B were out and he was with the mother and C in the main bedroom. This account was repeated when he was interviewed. His description of seeing Z at the bottom of the stairs and the mother bringing her up has a sense of being a lived experience
151. When A was spoken to at the house by police he is recorded as having said that Z fell down the stairs (although it is implicit, he didn't see it) and that his mother went and got her and that this all happened shortly after his father went to the shop. When interviewed he said she fell backwards from the top down to the last step and that they saw her at the last step having heard a bang bang. He said he didn't know where her head banged but it could be on the fireplace (radiator) or on the stairs. He said that his mum called his dad and that his dad said he was coming quick to get her to hospital and that his mum said to his dad to come home quickly.
152. The mother's initial account in her statement of what occurred between the father leaving and the accident was that A was playing on her phone whilst Z sang to C and that after about ½ an hour Z left the room and fell. In her interview she refers to the father having gone for 5 minutes which must be a reference to how long he had gone for than him going out for 5 minutes as the journey to Tesco and back was around 20 minutes excluding shopping time. In A's account he has them in the bedroom together and at one point he says he and Z were watching a movie on his mum's phone and another that he was on his mums' phone but on both Z left the room and there was then a noise. The accounts of the mother and A about what happened after Z was injured are consistent as between the mother and A in some respects. She was taken upstairs, she was laid on her blanket or sleeping bag, she cried, she vomited, she was changed, and the mother was distressed. The call was made by the mother to the father at Tesco urging him to hurry home. In their initial accounts they also both suggest that Z injured herself very soon after the father had left the home; the mother refers to 5 minutes and A half a minute. In their later accounts they give a description of a lengthier period of time passing whilst they were upstairs together in the main bedroom after which Z questioned where the father was left the room closing the door and they subsequently heard noises. Their accounts are broadly consistent (at the different times they are given) that they both left the room and saw Z at the foot of the stairs although the mother has her going first in the main whereas in his interview A says the mother asked him to go and look and he then told his mum she had fallen down the stairs.
153. A significant anomaly on the evidential landscape is what is said about a telephone call to the father whilst he was at Tesco. The mother's and the father's phones both confirmed that no telephone call took place between the mother and the father whilst he was out that morning. The evidence from the hospital about what was said by the

father is said to be insufficiently reliable for me to conclude that this is what the father said. Difficulties with language and the inconsistency between Dr Bokhari and Dr Raouf in their statements are said to undermine the reliability of this record. I also appreciate that once an account is written down it gains a currency in subsequent entries in the medical notes. However, as I have set out in the chronology I'm satisfied that the ring fenced evidence from the hospital witnesses and the records demonstrates that the father did indeed say that he had received a telephone call from the mother whilst he was at Tesco's that Z had fallen down the stairs. However, what fortifies my conclusion that this is not mistaken interpretation or erroneous recording is that the same account was given by the mother to the police and by A to the police. Given no call was made I can conceive of no reason why each of them individually should have made the mistake that a call was made to him in Tesco's either telling him she had fallen down the stairs or urging him to come home quickly because she had been injured. The mother's later account of having thought she had called the father but he arriving home as she had the phone in her hand is I am afraid wholly unbelievable and an obvious attempt to explain away an important discrepancy in the case. The only explanation which makes any sense at all is that it had been agreed that they would say that the mother had called the father. What possible explanations are there for the parties telling this lie? I suppose if the accident had happened soon after the father left and the mother had ignored Z it is conceivable in order to cover up a half-hour delay they might have fabricated such a lie but given the mothers nature I think it is inconceivable that she would have ignored Z. Another might be that the accident had happened much earlier during the day or the night and that they both had decided to delay seeking medical attention because they wanted to avoid further interference from the authorities. However, Z was plainly well at 09.09 AM so that explanation does not fit. Another I suppose might be that the mother had assaulted Z and seriously injured her and wanted to create a narrative of calling the father to describe an accident. However, given her condition, the positive reports of her care for the children and the absence of any evidence of her behaving violently to Z before this also seems inconceivable. In any event none of these explanations are given by the parents for the lie about the call; they simply maintain that either the father was misunderstood, or the mother mistook an attempted call and no conversation for a call and a targeted conversation. The only rational explanation is that the parents wanted to fix Z's injury as having occurred whilst the father was not present in the house - in effect to give him an alibi. Why would they wish to do that, in particular in the context of their daughter obviously being critically ill? I am satisfied that the only explanation is that it was because they needed to put the father out of the picture as being present when the injuries were sustained. The lie therefore satisfies the modified Lucas test of being (a) deliberate, (b) relating to a material issue, and (c) is motivated by a realisation of guilt and a fear of the truth. It is therefore capable of corroborating other evidence of an inflicted injury. I think it is important not to overemphasise the importance of this lie. It is but one part of the overall jigsaw and absent other important pieces would be insufficient to lead to the conclusion that the lies supports inflicted injury. Were the other pieces of the jigsaw to depict a different landscape the presence of the lie would not alter it but would rather suggest that there must be another explanation for it even if it were to appear remote or indiscernible.

154. The father quickly realised the difficulty in this story and in his preprepared statement did not repeat it. His reference to material contained within his phone which confirm timings and the reference to the Tesco receipt together with his receipt of legal advice



at that point would have been sufficient to alert him to the fact that an assertion that the mother had called him whilst at Tesco's would have been rapidly dismantled when his phone was examined.

155. The father and mother both rely on the unlikelihood of A being coached to give a false account given how quickly he was spoken to and the circumstances. It may at first blush seem quite a task to construct a story that Z fell down the stairs and to coach A sufficiently to deliver it. However, it is almost impossible to conceive of an explanation for A and the mother making the same mistake not only about the fact of a telephone call but also the message delivered in the call (make haste home, Z has had an accident) and for the doctors at DVH to have mistakenly heard the father say he received a call whilst at Tesco's saying to make haste home Z's had an accident. The explanation at least on the balance of probabilities and in my view on a much higher degree of likelihood is that prior to the father leaving the home with Z (or conceivably later on the phone after he had told the lie at hospital) the father and mother had agreed that they would tell those who asked that the mother had called the father whilst he was at Tesco's to tell him that Z had had an accident and he needed to come home. Whether A was told at the same time or whether the mother coached him after the father and Z had left is harder to know but on balance it seems far more likely that the mother told A between the father's departure and the mother's arrest. I have asked myself whether the child of A's age would be capable of absorbing and then delivering the story and not saying anything to undermine it. At first blush that does seem improbable. However, when one bears in mind the history of the last year it becomes less improbable. The mother supported by A had disclosed serious violence by the father in June 2019. In consequence the father had been arrested and was subsequently imprisoned. The mother was left feeling helpless and alone in an alien country. The father returned bringing some sort of security but was then arrested again. The strength of feeling in the household is demonstrated by the mother's obstruction of his arrest and the children's intervention against police officers to prevent him being taken away. A narrative developed in the household that the authorities were seeking to separate the family and that the father was being picked on. Planting in A's mind the idea that unless he gave this account the father and mother would be separated and the father perhaps arrested and imprisoned would thus have been in far more fertile soil than might otherwise have been the case and I'm satisfied that this is the probable explanation rather than some sort of extraordinary coincidence. A is clearly protective of his mother – he intervened physically – and so making up a story at her request is not such a tall order.
156. The evidence of Dr Bokhari was that there was blood and together with the evidence of Dr Offiah it would suggest there was some sort of abrasion under the hair but of a minor sort which had healed and was not visible when the autopsy was performed. However, it is also possible that the blood was referred blood from the nose or mouth although there is no evidence of this elsewhere in the home or on the floor. It is curious though that some blood was said to be observed at hospital, but the parents positively say there was no blood. Given she was lying on a blanket or the floor one would have expected blood on the floor or the blanket but neither the parents or the crime scene detected any. The top which was removed from Z and put in the bins was not recovered but there is no suggestion the green dress was blood stained either and so I am unable to resolve this and it perhaps does not matter in the overall evaluation of what occurred.

157. Putting all of the various pieces of the jigsaw together I am satisfied on the balance of probabilities that the head injury that Z sustained between 09:09 hours and 10:54 hours on 27 May was the result of a high energy blunt impact trauma. It was not an accidental injury but was an inflicted injury. The medical evidence is more consistent overall in terms of the likely mechanism and inflicted injury than an accidental injury. The unlikelihood of a freefall of a child this age and height together with Z's familiarity with the stairs and her developmental abilities or any obvious reason for her to be rushing or tripping make an accident unlikely. The serious nature of her head injury and the impact required (albeit theoretically possible from concentrated force impact) together with the absence of bruising injuries to the bony prominences also undermine the probability of an accident. The medical evidence is more consistent with an inflicted injury overall and in particular when one adds in the corroboration of the lie about the telephone call, the father's record of hot tempered violence, the mother's concerns about Z and the previous inflicted injuries I am satisfied on the balance of probabilities that this was an inflicted injury. The absence of any history of violence by the mother towards the children, the absence of any evidence of her having a propensity to lose her temper and behave violently, her physical state on that day and the fact that she was breastfeeding C and in continuing pain from her labour or make it highly improbable that she would have inflicted such injuries on Z. The evidence of Mr Jayamohan that the clinical picture indicated the head injury was more likely sustained in the latter part of the 0909 -10.54 window would support either the mother as a perpetrator or the injury having been inflicted shortly after the father returned home but I do not consider that his opinion is sufficiently firm in terms of the timing to fix the injury as having been sustained while the father was out of the house, nor do I think the timing or descriptions of the mother and A of Z fit with the injury being sustained after the father's return. On the other hand the father's track record together with the strain that he had been under in recent days whilst caring for the children alone, the difficulties created by lockdown in that small household and his underlying hair-trigger temper and track record of violence to the mother in particular but also to A and Z identify him as the individual who more likely than not was the person who inflicted these injuries on Z.
158. The conclusion which best fits all of the various components of the evidence seems to me to be that Z was injured whilst she was downstairs with the father and B at some point before the father left the house. What prompted an outburst of temper from the father I cannot discern. Perhaps a squabble between B and Z developed at the foot of the stairs as to who was to go to the shops and led to Z sustaining the abrasion/scratch to the bridge of her nose and her mouth not dissimilar to those seen in other photographs which resulted from sibling fights. Perhaps this squabble angered the father. He appears to favour B; see the video itself and the fact that it was B who was taken in to collect the mother from hospital and that he intervened in the squabble by lashing out at Z knocking her into the radiator and causing her to bang her head and to fall to the floor. He is clearly a powerful man judging by the number of police it takes to restrain him. Perhaps this was the bang bang that the mother and A heard. Perhaps Z then lay on the floor at the foot of the stairs crying and was seen there by the mother and A who came to see what had happened. A
159. and the mother seeing her lying at the foot of the stairs would have made the improvised stair fall story easier to deploy as part of their description would be true. I do not think it probable that they thought that Z had fallen down the stairs as the father

would have been in the vicinity and his reaction - however quickly calmed down - would have told its own story. I think it likely that the father left Z where she was and that it was the mother and A who had to take her upstairs and thereafter dealt with her as she cried, began to vomit, began to roll her eyes and became less and less responsive as she progressed towards unconsciousness; the subdural haemorrhage beginning to cause the rise in intracranial pressure which led to her deterioration. Why she was placed on the floor on a sleeping bag or blanket I remain uncertain. It is a possibility that the father took her upstairs and placed on the floor rather than on a more comfortable bed. I think it likely she was taken upstairs because the mother was unwell and was nursing C upstairs and so she would have wanted Z to be in the same room that she and the baby were in. That also suggests that Z was not obviously critically ill immediately after the incident and that she took some time to deteriorate. Some exchange between the parents must have taken place at that point and they probably hoped that she would recover in the way she had from the broken arm and shoulder blade and from the head injury the father inflicted a few days before. When the father got home from the shops he was no doubt informed that Z was very unwell and the mother's state of distress and Z's obviously critical condition - nearly unconscious by this stage - probably led to some frantic discussions before the father called his friend for assistance. Whether it was agreed at this stage that the story would be deployed that the mother had called the father at Tesco's I'm not certain; it could have been a result of later improvisation by the father when he told that tale at the hospital. There was communication between the mother and father whilst the father was at hospital and prior to his arrest and the mother's arrest so it is conceivable that the story was settled upon then. A was drawn into the story by the mother; the father having insufficient time to do much unless A was drawn in in the 20 to 25 minutes old between the father's return home and the arrival of his friend and their departure to hospital. It seems more probable that given the close and an protective relationship between the mother and A that it was she who drew him into the fabrication in order to protect her and the family unit from the father being removed and possibly incarcerated.

### Standing Back

160. Having considered the allegations in what appears to be to some extent a compartmentalised process I would observe that in part this is simply a reflection of how one records one's decision but is also an attempt to look at each allegation in its own right rather than adopting too broad a brush and a 'no smoke without fire' stance. However, I have also sought to stand back from the granular detail of each particular incident, whether particular aspects of the medical evidence which weigh in favour of or against a particular conclusion or particular aspects of the witness evidence in particular the evidence of the parents which weighs in favour of or against a particular conclusion and to survey the entire landscape in a non-compartmentalised fashion. It will not have escaped anyones' notice that the parents account is that most of the injuries occurred out of their sight and particularly when the father was not present.
- i) The fall down the stairs was when Z was alone
  - ii) The fractured humerus/scapula/skull was when A was around but neither parent saw it
  - iii) The fingernail was in a door and Z told the mother

iv) The burn was when the father was out

That may be curious, but it is not on its own probative.

161. Inevitably there are pieces of evidence relating to any particular allegation which points to an alternative conclusion and so are outliers in determining on the balance of probabilities what occurred. The circumstances for instance of the burns that Z suffered contain elements which suggest both that the father might have been present and that Z being burned may have not been simply the result of tripping but of some more complex element but both looked at in its own right and as part of the broader survey the conclusion that on balance of probabilities it was an accident is the correct one. As the father submits, the appearance of Z on 26<sup>th</sup> May as a happy and well active child appears inconsistent with her having recently suffered a fractured skull. Likewise the facts relating to the head injuries sustained on 27 May contain elements which are more consistent with a different conclusion, for instance Mr Jayamohan's opinion that the injuries were more likely sustained later in the window of opportunity than earlier or the unlikelihood of A giving and maintaining his account of a fall downstairs but again looked at in its own right but also as part of the overall landscape I'm satisfied that my conclusion that it was an injury inflicted by the father is correct.

### Conclusion

162. The local authority has therefore proved on the balance of probabilities the most significant components of their allegations against the father and the mother.

163. The father inflicted injuries on Z by breaking her arm, her scapula and causing a subdural bleed shortly after lockdown commenced in March 2020. He later fractured her skull. A few days later he lashed out at her causing her head to impact on a solid surface which led to a further skull fracture and a serious brain injury which killed her.

164. In addition to these appalling injuries causing the death of his adoptive child he behaved violently to the mother on several occasions in 2019/2020 and also behaved violently to A in particular when this brave little boy attempted to protect his mother. How futile he must have felt his efforts were when his mother took no substantive action to protect herself or more importantly her children from exposure to the father's vicious temper.

165. The father is a potentially very dangerous individual to children and to the mother. Although cultural and emotional factors may have played their part in limiting her ability to react this must have been evident to the mother. She chose for reasons which may need further exploration to remain in that relationship and thus to expose herself and the children to further physical and emotional harm.

166. The mother not only failed to take steps to protect herself and more importantly her children but also conspired with the father to protect him from the consequences of his actions. This involved denying domestic abuse but more importantly involve failing to take steps in response to the infliction of the injuries to Z in late March/early April 2020. Whether the mother witnessed that incident or whether she became aware of Z's injuries afterwards she neither sought medical attention or informed either the Red Cross or social services. In her evidence the mother did seem to minimise the

pain and suffering that Z would have experienced as a result of various of her injuries. Having reflected at length about what to draw from this it seems to me more likely that the mother has sought in her own mind to persuade herself that the pain Z suffered from her injuries was less than the reality in order to assuage the guilt that accompanies a full acknowledgement of the suffering that Z experienced. It seems more likely given her general character as a loving parent that a combination of suppression to ease the guilt and suppression or modification to support the narrative explains this rather than a ‘chilling’ lack of empathy for Z’s pain.

167. In respect of the issues of failure to protect, those findings are made in the context of the mother’s current complete denial of the facts which I have found to be established. Her response to those findings may be important in determining what further investigations may need to be undertaken to gauge the impact of her apparent failure to protect. Absent a very significant and sincere acceptance of the truth as I have found it to be the mother is likely to have an uphill battle in persuading any psychologist/psychiatrist or myself that the risk she would pose to the children were she to resume their care was an acceptable one. However, I do think it essential that issues relating to cultural norms, attitudes to authority and in particular the roles of men and women and attitudes to domestic abuse within the mother’s community are considered.
168. The work that has been put into this case by all involved has been immense. The amount of time that we have spent in court and out of court delving deep into the evidence about this family has resulted in a comprehensive evaluation of what happened. Almost no stone has been unturned in the forensic process that all have engaged upon. That thoroughness and dedication is what one comes to expect from the lawyers and others involved in child protection, whether health professionals, social workers and police and experts. Often resource issues lead to a shallower dive than we have undertaken in this case. I would wish to extend my appreciation to all involved for the care that they have taken in the investigation, preparation and presentation of this case. I would like to write to W3 and the neighbour who called the police in December 2020 to thank them for putting their heads above the parapet and doing the right thing. We are fortunate that people still do so and that should be acknowledged.
169. My judgment should be made available to all of the experts who have reported in this case so that they can see what outcome of their endeavours was and whether there are any lessons to be learned in the future.
170. That is my judgment.

## Appendix A

*Mothers evidence*

Fathers evidence

**My observations/findings**

<b>Date</b>	<b>Description</b>	<b>Page</b>
.91	F born (30)	

91	M born (29)	
13.10.08	Parents marry (marriage certificate) <i>F asked M's father three times but his request was refused. They went to a mullah and got religious approval. They fled to Iran to seek asylum.</i> <i>M says F slapped her once there and once in England</i> <u>We left and went to Iran for 8 years. F worked as a farmer or caretaker/gardener renewing residence permits on a 6 monthly basis</u>	W43 C62  C24
20.10	A born (11) in Iran	
2014	E born in Iran with liver problems.	
2014/15	M and F return to Afghanistan to seek treatment for E <i>Unfortunately E passed away at nine months of age. We went to the graveyard when my father saw us. We ran away. I went to the home of one of my husband's friends, Z's father lived some distance from the graveyard. My husband ran and I did not see him until I saw him again in England.</i> <u>Family returned to Afghanistan to seek treatment at Bagram Hospital. They are told E has brain damage and he dies around one month later at age 9 months</u>	C63  C24
00.07.15	F left Afghanistan <u>M was about four months pregnant with B. F travels through an agent who directs his journey.</u>	W33 C25
19.01.16	F arrived in the UK, travelling via Iran and Turkey. Initial interview in Farsi and interview records his main language and dialect as Farsi	W34/69
20.01.16	F makes claim for asylum and human rights	W44
2016	B born (5)	
22.07.16	F's statement in support of his application for asylum	W196
12.04.17	Note of counselling session for F following referral from GP	J412
15.06.17	'authenticated adoption papers' indicating that 'F1, is father of Z, later my wife passed away and Z was left an orphan. I made M guardian on condition that I would have no further responsibility for her life or death and would have no input in her life' M recorded as living in Sar Aab, Ghazni province at that time.	I3/W397
13.07.17	Z born – adopted daughter deceased <i>while F was in England .... gave birth to Z, her date of birth in the Afghan calendar is 22 April 1996. Unfortunately Z's mother passed away in childbirth. The mullah and some village elders decided that I could take responsibility for Z. F1 (Z's father) left when I was given care of Z.... I actually breastfed her as I was still breastfeeding B at the time... we treated Z as our child</i>	C63

	<p><u>Z's father was a friend of mine, he was a neighbour in Razni. I have not heard from him for more than three years and I do not know how to contact him. He looked after M and the children when F left.</u></p> <p><b>F had not met Z before meeting up with M and the children in Turkey</b></p>	C25
15.07.17	Z's natural F provides statement confirming wish for M to care for Z	W397
27.07.17	Asylum interview with F	W2
	Basic outline of F's claim set out	W46
16.08.17	Asylum application refused on the basis that he had failed to establish a well-founded fear of persecution and he had established substantial grounds for believing that he face a real risk of suffering serious harm on return from the UK and no qualification on the basis of right to respect for private and family life	W44
14.09.17	Appeal against Home Office decision	W66
26.09.17	Statement of the F in support of his asylum appeal	W196
03.01.18	Decision of the First Tier Tribunal (Immigration and Asylum chamber) – Judge of the First Tier Tribunal Moran who granted F's appeal on the basis that there is a reasonable degree of likelihood that he would be subjected to persecution if he returned to Afghanistan arising from his Hazara ethnicity (persecution by Taliban) and fear of retribution by M's parents. Internal relocation not possible.	W177
21.01.18	F issued with residence permit – refugee with leave to remain and work permitted until 20.01.23	L19 / W201
5.11.18	F to Pakistan	
Winter 18/19	<i>Z cut by stone in snow cleared from roof.</i>	C63
	<i>There was a spot on my daughter's head, that is as a result of when we were in Afghanistan and living with the owner of the house it was during the winter-time and we had snow. The owner of the house was moving snow from the roof and I was in the yard with my daughter and my children when the owner of the house cleaned the snow off the roof some pieces, small pieces of the stone was also with that snow and when he threw the snow in the garden, he didn't see that we there. Some hit my head and also my daughters head and the, the piece of stone hit my daughters head and hurt her. I</i>	C64 J697

*took her to the Doctor. The Doctor put in a stitch and the Doctor said the skin is very tiny and the doctor put some staples or strips.*

In her Response to threshold she says  
*The mother is not aware of any specific incident which might have caused such an injury whether in the UK or when Z was living in Afghanistan but considers that Z might have had an accident prior to coming to this country.*

*M St: While in Afghanistan there was another time when Z was playing while I was busy doing housework. This happened just before we went to Pakistan. Z fell from a two metre height. Z was taken to a Dr. Z seemed a little dizzy. There were no scans available as this was a mountainous area. There were no tests. Z was prescribed some medication and we were given some reassurance. A and B came with me. [M says she made a mistake and that it was after she came back from Pakistan and a couple of days before they travelled to England]*

*M sol: I have taken further instructions on the circumstances of this incident. I am instructed that the fall was from an area which was being used as a tandoori kitchen to bake bread. This was on top of a stable.*

*M2... The accident happened shortly before we travel to the UK*

*In her oral evidence the mother described an oven on top of a stable building and that while she was cooking Z fell from it and was taken to the doctor who did not undertake any scans but said she seemed to be all right. The mother said she was dizzy for a while but otherwise well.*

**Z was about 17-19 months old at the time. If this incident occurred it would potentially explain the chronic subdural haematoma and Dr Jayamohan accepted that the mechanism described by the mother might have caused this. If this incident had caused an earlier sub-dural haematoma she would have been in the bracket where Dr Jayamohan was of the opinion that it would be likely to have led to distortion of the skull and a larger skull than was measured at her death. However, the failure to mention it in the police interview or in her response to threshold is surprising. The mother's explanation for not mentioning it was that she had been focusing on incidents which caused visible injury and this had not. I accept that during the interview the mother was of course under extreme stress having been arrested for attempted murder and that at the time of the response to threshold she had been separated from her children including the recently born C and so some allowance must be made. However, head injuries were**



	<b>absolutely front and centre of the allegation against the mother particularly by the time the threshold response was filed and a fall from a stable roof of around 2 m would be the most significant fall that Z had ever sustained other than the alleged fall down the stairs. The alteration in the mother's account of the timing is also I think highly significant. Her evidence in chief was that it had happened a couple of days before they travelled to England so it was long after they returned from Pakistan to Afghanistan but that brought it within the range of times where Z skull size might not have been impacted according to Dr Jayamohan. The mother is an intelligent woman and I have no doubt is capable of understanding the significance of the window given by Dr Jayamohan. I do not accept the mother's submissions in this regard all of these factors together with the mother's general unreliability persuade me that no such incident took place in Afghanistan whether prior to December 2018 or in May 2019.</b>	
10.12.18	M and children travel to Pakistan	W215
5.2.19	F leaves Pakistan	
26.02.19	M and three children attend the Islamabad application centre and sign the forms to join F <u>F met the family in Islamabad (he says it was around seventh of July 2019)</u>	C25
27.02.19	Application for M and three children to join F (the sponsor) under the family reunion provisions	W203
22.04.19	M granted Entry Clearance to the UK (Family Reunion) until 20.01.23 – with right to work and recourse to public funds. Residence permit records 16.04.19 as date of issue (and same for A and B and Z)	L1 L19
2.5.2019	F consults British Red Cross for assistance in bringing M and children to UK. Forms completed.	C45/C148
20.05.19	M and 3 children arrive in the UK, following F approaching the Red Cross Refugee support service for help, visas had been obtained by F prior to his approaching the Red Cross on 02.05.19 when a 'family reunion travel assistance application' was made and then submitted on 08.05.19 <i>I was in Ghazni province before.</i>	C46
21.05.19	M and F attend Gravesend Civic Centre to apply for housing. A has painful stomach and a temperature	J611
25.5.19	Family move to Add1 as homeless family. M and F complain to Red Cross about lack of furniture <i>M says they had problems with neighbours harassing them</i>	C174
3.6.19	Meet with Housing. Farsi interpreter	



	<p>managed to get her to explain with her actions made using her hands. She explained and showed me her right hand. I could see her hand had an open small wound on it. It was about an inch in length and was like a graze. .... Statement managed to get her to explain with her actions, using her hands. Her actions made me believe that she had been hit/slapped/scratched around the face...[F] arrived on the scene... He approached the female and was speaking a foreign language. He came across compliant at first, however this got progressively worse as the conversation between them went on. On assessment, the female seemed withdrawn and did not make any eye contact with him. As he became more aggressive towards her, she became more frightened and distressed. He was very overpowering, threatening and was shouting in her face. At this point, I became very concerned and decided I needed to split the two up, to avoid further harm to the female. I asked him to calm down, and at first he did. However, this behaviour continued to decline, and the children also started to get agitated.</p> <p>PCSO Lowe</p> <p>Whilst I was making enquiries regarding this unknown male via my airwave terminal inside the patrol vehicle, a female approached my colleague, who remained outside of the patrol vehicle. I was aware that the female was hysterically crying and appeared very distressed. I was unable to work out at first what was going on as I was still making enquiries on the phone, and communication between PCSO HARTLEY and the female was difficult as there appeared to be a language barrier.</p> <p>The emotional female was desperately trying to tell us that she had come to harm and it was at this point that we noticed she had an open wound on her hand, approximately 5-8CM in size. I cannot recall whether this was her left or right hand. The female then proceeded to try and action that she had been hit/slapped across the face. [F arrives] ....Within a few minutes of his presence, the female became increasingly distressed, so my colleague had no option but to stand in between the two and separate them, creating a barrier in order to protect the female from any further harm. I assisted, and we did this by standing between them, asking the male to calm down and step away, in which he complied with. However, within moments he continued to display aggressive behaviour and we were struggling to keep the peace, so we called up for assistance.</p>	
	<p>PC Parker speaks to M with Farsi interpreter. M stated that [F] had beaten her earlier today... She looked visibly scared.. [F] kept walking round the corner staring and trying</p>	<p>J107 Y22</p>

	<p>to speak to[M] in his own language and she looked visibly shaken and put her head down.</p> <p>F arrested</p> <p>Parker: all we could hear was screaming</p> <p>PCSO: It was kicking off left right and centre the Body worn video produced by PC Parker and at Y22.</p> <p>Interpreter asks if she understands Farsi and establishes ‘we are ready to talk’</p> <p>We hear the following in English:</p> <p>“yes he beat me badly”</p> <p>"30 mins ago"</p> <p>"At home"</p> <p>“Used his hands and feet to kick me and beat me badly”</p> <p>"If you arrest him he is coming to beat me more. Please take the signature from him not to beat me any more”</p> <p><i>M says she said this out of anger as she thought he had deliberately caught her hand in the door.</i></p> <p><b>Quite why she didn’t say that to police doesn’t really make sense, more importantly it doesn’t make sense why if she was angry she then didn’t want him arrested. The bodyworn video which covers the latter part of the incident shows the mother quiet but not obviously upset and the father calm and the children moving around between the parents or wandering off. There is no sign of the children being fearful of the father or distressed until the father is removed by police. F appears around corner periodically – following children – PC Parker frequently looks to the corner suggesting F was appearing as described by PC Parker and he shouts out periodically, for instance on the language to be used. When PC Parker seeks to remove children from F he hands them over, speaking to M, then moves away, Z runs to him crying and he puts his arms down and looks as if he might pick her up and speaks to her, PC Sparrow puts his hand on his arm and moves him away and F then shouts in an angry voice ‘just one second, just one minute, just one minute’ and as he is moved away and told to let go of the child he shouts very angrily , seemingly at the mother what sounds like swearing. The situation degenerates significantly and the children’s distress levels mount as he is arrested and PC Parker tells him to stop struggling. He is taken to the car facing backwards and at the car can be heard shouting and PC Parker describes F struggling and him being put to the ground.</b></p> <p><b>M looks somewhat stunned at times during the video</b></p>	
16.28	F arrested. F starts shouting at them and makes her an children cry. F tries to pick one child up and is told to put	J108

	<p>the child down and stop shouting. If continues shouting. PC Sparrow and PC Parker take hold of his arms, cuff him and at first he was compliant but then he starts lashing out and trying to force his way back to M and the children. They put him on the ground.</p>	
	<p>The fuller body worn camera footage does not cover the beginning of the incident but does capture it from soon after the arrival of PC Parker. At that time the mother is not in a visibly distressed state and shows the father behaving in a relatively calm way although he does speak very firmly to the mother at one point (what he said has not been translated) and later he becomes very angry and loud and struggles with the police after he is arrested</p> <p><u>F says he said to M at the end of the video why would I bring you here if I wanted to harm you</u></p> <p><b>His demeanour and the way he says it seems harsher than this but it has not been translated independently.</b></p>	
	<p>PCSO Hartley accompanies the M and children home. They are joined by a man who speaks with the mother and eventually goes out to buy food for her. The man says that the father does not allow the mother to have the electricity on. PCSO Hartley was struck by the bareness of the accommodation</p>	
	<p><b>PC Parker and PCSO's Hartley and Lowe gave evidence.</b></p> <p><b>The mother submitted that all that could be said of the evidence from the PCSOs was that the mother was upset when she came across them, and that all that they could establish was there had been an argument and the mother had an injured hand. Thereafter the mother says she gave an embellished and exaggerated account because she believed the father had deliberately caught her hand in the door.</b></p> <p><b>Ms Hartley had more dealings with the mother.</b></p> <p><b>Although part of their initial witness statements given on 28 June were missing I was satisfied that in broad terms their recollections were accurate. Ms Hartley in particular seemed careful to focus on what she had seen and heard rather than drawing inferences from it. Ms Lowe was more inclined to interpret what she saw and heard. I am satisfied that the mother approached them in a state of distress and that through the use of sign language it was made clear to PCSO Hartley that she had a graze like injury on her hand and that she subsequently demonstrated both to PCS Hartley and PCSO Lowe that she had been struck with an open hand. It certainly does not seem to be the case that the PCSOs approached her which would support the inference that the mother was seeking some sort of</b></p>	

protection or avenue of complaint. His behaviour at the time was angry and aggressive and led to the PCSO's operating an alarm call which led top PC Parker and Sparrow rapidly arriving. I am also satisfied that the father's behaviour ranged from calm and compliant with the officers to agitated and aggressive to the mother and am prepared to infer that he was seeking to exercise a degree of control over what she said to the police or PCSOs. It is also clear that he changed from outwardly calm to very agitated very rapidly and began struggling with police very shortly afterwards. PCSO Lowe made clear that uniformed police were called in accordance with their protocols both because they believed they were dealing with a possible incident of domestic abuse which they as PCSOs were not qualified to manage but also that they did not feel able to manage the father's behaviour and were concerned at the risk of the incident escalating. The pages of their statements which were apparently written shortly after their return to the police station is regrettable the combination of the tops and tails of their statements together with their oral evidence and the evidence which emanated from other sources as to what had occurred satisfies me that in broad terms their recollection is accurate. I am therefore satisfied that the mother was reporting an assault of some form, that she was in a highly distressed state, that the father was aggressive and threatening towards her in the presence of apparently uniformed police (I doubt the distinction between A PCSO and a police officer would have been readily apparent), that his behaviour was intended to impede the mother in reporting his earlier behaviour and that this took place in the presence of the three children.

The behaviour of the father was such as to alarm the PCSOs sufficiently to put out an emergency call for back up. The end of the video has some symmetry with PCSOs Hartley and Lowe's description of the father being highly aggressive and volatile earlier. It is clear as he is pulled away against his wishes that he becomes angry very quickly before subsiding and then becoming very angry and struggling and shouting as he is arrested. He is unable to restrain himself despite the presence of the children and indeed his shouting and resistance magnifies their distress rather than calming them – although earlier he was seeking to do so. This illustrates just how quickly he can change from 'good parent' to bad parent.

28.06.19	Crime Report 46/124115/19 – common assault / ABH (Domestic Abuse investigation)	F27 / J14
19.30 (approx.)	<p>PC Hewitt attends at M’s address and interviews her with Farsi interpreter.</p> <p>DASH – risk assessment by PC Hewitt – includes M stating she feared for her life and had been beaten with cables etc.</p> <p>VI - A 23/01/2010 - Eldest Son of V and O- has been assaulted in the past by O as he has tried to get involved during previous incidents. Asleep when Officer attended.</p> <p>The victim states that they had been at the job centre for an appointment regarding benefits and had been using an interpreter as neither the male or female speak English, An argument had started due to the interpreter using a different dialect of Farsi than the suspect could speak. When they returned to the home address the victim states that the suspect hit her by slapping to the left side of her head causing pain in her ear which she stated had caused temporary deafness. She further alleged he had pulled her hair and continued to slap her on her body and head. The victim appeared to have a dark mark on her lip and under her eye but would not disclose if these had been caused by the incident today. She stated to me that she does not wish to support a police prosecution but wants the suspect to be spoken to in a severe manner about his behaviour and for it to stop. When I asked her about this she said that he had beaten her consistently since they had been married.</p> <p>The victim added that the suspect gets very angry and agitated and that he sometimes hits the children but corrected this to say he hits A, the eldest child, when he tries to get involved and stated that he had been pushed during today's incident and had bumped his head on the wall but there had been no injury from it. Said there had been 5 or 6 incidents since her arrival. In the DASH questionnaire answers she said he was very violent and she was scared he might kill her. Also said he threatened to take the children, to send her back to Afghanistan. To take her legal documents and that he did not want her to learn English and was jealous of those she spoke to.</p> <p><b>The fact of the mother being reported to correct herself in respect of whether the father hit the other children supports not only the accuracy of the interpretation but also the veracity of her account</b></p>	J17, J113 J273 J107  J137  J139  C70
	<i>Mother: I am aware that the Police say I said that my husband slapped me causing temporary deafness and pulled my hair. I do not remember saying these things. If I did say</i>	C176

	<i>them they are not true. Likewise, I do not recall saying that my husband whipped me with a cable or strangled me.</i>	
22.35	DDO Box says F was very agitated and was shouting, refuses to move away from the door and pokes him in the chest twice/	
23.00	<p>Incident at F's cell.</p> <p>DDO Box and DDO Blackburn both give an account of entering the cell to check that F had not harmed himself and that as they started to leave the cell F walked rapidly towards them shouting, becoming aggravated and trying to leave the cell. DDO Box held his arm out and tried to push him back into the cell but F continued to shout and to seek to leave the cell and stood in the door so that he could not be pushed backwards. DDO box continued to hold his arm or hand out whilst F pushed his arm away and edged out of the door. The father was shouting and agitated throughout. When DDO box sought to push him back into the cell F grabbed hold of DDO box and a struggle ensued with DDO box and F tumbling into the cell with PS Kahlon assisting and several other officers then joining in</p> <p><u>The father's account is that his right leg was hurting and his trouser leg was rolled up and he followed DDO box asking for paracetamol and showing him his foot and repeatedly asked for paracetamol and that it was DDO box who made physical contact with him behaving with excessive aggression and force.</u></p> <p><b>The Cell and Corridor video would tend to support the father's account in respect of is drawing attention to his foot as his trouser leg is rolled up and he certainly appears to be gesturing towards it and holding it out during the course of the incident. However, the video and particular the corridor video also clearly demonstrates him rapidly approaching the door as it is closed, going beyond the threshold with his body and foot (it has the appearance of him putting his foot in front of the door and blocking the doorway to stop the door being closed albeit it may have been that he was drawing attention to his foot as well as preventing the door being closed. One can clearly see the attempts of DDO Box to get him to return to his cell which are clearly not aggressive amounting to him blocking his way and include him putting his hand on his bicep to block him and get him back into the cell which the father does not accept and pushes forward gesticulating angrily. The father very clearly because highly agitated and appears to be shouting and gesticulating and refusing to move back into the cell It is clear that his</b></p>	J282 /J302 Y12



	<p>arm on occasions moves towards DDO box although the quality of the video is not sufficiently clear to tell precisely what he is doing but his overall demeanour and movement was clearly agitated and confrontational. DDO Box gestures to him clearly to return to the cell and appears to be calm and restrained but when DDO Box having tried to get him to return to his cell by gesturing to him and the father was clearly unwilling to comply when DDO Box sought to remove his hand from the door frame the father the father grapples with DDO box forcing his way out of the cell briefly until the other officer assists and two others rapidly arrive and force him back into the cell. As a result of which a prolonged scuffle occurred. I have not been asked to make findings in respect of DDO Box's allegations as to what the father did in the course of that scuffle or what the father says happened to him. What is clear is that the father was under arrest and had been detained in a cell, that DDO Box and Blackburn did nothing to provoke a confrontation but that the Father demonstrated that he is clearly capable of becoming very angry and losing self-control even whilst in custody within the precincts of a police station and getting into a dispute with a 'police officer' which escalates into a lengthy period of restraint where it seemingly takes numerous officers and several minutes including his arms behind his back and ankles and knees being 'cuffed' for 10+ minutes before he is sufficiently calm to be left. If he is able to behave in that way whilst in custody it raises a question as to his ability to restrain himself or his propensity to lose control in other situations.</p>	
	<p>Out of Hours Note : IDVA Although it seems to have been conducted via a Farsi interpreter it records that M speaks Farsi and the details on it such as the dates of birth of the children are accurate (?typo on A) which suggests M was able to make herself understood. The detail about the ringing in the ears suggests a real experience rather than made up. When speaking about the incident M told me that she was at the job centre with her husband and they had an Iranian Farsi interpreter helping them from the job centre, and her husband said the interpreter lied about something that he said but she told him the interpreter wasn't lying and they rowed. She said they left and were arguing in the street on the way home and once home he beat her up, pulling her hair, slapping her hard to the left side of her face and slammed the door hitting her finger and causing injury to her nail. She said the children were upstairs and when they heard her A came down stairs and told him to 'stop beating his mummy up' but he was pushed out of the way by F. A</p>	J223

	<p>was said to have fallen backwards into the wall hitting his head. She said he didn't have injuries but was crying because it hurt. She said she managed to get out of the door and the police were outside as was an ambulance but they were there for someone else. She said the police helped her and then another police car came and her husband was arrested. M said she was checked out by the ambulance crew and didn't need to go to the hospital. I asked her if she still has injuries today. She said her face was red and a little swollen and she has ringing in her ear still from the slap and there is also injury under her finger nail. M said they have been married for 10 years and he has beaten her nearly every day since that. She said she has never reported before because when she was in Afghanistan and when in Iran, the police would not do anything to help.</p> <p>I asked M if she feels that he would come to the house and she said she feels that he will and he would 'cause revenge on her'. I asked her what that meant to her. She said she thinks he could come and beat her up, take the children to Afghanistan and cut up her documents. <b>She told me the worst thing he has done to her was to repeatedly bash her head against a wall and she would be dizzy for days after. [my added emphasis]</b> I asked where the children would be when she is assaulted and she said they are sometimes they are upstairs. I asked when the last time was that he has done that. She said this was before he came to the UK about 3 years ago. M said she has been in the UK for only 3 weeks and in that time he has assaulted her about 4-5 times, punching and slapping her. I asked if he has ever said he would kill her and she said he hasn't and said he is very angry at her right now that she thinks he has 'mental problems',</p>	
29.06.19	<p>Interview with police.</p> <p>F says that M wiped his face with a plant which stung his face and he did it back to her and she swiped (gestures) his hand away and it hit the wall. No mention of her trapping her thumb.</p>	
29.06.19	<p>18.30 Home visit by Adam Highsted with Dari interpreter</p> <p>Initially M did not agree with the safety plan, with the police, giving her reasons that father would change his behaviour. When this was explored further with M, she stated that the police would speak to father, and that in her view this will be enough for him to change his behaviour. M was made aware how serious the concerns were with the violence from father, stating that she had raised the concerns that her husband would beat her on a daily basis, and that also he would hit the children.</p> <p>M confirmed that her husband did beat her daily, stating that father would only beat her son A, but would not hit any of</p>	F235

the other children. M then understood how concerned the local authority was for her safety, together with the safety of her children, and agreed to the safety plan with the police. ...sometimes slap her, sometimes bang her head against a wall and sometimes beat her with cord

...

Mother was asked to confirm which of the children father would beat. She replied that this was only A, as he would try and stop her husband beating her, by getting in the way of them. Mother stated that father would only slap A. A was spoken with through the interpreter. He gave an account of living at home with his father mother and siblings. When asked about his father he was asked if anything was "bothering him at home". He stated that he was bothered when his father was fighting with his mother. He stated that he will get in the way of the fights and that his father would slap him on his back, head and face. A said this would "happen a lot" and then sometimes it was on a daily basis.

A said that his father would hit his mum "very hard".

A said that he would want his dad to return home but that he would want him to change by being good.

*The mothers case was that she could not recall all she said but that she was angry with the father and said things that were not true. She said she did not think A was able to communicate via the interpreter.*

**The mother invites me to treat what A is recorded as saying with caution as he is recorded as saying somewhat different things to Ms Gavin and Mr Highsted. Whilst it is true they are different by the time he sees Ms Gavin the mother herself is clearly moving away from the allegations and the fathers presence back in the house is desired. I am therefore satisfied that what was said to Mr Highstead was the closest to the truth of A's experience that could be achieved. The content of what A said would, if the mother is correct, have to be a false narrative that he constructed from overhearing some things the mother said and without coaching decided to support her case.**

**Mr Highstead is an experienced children's social worker who has worked in Kent for 11 odd years for much of that working with unaccompanied minors and with interpreters. He is trained in ABE interviewing to Tier 3 which means he could lead an ABE interview. He explained his approach to such interviews and his methods for recording information. He was careful in his evidence not to elaborate on his notes save to a very limited extent he thought he could recall the layout of the flat; he was clear in saying he could not recall whether A was present when M was speaking or**

	<p>whether M was present with A. He seemed to have extensive experience of working with interpreters and said that his experience of the provider was that if there was a problem with the language or dialect the interpreter would say. It was clear he did not consider there was an issue and that neither the mother or A had complained about not understanding or not being understood and that he would have noted it. It is of course possible that neither the interpreter mentioned it, nor the mother or A and that Mr Highstead noted no disruption to the flow of discussions which would have alerted him to a problem (the implication being that the interpreter either made up material or completely misunderstood but did not realise there was a problem). I accept Mr Highstead's evidence that he recorded what was said to him accurately. M says the interpreter was Iranian and she didn't understand and that A complained to her that he didn't understand. The mother suggested that A had overheard her saying things and that this was why he had repeated them. I do not accept that there is any evidence on this occasion to suggest that this was so although of course A was present during the later parts of the mother's interaction with the PCSOs and police and may have overheard what was said. However, nothing Mr Highstead observed caused him to question whether A's account was authentic. I conclude that there was not an interpretation problem and that what was said to him by the interpreter was indeed what the mother and A said. The following lead me to that conclusion</p> <ul style="list-style-type: none"><li>- The mother had some debate with the SW over the safety plan which suggests she engaged with the issues and there are discussions over innocuous issues such as food and gas</li><li>- The overall pattern of the discussion is logical and much of what he records is consistent with known facts (the problem with the gas supply and the heating)</li><li>- It is consistent with other records of what M said and which she now says were misunderstandings or lies by her such as M's later conversations (that police involvement would charge Father)<ul style="list-style-type: none"><li>- Mr Highstead detected no problem and he is experienced.</li><li>- The interpreter raised no problem which would be expected.</li><li>- Neither the mother or A raised a problem which would have been recorded if they had.</li></ul></li></ul>	
29.06.19	Crime Report 46/124221/19 for assaulting an emergency worker whilst in custody – PSE but F says he was being	J113 J25

	<p>assaulted not the other way around) CPS says insufficient evidence</p> <p>Statement of DDO Box – in relation to allegation of assault against him by the F</p> <p>Statement of DDO Blackburn in relation to CCTV of alleged assault</p> <p>Email from PC Hewitt having spoken to M and linked IDVA notes</p>	<p>J282</p> <p>J301</p> <p>J273 / J223</p>
00.32	<p>PC Hewitt e-mails saying he is very concerned about M and the risk but she will not support</p>	J273
30.06.19	<p>As part of Crime Report 46/124115/19 – Police attend HA as M misses appointment with IDVA</p> <p>F calls whilst police are present</p> <p>M asks police when F can come back as the children are missing him</p> <p>Record of calls from Today's date. 0123 hours. 2 photos of them/family. 1027 - 1111 hours - 6 family images. 1626 - audio message of a kiss. 1646, 1647, 1650, 1650, 1651, 1746 - missed calls. 1849, 1858 hours - 2 audio messages. 1935, 1944, 2016, 2033, 2041, 2042 - missed calls. 2042 hours - heart emoji. 2043 hours - 'I love you'. Message. 2043 hours - missed call. 2043 hours - crying face emoji. 2044 hours - 2 images of both of them.</p> <p>Statement of PC 14434 Joshua Sparks</p>	<p>J18</p> <p>J306</p>
01.07.19	<p>F attended appointment with W4, Refugee Support manager of the Red Cross in Gravesend.</p> <p>F then reported that a police man tried to wake him up in the cell, at the police station, so F grabbed his hand as "he didn't know what was happening" - the police office is then reported to have hit the panic button, and then several police officers got him to the floor and restrained him. This led to the 2nd charge.</p> <p>F says he was arrested after following his wife to the shops and that M had injured her head or face on a door and that she had few lip and eye bruises but he did not beat her. .."they were not real bruises"</p> <p>He did disclose that his wife had an injury on her head / face from the door. And he said that the police stated that was evidence. He did not explain how that was caused, other than from the door. He stated that she had a few lip and eye bruises - and that they were "not real bruises".</p> <p>Family friend W1 says M was calling F all of the time.</p> <p><b>W4 was an experienced and conscientious witness who I have no doubt took care to ensure what was recorded was accurate. He also was clear that M thought things had gone badly wrong when the father was incarcerated, and her experience would have made further reporting the father seem pregnant with potential difficulty. The</b></p>	<p>C49 / V7</p> <p>F238</p>

	<b>recording would suggest the mother and father were in relatively constant contact. The father's denial is consistent with his position throughout and his description of the custody cell incident is a complete distortion of the truth. The acknowledgment that the mother had some injuries and his description of the injury to her head not her hand is consistent with her account.</b>	
02.07.19	As part of Crime Report 46/124115/19 F interviewed	J20
	MARAC referral form	J231
02.07.19	<p>SW home visit by Ruth Gavin notes completed a day later. RG: Z confident on stairs and running about after her brothers</p> <p>M recounts DV incident. Dari interpreter</p> <p>When they got home, he had started arguing with her and she had walked away out of the living room and down the stairs, He had followed her and beat her. The children had remained in the living room and although they did not see it they would have heard it. It has happened in front of them on previous occasions. M says the children cried a lot when it happened in front of them. F has not been back to the house since the arrest.</p> <p>Met with A with his mother in the room. Introduced self and talked a little about the game he was playing on the phone. A said he saw the fight (referral) from a distance. I asked him about other times and he said he couldn't remember other times. I asked him what he likes and doesn't like and he said he dislikes fighting. I asked what he is interested in and he said he is interested to not have fighting in my home with my father, not fighting. I asked how it made him feel inside and he said he felt like crying.</p> <p><b>A's account is a different one by then as he doesn't say he became involved.</b></p>	F234
05.07.19	<p>Crime Report – 46/131431/19 NCI breach of the peace</p> <p>F found hiding at family home.</p> <p>M asks why F can't return home.</p> <p>Statement of PC Clarke – in relation to attendance at family home and arrest of F for risk of breach of peace and breach of bail conditions</p> <p>Records M saying she spoke Farsi and interpreter called</p> <p>Crime report- 46/129392/19</p> <p>Child protection / welfare crime report</p>	J33  J309  J37
06.07.19	DVPO notice issued	J109

08.07.19	<p>Domestic Violence Protection Order made (until 5<sup>th</sup> August 2019) to protect M and children following F's breach of Police bail and attending at the family home</p> <ul style="list-style-type: none"><li>- F not to have contact with M or go to home address</li></ul> <p>W5 Housing officer recalls incident in housing office where F and M attend together and Ms Sparks says M pinched Z on her thigh as she was wriggling and M seemed irritated. Never saw any injuries on children although parents often short with children and seemed to bicker. At 10.32 Housing Manager contacted SS over the allegation.</p> <p><i>M says she would never pinch Z and that she does not think they were bickering but people did not understand their language and judged them.</i></p> <p><b>W5 was matter of fact not to say somewhat defensive or obtuse at times but she was quite heavily criticised for being unsympathetic to the family and so her defensiveness is perhaps not a surprise. She is clearly quite methodical in record keeping and relies heavily on the system. She did appear to have a clear recollection and her actions in getting SS called over Z being pinched and this would seem to confirm her account although also suggest she somewhat judgmental as it seems a somewhat an over-reaction to call SS because of seeing a parent pinch a wriggling child. More importantly is the father's presence on the 10<sup>th</sup> and that being noted by this witness. That she had noted there was a NMO in force is significant and suggests she was alert to the presence of the father. They being there together is entirely consistent with other reports of their being together and the father being found in the home and sentenced to imprisonment for breaching the NMO. This is another example of F denying something which is reasonably well documented and where the witness might be mistaken but has no obvious animus. Her statement did give a sense of being overly critical in writing but I think that when asked to give a statement in the context of an allegation of murder it may tend to focus one on the concerns rather than the positives. Overall she accepted that the family were under considerable stress due to their situation and that what she saw of the children and the parents care was within normal parameters. Even for asylum seeking clients she did not consider anything about them marked them as unusual one way or the other ; so not unduly aggressive or timid. She noted that F tended to dominate the conversation. Although I accept the mother's submission that a pinch doesn't tell me very much about the mother's attitude compared to the other material it does constitute another example of M denying an act observed and acted on by a third party</b></p>	H32 /J34  J614
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	<b>which I accept occurred and thus mother is not being honest. W5 was of all the witnesses perhaps the most defensive and this might be a consequence of the criticism made of how the family was dealt with or might have been a product of her interpretation shifting when she came to know of Z's death. I did not detect anything approaching overt prejudice. Self -evidently the mother and father were likely to be under some stress and bickering would hardly be a surprise as they tried to negotiate housing etc. What is perhaps more significant is that M and F feel the need to deny almost any evidence which may cast them in a poor light</b>	
10.07.19	Crime Report – 46/153463/19 DA NCI breach of a DVPN	J40
10.07.19	M and F attend housing office together and sit talking for several minutes. W5 has police and SS called. F leaves	J1592
11.07.19	F attends appointment with W4 and W2 of British Red Cross. F is keen to organise contact with the children.	C49 / V9
15.07.19	F attends appointment with W2 at the British Red Cross . Tells them he has been receiving messages from M. Voice recording played by F in which M asked him to come back and said she loved him, <u>F says this message was left on his phone when M was in Afghanistan and he played it to demonstrate that M loved him and he wasn't violent. F says he showed old messages.</u>	C50 / V11
17.07.19	Fadzayi Mararike (HV) conducted home visit to M and 3 children with Dari interpreter . Children observed to be well cared for and with good attachment to M. M tells HV that during an argument F closed door on her left hand and hurt her thumb  Statement of W5, housing officer, prepared in relation to a suspicion that F had breached his DVPO  PC Groves – arresting F for breaching his DVPO  MARAC meeting	C36 / T7  J1592  J289  J1657
18.07.19	F convicted of Breaching a DVPO BRC in communication with KCC over M's entitlement to housing	J9 C151
18.07.19	M alleges stone thrown over balcony of Add 1 and hits her on head causing minor injury.	ASB Diary (Sept 2019)
26.07.19	F released from custody – DVPO remain in place	C8



	Incident between A and child from No 33. M approaches mother of child who allegedly screamed at her and was hostile and abusive.	ASB Diary
31.07.19	Fadzayi Mararike (HV) conducts home visit to M and 3 children with a Dari interpreter . M complains of anti-social behaviour by neighbours	C36 / T8
02.08.19	Crime Report – 46/152378/19 – F reports that he was assaulted by being punched in the face on 01.07.19 as part of complaint of ongoing harassment from children on the estate who live above the family but nor clear which floor or flat number.  Crime Report – 46/151953/19 – Family report they are victims of racial harassment and hate crimes	J43  J63
05.08.19	DVPO expires and F returns to the family home	J45/C19
08.08.19	F, M and children attend at Red Cross. They seem happy and relaxed in each others company.	V13
12.8.19	Meeting with Housing. Farsi interpreter used	
16.8.19	Housing attend Add1. F raises ASB – advised to all 999	
22.08.19	C&F assessment completed by Ruth Gavin and approved by Victoria Harlin (TM). Children on a CHiN plan. Concerns of domestic abuse	F34
25.8.19	W3 On Sunday 25th August 2019 at around 1930 hours E came out of my flat to have a cigarette when I heard my neighbours shouting at one another outside there address. They were not speaking in English so I did not know what they were saying. The male started to punch the female with a fist into her face she backed into their front door crying they have gone into the address leaving the door open and the male has continued to punch her in the face, I went running into the address to separate them both the female was still crying and the male was shouting at me with an electric key in his hand I did not know what he was saying. He tried to shut me in the address when I told him no, I got out the address he then slammed the door and I could hear someone being banged against the front door with more arguing and the female crying. I have then called the police.	
	<i>I am aware that a neighbour at that time has alleged witnessing my husband punching me. The alleged incident did not occur.</i> <i>M says that the police were very heavy handed and A was injured in the incident. The incident with the neighbour's son punching A and her swearing at me occurred just before this alleged incident. The police said they were going to come out about the assault but they did not do so for 2-3</i>	C175

	<p><i>days. On the day that the police attended due to the alleged assault upon me, my children had been playing ball which I think had annoyed the neighbours. The police tried to arrest my husband and A tried to intervene. The police were very heavy handed with A and my husband. ... M believes Z's head may have been injured and A had his arm twisted harming it which caused symptoms for a month.</i></p> <p><u>F: On this date, the children were playing inside the house and there were pieces of wood that the Mother was trying to put outside in the rubbish bin. When the Mother tried to leave the property, the neighbours had gathered outside in a large crowd together. The Father was unsure why they were there or what they were saying and wanted them to leave them alone. The neighbours were laughing at the Father. The were a few young people throwing, things at the windows which was scary for the children.</u></p> <p><u>In his evidence the father said that the neighbour and her boyfriend came into the property after the children made a loud noise with a football and that the father asked them to leave and the man did but the woman did not and he could not manhandle her out.</u></p>	
25.08.19	<p>Crime Report – 46/164014/19 DA common assault Police attended home address after reports of a domestic incident. Police take no further action as M and F allege neighbour is harassing them and they conclude neighbours evidence is undermined by lack of injury and the parents giving a consistent account.</p> <p>Statement of W3, neighbour</p> <p>Statement of PC Caroline Bromley – ... I took M into a bedroom to get an account from her of what had happened, as she did not speak very good English I called language line to assist, she stated that nothing had happened at the address and the neighbours are the ones causing issues and harassing them. She stated that the children were playing and making a noise but she had not been assaulted by her partner, I did not see any apparent injuries to M.... I went to the informant's address where she stated that she went outside for a cigarette and when outside the front of her property she saw M and F in their front garden and they were shouting and one and other in a foreign language... The informant then said they both went inside of the property and she went over and saw the front door wide open, she stated that she saw F punching M in the face and she was trying to cover her face with her hands and was crying. Because of this the informant told me that she went inside of the address and tried to separate them and</p>	<p>F26 / J55</p> <p>J620</p> <p>J293</p> <p>J196</p> <p>J195</p>

then left the property and called the police, she said that she continued to hear shouting and banging inside of the address.

I asked him to get up and he didn't so I helped get him up and he started walking away so I tried to get control of him as I was aware he might become violent, I placed the handcuff on one of his wrists and he was resisting by shouting at me and waving his loose arm around, this was not allowing me to place the handcuffs on his other wrist, PC NELSON came to assist me and the handcuffs were placed on F in the rear stack position, one of the children was trying to push me away from F and was getting in my way.

F then arrested and continued to shout (screaming PC Nelson), would not calm down and continued to resist and M was blocking the doorway. Due to the risk they perceived they called for assistance and F was put on the floor and the children then intervened to try to prevent the police removing him. M continued to block the police and F continued to shout until further support arrived who assisted in removing F

PNB of PC Nelson –

**W3s recollection seemed fairly detailed and had the sense of an event she clearly recalled in terms of the detail of the neighbours congregating outside with children, the attendance of a significant number of police and what she saw and heard. The absence of injuries (or the view taken by the police) is not certainly consistent with punches connecting in any solid way but it is not determinative – a punch which doesn't connect might not cause an injury or an injury may not be visible so soon after the incident. The police assessment that the record of the call does not appear consistent with what W3 said is their own evaluation – it does not say nothing could be heard and it has not been made available to us. The discrepancy between W3's statement and that recorded by PC Bromley may be attributable to W3 not saying it or PC Bromley not recording it in her statement. It seems curious that W3 would have got involved at all if she hadn't seen something quite concerning in order to lead her to enter the house and then call the police. Whilst the details may not be exact – this has no sense of being an entirely fictitious account made up to harass them including calling 999 . F's account in oral evidence contained details very similar to W3's in terms of her entering the house and he asking her to leave and a large crowd of**

neighbours having gathered. The F's allegation relates to the neighbours who are now harassing W3 so there is no suggestion that it was done in revenge. The details of the alleged confrontation between A and a boy over a football is rather unspecific but even if there was one it does not mean she is not telling the truth on this. It seems more likely given the father's and mother's narrative that people have conspired against them that this accusation is a reflection of their general response to criticism. The father's account was such that her calling the police was not a complete fabrication as they had some inter-action. The difference with his earlier account undermines his reliability on this. How W3 gave her evidence and the content together with the call being made at the time of the incident and her account of the surrounding details together with other information about the fathers and mother behaviour later when F was arrested lead me to conclude it is likely to be true. A witness summons was issued only because the LA had been unable to contact her rather than because she had said she would not attend court. The parents' credibility is such that generally I find it hard to place any reliance on it and I found W3 to be a more credible witness. The fact that the parents appeared unruffled does appear inconsistent with an assault but it seems clear that both the mother and father have realised that their response to police will influence the course of the incident. The agreed presence of a crowd is more consistent with a noisy incident between the father and mother which resulted in attention being drawn to it than some stirring up by W3 or others.

PC Bromley's account of the Mother's account and the Fathers arrest appear to be broadly in accordance (factually) with the parents accounts although the parents perception is that the police were heavy handed and it seems unlikely that any police officer would have sat on a child or put their arm up behind their back. Whilst PC Bromley is criticised for not securing an interpreter to inform the father and arrest him I am satisfied that he has enough English to understand and that his engagement with the police before and with PC Nelson was sufficient basis for PC Bromley to conclude she could deal with him and that he ought to be arrested given the previous allegation. It was the father's reaction and the mother's (perhaps based on her previous experience of events post June 2019) that led to the escalation into what must have been an extremely distressing experience for the children. Neither parent put the children's' welfare first but engaged in a course of conduct with the father losing his temper, resisting

	<b>uniformed police, shouting or screaming in a way which encouraged the children to engage the police and with the mother actively obstructing the police. They, not the officers who were seeking to protect the mother and children from the fathers potential for violence, bear the responsibility for what occurred.</b>	
25.08.19	F alleges eggs thrown from neighbouring property	
26.08.19	MARAC referral form	J237
	DASH risk assessment – PC Bromley - Information given by information	J270
27.08.19	Fadzayi Mararike (HV) appointment with M and F and the three children a Dari interpreter and Diane Jacques (Migrant community HV) at the Little Gems children’s centre. Children observed to have good interaction with Father. Z upset when he left.	C37 /T9
02.09.19	Statement of W5, housing officer at Gravesend Borough Council	J611
05.09.19	Family report harassment from neighbours and supported to report issue to Housing Department BRC told of harassment by neighbours.	C8 V21
10.09.19	Housing receive e-mail re harassment a	
11.09.19	MARAC meeting	J1667
18.09.19	CHiN meeting BRC express concern over how SW and HO were approaching M and F and their attitude to their re-housing. F denied that there was any domestic abuse and SW told him he should accept that there was a problem. F said they should try to fix problems that existed not those which didn’t . W2 didn’t think he was being aggressive when he disengaged and went to play with the children. J Dillon concerned that F talks over M and that he said something to her which led to her becoming quite withdrawn. R Gavin also concerned.	F46 V24
03.10.19		
	Z suffers burns to her lower body.  <i>M2:A was having a bath before his first day at school the following day.... I had boiled one or two kettles full of water. A further kettle was being used to heat up more water. Z came out of her room without me knowing and tripped over the electric wire between the plug socket and the kettle. This knocked over the kettle. The flooring was what I would describe as plastic and so the water went all over the floor. I have been advised the flooring may be called lino. [M dropped her phone in bath, didn’t realise</i>	C65 C178

	<p><i>she could call 999, waited for F to return and F then couldn't call 999 and walked into town to get a taxi]</i></p> <p><i>M1 ...we were using kettle to boil water as we did not have hot water for about two months. B and Z were asleep. I put the water from one kettle into the bath with cold water and put another kettle of water on to boil..... She sustained burns on her right leg palm and abdomen. I put cold water on her and I called my husband. My mobile fell in the bath while I was trying to call my husband and put water on Z. My husband arrived home... And took Z to the hospital.</i></p>	
	<p><u>On this occasion my wife did not call me, and I saw Z had been burnt when I got home. When this incident took place, my wife's phone had fallen into the bath that was filled with water and so she could not call me. My wife told me what had happened. My wife told me what had happened. She told me that Z had woken up, my wife had thought she was asleep. Z had come along and knocked over the kettle and had been caught in the wire. She said that the kettle was outside the bathroom, but the door was open. All the children had been at home with my wife.</u></p> <p><u>F says he returned home at after midnight and by the time he'd walked back into town and got a taxi that explains the delay in Z's arrival at hospital. He gave a very detailed description of the incident re-enacting it in court.</u></p>	<p>C27</p>
<p>03.10.19 01.51</p>	<p>Z taken to hospital by F</p> <p>Her F states she accidentally splashed boiling water from a kettle onto herself although the exact mechanism remains unclear given language issues. Thermal burns estimated at 12-15% of her body surface area (left thigh, left lower and left foot also affected right antecubital area right palm and torso. Not registered with a GP</p> <p><b>01.00</b> – recorded time of injury by Louise</p> <p><b>05.30</b> – seen by Dr. Tikara F describes via friend how just before midnight, in the unheated accommodation in which they live, Z was walking by the kitchen when she accidentally got hot water splashed against her – not much detail given by Dad (very unclear records)</p> <p>NB – Safeguarding Injury assessment flowchart – concludes 'Low suspicion injury – treat as normal'</p> <p>Records history (from F further to the Dari interpreter via language line) F was home late on 02.10 thinks around 10/10.30. When he got home M said Z had just been burned and had been bathing Z's brother in the bath. They do not</p>	<p>P18</p> <p>Q248</p> <p>Q22</p>

	<p>have gas so were boiling a kettle in the bathroom doorway to hear the bath. She thought Z was asleep but she had woken tripped over the kettle knocking it over. She slipped on the wet floor not the hot water sustain burns to the left side of her body. M took her clothes off and put her in a cold bath for 1 minute. F returned home a few minutes after the burn and M asked him to get a taxi. He walked to the town centre – 30minute walk. No one would accept the ride and told him to get a taxi. He looked around until he found a Farsi speaking driver who took him home picked up Z and took her to DVH at 1.15.</p> <p>Follow up in MARS burns dressing clinic</p> <p>C&amp;W notes – Noted that F needs to be encouraged to change Z’s nappies but also described as ‘appropriate at all times’</p> <p>11.53 – Play therapist – notes F is very caring towards his daughter and gave her cuddles on his lap – talks about his own previous burns injury</p>	<p>Q80</p> <p>Q127</p> <p>Q132</p> <p>Q254</p>
	<p>S.47 investigation initiated</p>	<p>C65</p>
	<p>A starts school</p> <p>Behaviour -wise there have been very few incidents. He has pushed children, but that is after having been pushed first. He has sworn at children (it was felt he had copied classmate)... A is a kind, helpful, cheerful and caring boy. He always arrives with a smile on his face; he loves to help the teacher and his classmates, and always tries his best during lessons (even when he finds it very difficult).</p>	<p>L3</p>
<p>07.10.19</p>	<p>Nurse in Charge Charlotte Thomlinson from C&amp;W hospital updated the strategy meeting. Procedure was successful. Wounds are dressed and due to finish antibiotics today. Due to be discharged Tuesday (8<sup>th</sup>). Explanation for the injuries was that kettle was on the floor Z ran past and knocked the kettle over and water spilt on her. Hospital say no concerns of NAI. F described as caring and appropriate</p> <p>Rav Kensrey (Housing) – update strategy meeting. In Gravesend temporary housing stock and boiler should be working. W5 is allocated Housing officer and urgent visit today to understand why boiler not working. RK wonders whether F is putting enough credit on meters</p> <p>BRC told by F that he is worried about M</p>	<p>F17</p> <p>F17</p> <p>V38</p>
<p>10.10.19</p>	<p>Housing: Dari interpreter used</p>	

11.10.19	Z discharged from hospital / C&W – discharge summary	F21 / Q64
14.10.19	Out-patient appointment for Z at C&W – attended with F	F21
17.10.19	s.47 completed –	F19
19.10.19	Crime report – 46/208935/19 / 46/205552/19 Criminal damage and physical abuse. F as witness explains that his child had been assaulted and eggs thrown at his house	J48 / J60
20.10.19	<b>10.20</b> – Z attends DVH for changing of dressing prior to follow up at C&W on 21.10.19. F described as ‘very rude’ demanding to see doctor refused to give further details at triage F describes due to go to C&W tomorrow but Z had pulled bandages apart and <u>arrived by ambulance</u> CP concerns for this visit F concerned that burns have become infected – dressing intact no obvious ooze through, not examined in triage	P81 P82 P85 P86 R39
21.10.19	Z attends Mars Ward tub room at C&W for follow up appointment Liam Vickers – physiotherapist – Z (attend with M) very distressed and injury described as ‘far from healing’	Q176 Q251
24.10.19	Z attends Mars assessment room at C&W – hydrocortisone over granulated area With F and Z very distressed (Liam Vickers)	Q179 Q252
28.10.19	CHiN meeting	F55
31.10.19	B starts schools No issues with behaviour. Parents always helpful F irritated at ChiN meetings. M mostly quiet, polite, never showed emotion	L4
3.11.19	Z attends with F for dressing change After waiting for most of the day F became upset and aggressive waving his arms as he then had to wait for the pharmacy to complete a prescription. The hospital noted that during the day he had been attentive and caring with Z who was very distressed giving her cuddles on his knee and supporting the play specialist. <b>Nurse Mapp said it was no more than venting after a long day. She did not say she was scared or felt threatened and the father says this is an indication of how the LA have interpreted even innocuous events in a way which would support their</b>	Q185 Q186





	<p><u>F's evidence was that he was with M at the time and that she had joined them in town in order to get the keys and that she walked ahead of them after he stopped off in a shop. He said that he saw an unfamiliar car stop and the mother got into it.</u></p> <p><b>Ms Jones account was recorded shortly after the events and her description of M having blood running down her nose was clear. She was also clear that she saw abrasions not cuts from a sharp edge. The fact that the mother made no allegation is not determinative given she was aware of the possible consequences for the family unit and herself of doing so. There was clearly a disincentive in place (from her perspective) The mothers and the fathers account were inconsistent in terms of what the mother was using, what happened with her having nose-bleeds and where the father and children were and whether the mother and father had met up afterwards. The fact they had been asked to clear the garden was later used as a convenient excuse for the mother's apparent injuries. The idea that they had met at the shops and the father had not done anything to deal with the presence of blood on her face and scratches on her hands beggars belief. Taken together with what M says 3 days later to JV it seems clear that there was another incident in which the father had hit the mother The father's account given in evidence was in effect that he was a short way behind the mother and so had been with her immediately before Penny Jones stopped and saw her. One might have thought had this been so that he would have suggested that she wiped the blood from her face and tend to the cuts on her hand. I'm quite satisfied that the father's account in this regard was false and that the father had at some point shortly beforehand he had assaulted the mother giving her a bloody nose and causing abrasions (not cuts from a kitchen knife/scythe) to her hands. Given the children were said to be with the father at the shops it is likely that B and Z would have been in the home and seen the mother being assaulted or overheard it and perhaps seen her in the aftermath.</b></p>	
18.11.19	<p>M attends a joint appointment with F at the British Red Cross, W2. After F leaves to collect children M starts crying and alleges F is aggressive but she fears if she speaks to Ms Gavin that the children will be taken away. W2 says she will open separate file for M and will not tell F what she says. M says F will never change. Says he has previously beaten her up and taken to prison was kept away for 28 days and it caused a lot of problems. When asked if was physically violent M paused and said he was verbally aggressive.</p>	C50 /V68  K2 K18 K44

	<p><u>M says she doesn't recall saying this but that she did trust W2 who had said to treat her like a sister.</u></p> <p>A registered with GP B registered with GP Z registered with GP</p> <p><b>This was very close proximity to the 15 November concerns that M had been assaulted. The mother's explanation that it was a misunderstanding by W2 is not consistent with the care W2 took. It is far more consistent with a further incident of violence having occurred but the mother not feeling able to make a full disclosure because of her fears about the consequences in terms of the children being removed and her recognition of the difficulties she would face in separating from the father. After a marriage in which she had been largely reliant on the father in Iran and was adrift from her family in Afghanistan and was now again reliant on the father in England together with her potential fear of the father himself would have been a powerful brake on her ability to make a full report but her demeanour and what she did say corroborate the probable fact of an assault.</b></p>	
19.11.19	HV visit: Z playing well with brother, burns healing.	C42
19.11.19	9pm – pumpkins and people knocking on the door (??Oct 31??)	
25.11.19	GP Surgery consultation for Z F spat at by someone from No 68	
28.11.19	GP Surgery consultation for B at out of hours clinic: abdominal pain. Advice see own GP	K23
29.11.19	Penny Jones discusses home safety with M including purchasing stair gates. <i>M says they had one but the children injured themselves on it and so they hadn't installed them on the stairs.</i> <b><i>This was not really explored in evidence</i></b>	
1.12.19	GP examination of B for parasites. None detected:	K23
04.12.19	M attends an appointment with W2 at the British Red Cross. M talks about verbal abuse and F using rudest possible words, refers to an incident where M puts on eye liner and F was verbally abusive; sometimes in front of children. Said she cannot leave him and declines referral to DV services. "the only thing she wanted to ask me to do was to teach her husband how to talk to her" She started telling what kind of words F uses when he talks to her and the things he says and the interpreter was not comfortable to translate it explicitly to me. Interpreter made a comment that she feels horrible for M and said that the words used are the rudest words possible never used publicly within the community. [3 interpreters used] <b>This provides further support for the conclusion that the father is not only physically violent but also verbally</b>	C51 / V69

	<b>abusive to the mother and in the presence of the children.</b>	
09.12.19	F attended C&W with Z but 30 minutes late for appointment. No concerns raised – no noted pain itch or sensitivity. Z remained distressed throughout – during therapy session crying and hitting at F BRC meet KCC to discuss concerns over M’s disclosures of abusive behaviour by F and M’s fear of being separated from the children. KCC says they regard M as good mum	Q275  C152/V71
11.12.19	A seen by SWA (Penny Jones) – on his own and reports no worries, is happy in school and to be learning English	C21
15.12.19	Reference in A’s GP records to him being seen in minor injuries department of Gravesend Community Hospital on 14.12.19 as advised by school as fell at 13.11 hitting left side of his neck on a piece of wood. Suspected soft tissue injury	K3/K16
27.12.19	GP: Text out: Z eligible for flu spray	
03.01.20	M meets BRC. She is positive and confident	C157
08.01.20	ChiN review	F64
9.1.20	GP consultation for B. No interpreter. Re-booked.	K
14.01.20	M goes to see W2 without an appointment – she attends the office twice and leaves many messages/ Dari interpreter (M says over the phone??) , M seeks advice about her going to Afghanistan with Z. M talks about leaving F but can’t because of the children. W2 offers help and M asks if she can tell W2 something without SS being told. M starts crying and said F had beaten her up yesterday and showed them bruises on her arm, cuts on her hand and marks on her neck from where F had pulled her hair. W2 noted her holding her hand as if in pain. M asks W2 not to tell SS. Says more worried about verbal abuse. F accused her of having boyfriends in Afghanistan. M says children did not witness as they were at school and asks for W2 to hold of disclosing to SS as Ms Gavin was due to speak to F about DV and that might help.  <i>M: I spoke to her about problems my husband and I had when we first met in Afghanistan. I spoke to her about arguments. I did not suggest that my husband had raped me. I did say that C, who I was pregnant with at the time, was not a planned pregnancy. I explained when I found out I was pregnant we were very happy. My husband has slapped me on one occasion when were in Iran before A was born. In evidence M said she showed her marks from rock which had been thrown by neighbours and she was losing hair from her pregnancy and did not say what. She said that she</i>	V79/C48/C52  Q260

	<p><i>talked about going to see Z's father in Iran and taking B to be circumcised and that she had news her mother was very ill.</i></p> <p><b>W2 was the most protective of the family and was uncomfortable with the position which developed, She was a rather reluctant witness in talking about the detail of the DA – though she was much more forthcoming about process related issues. She seemed fairly thorough, conscientious and careful. She was obviously conscious of interpretation issues and took care to make sure they understood. Her account is I accept broadly accurate. Her account of how M's behaviour made her feel suggests that M's presentation appeared genuine and it was backed up by her showing marks. There is no suggested dissonance. I am satisfied that her recording of what was said by M was accurate and that M both said what she said and, had injuries and was distressed and talking of leaving F and of wanting to remove Z to Afghanistan. Z would have been at home and exposed to this. There was no corroboration of the mother's account of wanting to see her mother or getting B circumcised or going to Iran. W2 was clear that the mother had not alleged rape but that she hadn't wanted a child but the father had insisted. The Crime Report was probably generated by the BRC Safeguarding Team who misinterpreted the entry – W2 was away shortly afterwards. The mother's current explanation is inconsistent with JF's records and given what M said about her trusting JF like a sister it is more likely she did disclose abuse. The current explanations for the marks (pregnancy associated hair loss) allergic responses are a cover up and I note that the ASB diary recorded the mother saying a stone had been thrown by a neighbour and hit her not at this time but in summer 2019</b></p> <p>Z and F miss appointment at C&amp;W – interpreter present attempt to speak 3 times but to voicemail.</p>	
14.1.20	GP consultation for B. Parents concerned he has parasite infection. Itchy and offensive flatus. Blood tests organised.	
20.01.20	M due to have appointment with Red Cross (SW to attend – SW indicating that a risk meeting likely on 21.01.20) but F attended with the children. M reports F was angry because she had put herself as next of kin on the GP's documents and F says it should be him as the F. Used 'really bad language'. She said he followed her to the appointment.	C54 / V82

21.01.20	F seen alone. F was able to identify the impact on children of witnessing domestic abuse and 'respect' work undertaken	C9
27.01.20	W2 at British Red Cross contacts the SW by email highlighting her concerns and emphasising the need for a strategy meeting due to case being very complex and potentially high risk	C53 / V83
31.01.20	MARAC referral form arising from attendance on 20.01.20 with Red Cross - It was made when W2 was not present.	J206 / V52
03.02.20	M seen alone by – awareness on impact of domestic abuse on families raised. M provided with information and advice on options if she chose to leave her relationship  British Red Cross make a professional's referral to MARAC without M's consent. KCC notified that it had been made  Crime Report – 46/23457/20 – Domestic Abuse NCI  Police attend family home following 3 <sup>rd</sup> party report by neighbour of shouting from the children and parents. No offence disclosed and children were all present and appeared ok	C9  C46 / C52  F26 / J75
7.02.20	Housing : Dari interpreter	
10.02.20	CHiN meeting with M and F – bruise noted on Z on face and under eye; <u>F said Z was playing with B and they bumped heads.</u> SW not concerned but conducted follow up. M very quiet and little direct engagement acknowledged had been a victim of DV but no longer was Positive reports from the school about A and B Outcome was that support would be provided but concerns at 5/10 so nowhere near imminent removal. <b>It seems clear that the mother's reluctance to support allegations of domestic abuse and the otherwise positive parenting observed persuaded the local authority that the case could be de-escalated.</b> <b>The photographs of Z with bruises and scratches which were said to have been shown could be explicable by a childhood incident described by the parents although the more serious bruises visible in other photographs which I do not think were shown to social services or observed by them in person are more alarming.</b>	F95
11.02.20	Red Cross ask SW Ruth Gavin to follow up bruise and request GP visit SW asks M about bruise on Z and she says she jumped off sofa and bumped into B.	V99

12.02.20	MARAC meeting  W2 gave British Red Cross view and expressed the concern that after the CHiN meeting on 10.02 KCC indicated they were waiting for another disclosure before working on a strategy plan. IDVA asked to intervene but not possible without M's consent. IDVA suggested a meeting with SW but this had been refused because M was not disclosing domestic abuse to them	J1674  C54 / V101
17.02.20	Email from Red Cross to safeguarding at Kent Police (Richard Debnam) – as part of Crime Report 46/21862/20 domestic rape and Red Cross running records	J69 / V110
19.02.20	M attends ante-natal clinic alone to see MW Butler and Social Background and Maternity concerns form completed M recorded when asked about domestic abuse she denied that the father hit her all the children and said “if I don't feel safe at home where else would I feel safe”	E22 / J1402 / J1489
27.02.20	Family move to Add2 family home	
1.3.20	<b>Earliest date for fractures: Dr Kapoor: 12 weeks</b>	
10.03.20	Reference in A's GP records to being seen in Minor injuries department at Gravesend Community hospital on 09.03.20 with epigastric pain No vomiting. Reference to previous abdominal surgery not possible to understand what. Analgesia prescribed  M and F seen in the street by Pat Williams of Lawn Primary school who reports that M had a scratch under her eye and it looked bruised  M DNA HV appointment	K3 / K15  L12  E23
12.03.20	CHiN meeting and professionals meeting F recorded as being agitated and annoyed about having to attend regular meetings with CSC; M and F leave before meeting ends. Teacher and HV exp[ress concerns about the presentation of the mother <b>This the last time Z is seen by professionals until RG sees her in early April</b>	F80 E17  V132
12.3.20	GP entry for B (??A??) from A & E	
15.3.20	Approx earliest date (subject to adjustment in oral evidence) for oldest head injury (chronic subdural haematoma) ; Dr Jayamohan Approx earliest date for 'complete' 'healing' spiral fracture of right humerus' and 'healing fracture of right scapula' : prof Mangham	E361  E358

		J645
17.03.20	M seen by HV. DA questions asked. No DA disclosed.	E24
18.03.20	M seen at Ante natal clinic by doctor. No further DV disclosed but Dr noted a ‘?old bruise seem on left cheekbone’ M denied any injury or pain	E24
23.03.20	C&F assessment undertaken, and unborn baby included in the CHiN plan (Ruth Gavin). Parents show warmth to children – basic care good M has reported F has mental health and anger management	F2
26.3.20	Lockdown commences by Regulation	
7.4.2020	RG sees family in doorstep visit. Brought some items and vouchers – B was going to run out – playing with balloons – M came to door and smiled and said Hello in English I was told Z was sleeping on the sofa and she was on the sofa – I could see through the window into the living room F and B opened the door. B spoke in his language. He offered me to go into the garden and I saw the work in the garden. B on trampoline. A also seen in garden. I don’t know if it was announced or unannounced.	RG Evidence
15.04.2120	In telephone call with F about benefits and finance with British Red Cross (W6 – case worker) reports F became agitated when told M needed to sign the forms  M does not attend Ante natal appointment	C54  E24
21.4.20	M attends community antenatal appointment at Childrens Centre alone.	
23.04.20	CHiN meeting (parents not attend due to technical difficulties) <ul style="list-style-type: none"><li>- Family not seen as a high risk family not on a Child Protection plan.</li><li>- No concerns noted on the door step visits which occurred</li><li>- Scaled at 6 by LA</li></ul>	F72
End Apr	M said trampoline incident happened about a month before the police interview. M says Z fell and had some marks on her face from falling on the rocks and her elbow had a black bruise/	J697/J699



24.4.20	Approx latest date for 'complete' 'healing' spiral fracture of right humerus' and 'healing fracture of right scapula' : prof Mangham	J645
4.5.20	<p>SS visit to the family home at 1pm by Jodie Dillon (x2) B happy and interacting with F. Conversation with F over Language Line. No concerns over F's presentation. M heavily pregnant. M says something and F speaks to her and she stops speaking immediately and puts head down. <u>F says he warned M to keep socially distant.</u> JD told Z was sleeping upstairs. JD went back to at about 4pm. Jodie asked to see Z, F stated she was upstairs and became quite frustrated, he snapped and said "she, is upstairs". He then went upstairs and Z was over heard saying she didn't want to go outside. M then held Z up to the window. F came back downstairs and informed she was having a wash. Z said to have made a sound like 'ararh' when lifted up to window. <i>M says Z was asleep and then was in the bath with soapy hair. She didn't say aarj – she screamed I am naked and don't show my body</i> <b>Ms Dillon was relatively inexperienced but she seemed careful and conscientious. She was balanced in her evidence and did not seek to suggest that Z was distressed when held to the window.</b> <b>It may be significant that on neither of the visits to the family before Z died was she seen close to by the Social Workers. In April Ms Gavin only saw her through the window and in May she was held up to a window. On both occasions they were told she was asleep. Given the other children were seen and that this is in the window when she may have sustained injury and be showing outwards signs of it this may be important.</b></p> <p><b>Overall Ms Gavin was a balanced witness in accepting that there was evidence of positive warm parenting but also firm in her evidence about the domestic abuse. Her working of the case seems appropriate to the risks identified and she prompted Jodie Dillon to return to see Z on the 4<sup>th</sup> May. She accepted the pressures they were under and seemed to empathise with M in particular. Her attitude to the level of risk in the case seemed to in part derive from M's unwillingness to stand by her allegations of DV or to engage with IDVA or other work and to align herself with Father. Thus they did not progress the case to a CPP and in fact downscaled the risk as there were no further reports of DV and the other aspects of the children's care was positive. She probably was pressing F and M to accept DV in order to address it but it was quite obvious W2 was more closely</b></p>	F231 / J551 / J1231

	<p>aligned to F and M and that it was BRC safeguarding who were more alert to the risks than W2 herself who seemed to find it difficult to balance the role of supporting M and F as refugees with the safeguarding concerns over F</p> <p>She maintained that the use of interpreters had enabled a proper understanding and she maintained that her records were accurate in terms of what M had said. She said the parent didn't complain about the dialect or a lack of understanding. There are certainly examples of them doing so (at the Job Centre) and the evidence from housing makes clear they were prepared to complain if they didn't things were happening as they should As it happens her recollection is more consistent with other evidence than with M's current case so I accept it is accurate. Her recollection that M hoped the involvement of police would change F's behaviour is consistent with what M said to others and what is a common misconception amongst those who have experienced abuse. The mothers case now as put to her was in effect to revise and to minimise her complaints of DV and to make them historical. Although the Guardian criticises the decision to downgrade the risk assessment given the report of an incident via the BRC I think the Father's submission that the overall impression of the family at that time was that they were by and large co-operating, there were limited concerns expressed overall, the mother was not supporting domestic abuse concerns and the work the LA were doing with the family and the observations of the family appeared to indicate some progress.</p>	
12.05.20	M seen for ANC by midwife. M alone.	
15.05.20	Latest date for 'oldest head injury (chronic subdural haematoma) : Mr Jayamohan	E299
15 (Or 17).5.20	<i>I noticed that Z had injured her finger. I did not see it happen but she said she had got her finger caught in a door..... I believe the nail fell off while I was at Darren Valley Hospital for an appointment relating to my pregnancy. I had noticed before going to the appointment that the fingernail had got darker.</i>	C66
19.05.20	F indicates he wants no further involvement with children's services	C9
22.05.20	Earliest date for 'slightly older head injuries' (skull fracture, extradural haematoma) : Prof Mangham and Dr Jayamohan	J426
	Trampoline accident <i>M: Interview 1: Not in pain – some bruise around elbow – some marks on face</i>	C65

	<p><i>M1: Just before I went into labour and during the period when the virus was circulating a lot there was a time when I was in the house and A said Z had fallen off the trampoline. Z said mummy I fell down the trampoline and said her arm hurt as it got stuck in the metal around the trampoline. She was crying for one or two minutes. This was her right arm. Her arm was not swollen..... Following day my husband noticed that her arm was swollen [and] went to the GP but could not book an appointment. I put some cream on her arm and would very slowly would massage her arm. She was fine and her appetite was fine and was playing.</i></p> <p><i>M2: Z had an accident and came in and said she had fallen off the trampoline. I am not sure of the timing but it was after lockdown had come into effect..... The next day there was a bit of blueness just above her elbow on her right arm which looked like it was bruising. Slowly it disappeared. Afterwards her arm was painful if, for example, I was putting her arm into clothing I got her syrup/medicine for the pain and I applied cream to her arm Z had been playing outside with A and B. B was on the trampoline and A was outside the kitchen door the last time I looked before finding Z had been injured.. Z cried for a short period of time after she had fallen. My husband and I were trying to get medical attention but all appointments were remote and it was difficult for us to book them. The pain Z had was similar to the pain A had after he had been injured by the Police. I therefore thought it was a similar type of injury and it would heal in due course. I did not think it was a fracture as Z could lift her arms.</i></p> <p><u>F's Threshold Fracture of the left humerus: Father was not aware that there was a fracture but does recall that approximately two months prior, Z had fallen off the trampoline. Z did not express pain and due to the Covid-19 situation being prevalent at the time, Father did not risk attending the hospital.</u></p> <p><u>F: have been told that on one occasion Z did fall and hurt her arm on the trampoline. I did not see her fall on the trampoline but did see that her arm was swollen.</u></p> <p><u>F interview: when he was changing Z he noticed there was some swelling (4 finger widths) just below her elbow and her mum said she had fallen from the trampoline. He later went to the GP but they told him to ring the next day. At home with Z he saw nothing abnormal and that it was not serious and she was all right drinking or taking things with her right hand. He said he asked her to raise her hand which she did she had no pain he saw no problem. He said she had a bruise which darkened and disappeared over about 8 days but it was a tiny injury and not important . He said she could change her clothes by herself and was not complaining and</u></p>	<p>C181</p> <p>C27</p> <p>J1735/6</p>
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	<p><u>was normal. He said they had not noticed any injury to her shoulder blade. Later in the interview when challenged about the medical evidence he says that she could raise her hand to the level of her head but it was painful if higher. He said he thought it was similar to when the police came and twisted A's hand on his back and sat on him which caused him to scream and hurt and he was checked by the ambulance.</u></p> <p><b>The evolution of the parents account of the symptoms maybe a response to the emerging medical evidence of the seriousness of the impact on Z of the injuries., for instance Dr Cleghorn refers to the obvious pain a child would suffer when being dressed.</b></p> <p><b>This incident would appear inconsistent in timing with the arm/scapula fracture but is consistent with the slightly older head injury? The accounts given by M are quite different from police interview through to her statement</b></p>	
23.5.20 5pm	<p>Mother admitted to Cedar ward Darenth valley for IOL @ 5pm</p> <p><u>F says M went by taxi to hospital and that during the period the mother was in hospital Z had no accidents and was playing very well. He said he had some pictures which he had sent the mother.</u></p>	E25 /J1427 J1876
	<p><u>F: I know Z was missing a fingenail. I was told this happened when she trapped her finger in the kitchen door. I did not see it happen and from what I have been told nobody saw this happen. My wife told me that Z had told her about this.</u></p>	C28
2020	<p>C born (6 months)</p> <p>Midwife Theresa Harvey spoke with M and observed that she "showed little immediate interest in baby" <i>it was a natural birth but difficult. I was unconscious for a period during labour and was so when C was born afterwards. I was told by the doctors I had lost a lot of blood. I'm not sure if I had a blood transfusion.</i></p>	J1282 C66
24.5.20	<p>Latest date for slightly older head injuries: Prof Al Sarraj <i>M2 I do not know of any incident prior to me going into hospital or when I came out involving Z apart from her fall down the stairs. As far as I am aware Z was fine when in the care of my husband during the time I was in hospital.</i></p>	C182
25.05.20	<p>Midwife Barbara Gomes had a conversation with M at 15.20 where M 'adamant' that she be allowed to go home as her husband was looking after the children but that she had no concerns about him caring for them but B was crying for her. Ms Gomes says in her recent statement M's desire to go home was not unusual.</p>	F30 / J1282 H35 / F30

	<p>M discharged home from hospital with C –</p> <p><i>I had left the hospital as [F] wanted me to come home so that he could cook hot soup for me. In Afghanistan the mother should have soup and hot food after giving birth. I wanted hot food, not cold food which is what I was getting in the hospital. M told police her 4 year old was always crying and wanted her home</i></p> <p><u>F says that he and the children went to the hospital to collect the mother, left Z and A in the taxi and took B in with him to collect M and C. He says Z was fine then,</u></p>	<p>C66</p> <p>J1890</p>
25.5.20	Latest date for slightly older head injuries: Prof Mangham	
26.05.20 06.22	Earliest timing for acute skull fracture according to Professor Mangham (84 hours)	J645/E271
26.05.20	<p>Community midwife (L Dixon) visited the family home for post natal visit. M and F present as was B and Z. F said to be happy to allow them in and the children reported to be happy and smiling and to show the midwife the baby.</p> <p>‘Two children were standing behind him one, a boy, aged around 3-4 years old and the other, a girl, aged around 2 years old. Both children were chattering and pointing at me as though excited to see me. Both children were wearing long sleeved clothing possibly pyjamas and had no obvious injuries. The man smiled and beckoned for me to enter the house..... The children were smiling and ran into the room ahead of me to stand beside their mother who was sat on the sofa breastfeeding her newborn.....At some point during the conversation F ushered the children upstairs as they were still talking loudly. I could hear them going up the stairs.’</p> <p><i>M: as far as I can recall there was nothing of significance which happened on 26 May. As far as I can recall we all stayed at home.F and I would take it in turns to change the babies. That night Z slept on the floor in my room on a mattress.... A has his own bedroom where [F] will sometimes sleep. B, Z and C were in one room with me and A and his father slept in the A’s room on the night of 26 May</i></p> <p><b>Her presentation seems to be entirely normal which seems odd to the lay person if she had a skull fracture but is not inconsistent with her having a skull fracture and extradural haematoma according to Mr Jayamohan</b></p>	E25
	<b>27 May 2020</b>	

03.00	<p><u>Z wakes and F changes her nappy. She goes back to sleep in the bedroom with the parents and C</u> <b>It is not clear what the sleeping arrangements were. Z's toys seem to be at the end of the mattress which the parents slept on. A had his own bed and it appears that B had his own bed whilst C had a crib.</b></p>	Evidence
06.00		
	<p><u>F says breakfast was about 45 minutes before the video was taken.</u></p>	
09.09	<p>– a video found on F's telephone shows B eating breakfast and Z standing looking happy. Z is wearing dark coloured trousers and a light t-shirt. She does not have the marks on her face on the bridge of her nose or under her nose on the right in the video. It is not clear if she has the marks on her left cheek. The audible exchange is between the father and B who says 'Fuck you' to the father. In the background the mother and C are in bed. Next to the bed is a large metal kettle which is seen downstairs in the photographs taken by the police. Although the father says it's very rude don't say Fuck you it is not said in any sense in a disciplinary manner but in the same tone as the remainder of the conversation in which he is praising B for eating his fruit. The video shows Z holding some grapes although she says nothing and B pulls the camera back onto him.</p> <p><i>On the morning of 27<sup>th</sup> of May I was still bleeding heavily after having given birth to C.[F] brought breakfast to me in bed and the children and I had breakfast in bed.... While the children were eating fruit [F] took a video of us.</i></p> <p><u>I woke up on 27th May and went downstairs to make breakfast, I then took the breakfast upstairs for myself, my wife, and my children. C was only a few days old. 112.</u></p> <p><u>After breakfast, I bought some fruit upstairs for the children. I started to take a video of the children and in the video, B was saying the F-word. The children did not know the meaning of it, but I told them not to say this. I took this video before I left for shopping. I asked my wife what we needed from shopping, initially B and Z came downstairs. Before I left, I asked Z to go back upstairs as myself and B went shopping. My wife had been in hospital for a few days and we ran out of food, so I went to do some shopping. B was with me at shopping. I think it was around 9:45am when I left home, and everything was okay.</u></p> <p><b>The transcript records B saying to F 'fuck you' and F remonstrating with him. This suggests that B was regularly exposed to such language. As Z is standing looking happy here and could not have sustained a head</b></p>	A(i) 58 /J674 J1004 C28

	<b>injury at this point the injury must have occurred at some point hereafter.</b>	
	<i>We went downstairs after the video was taken. I'm not sure of the sequence but I think it happened this way. {F} needed to go shopping but before he went asked me what I needed. B wanted to go and did so.</i>	
09.29	M's phone: contact added	
09.46	<p>09.46 – photograph B in a pushchair at the family home</p> <p><u>I spoke to my wife about what we needed to buy. We came downstairs, my wife B Z and I. A stayed upstairs B was saying I am going as well and I sat him in the car seat and I had to take him. I purchased my items and slowly we came back. He was eating an ice cream.</u></p> <p><b><u>In respect of injuries that Z and B had when seen by social services he was very keen to deny that B and Z fought with each other but explained they had just fallen into each other perusing each other and perhaps have scratched each other as they fell. The other evidence I have heard about the children is that they were quite competitive and this is hardly surprising given the closeness in age.</u></b></p>	J119 / J673 / J1026
10.07	F and B enter Tesco express,	J118
10.25	Tesco Express receipt	J736/J1716
10.27	<p>F and B leave Tesco express,</p> <p><b>The father was pressed about how long it took to get home but he declined to give any specific time but simply said that he was loaded with shopping and they made their way slowly home as B ate his ice cream. Given he was able to give a precise time for the journey from the train station to the court his inability to give any timing for the journey which he had undertaken many times before and many time subsequently is surprising. The local authority suggests that it is nine minutes and so he would have been home by about 1036 leaving a 15 minute gap before he called his friend which is said to be inconsistent with his account that within a short time of returning home he had called his friend.</b></p>	CCTV
	<p><u>When I came home from shopping, A said come upstairs Daddy, Z is not well. I left the shopping in the kitchen and went upstairs. My wife and my son told me that Z had just fallen down the stairs. I saw that my wife had taken Z's dress of her as there was a lot of vomit on her dress, Z had a nappy on still. Z was moving her limbs and was crying a little bit, she was awake. When I was calling her name, she would not respond. I asked my wife what happened, and my wife said she fell down the stairs and I called my friend</u></p>	C28

	<p><u>and asked him to come to my house quickly and asked him to call an ambulance for me because of the language barrier. I then changed Z's nappy. I took Z and went to the front door and my friend arrived. It was at this time that Z became unconscious. At 11:06am the ambulance service called me, this time is on my call log, but I was holding Z on the doorstep waiting for my friend and could not get my phone out of my pocket. My friend then arrived and when I was in my friend's taxi on the way to the hospital, the ambulance service called me again.</u></p>	
	<p><i>Mother {interview} Yesterday I was asleep I had given birth to my baby, 4 days ago or 5 days, I had lots of bleeding at the hospital and I was very weak when I came home and I was crawling to the toilet and about. I was in the bedroom with Z, my daughter who is at the hospital now. She was sitting with me and the new baby. She was singing some baby songs for the new baby. She was busy with that and all of a sudden she closed the bedroom door and I heard a drop noise. When I crawl to the door I saw that she had fallen from the stairs, maybe she has hit her head by the heater or by the door. When I with lots of difficulties I crawled down the stairs I hugged my daughter then I came upstairs and I noticed that she was vomiting. When I took Z upstairs she was vomiting, like vomiting. I changed her clothes and I noticed that she was not responding that much and I tried to press on her chest when I saw that she's not responding that much. My husband and my 4 years old boy had gone to Tesco for shopping- I didn't call the ambulance because of the language barriers that I couldn't speak. I called my husband. Then my husband made haste and he came very fast, he came home because he was not speaking the language that good he also had called his friend to bring his car and with the help of this friend he took Z to the hospital.[M later confirms she called F at Tesco and which phone she used to call from ]</i></p> <p><i>Mother 1: When [F] and B left I was downstairs in the living room with Z but after they left I went upstairs with Z. A had stayed upstairs to play a game on his mobile so was still upstairs after we had come up. After a while Z asked where was her daddy. I'm not sure when but maybe this was half an hour after F had left. I told her that her daddy had gone to get you some juice. Z left the room and closed the door behind her. After a few seconds I heard what sounded like Z falling. I heard like a little noise then a big noise. I got up and rushed out of the room. I could see Z at the bottom of the stairs in the hallway of the home. She was behind the front door. When I got to her I could not see any blood. Z's legs were closest to the stairs and her head closest to the door. She was on her back.</i></p>	<p>J696</p> <p>C67</p> <p>C183</p>



	<p><i>M2 I do not know of any incident prior to me going into hospital or when I came out involving Z apart from her fall down the stairs. As far as I am aware Z was fine when in the care of my husband during the time I was in hospital.</i></p> <p><i>M1 A was in my bedroom. A came after me. .... I cannot say if she might have hit her head on the radiator or glass door but think the radiator would have been sharp so would have thought they would be bleeding I did not witness the fall.... Z was crying and I took her upstairs. I had left Ci to run down when I had seen Z at the bottom of the stairs so wanted to be back close to where he was. Z's head was very soft and swollen. Z did not say anything as far as I can recall. When we got upstairs Z vomited quite a lot. The vomit did not have any unusual features. I went to take her dress off in my bedroom address was covered in vomit. Z was on a blanket. The blanket was used to wipe some vomit away from the Z's mouth. For some reason the blanket was not taken by the police</i></p>	
	<p><u>Father Interview</u></p> <p><u>Father1 : I went to do some shopping. B was with me at shopping. I think it was around 9:45am when I left home, and everything was okay. When I came home from shopping, A said come upstairs Daddy, Z is not well. I left the shopping in the kitchen and went upstairs. My wife and my son told me that Z had just fallen down the stairs. I saw that my wife had taken Z's dress of her as there was a lot of vomit on her dress, Z had a nappy on still. Z was moving her limbs and was crying a little bit, she was awake. When I was calling her name, she would not respond. I asked my wife what happened, and my wife said she fell down the stairs and I called my friend and asked him to come to my house quickly and asked him to call an ambulance for me because of the language barrier. I then changed Z's nappy. I took Z and went to the front door and my friend arrived. It was at this time that Z became unconscious. At 11:06am the ambulance service called me, this time is on my call log, but I was holding Z on the doorstep waiting for my friend and could not get my phone out of my pocket.....</u></p>	C28

	<p><u>F Interview 2: I told you I was out, I came and I stopped in because I wanted to... And I was told that Z fell down from stairs down. When I went and saw Z she was conscious but she, a blanket was on top of her. Then I rang to my friend. He says he was in Tesco so how could he have hit her. He said even an animal would not want to harm their children or their kids so how can a human.</u></p> <p><i>M gives a no comment second interview</i></p>	J1901  J1786
	<p><b>The police examined the property and seized the vomit stained babygro (probably one for C and used to wipe up vomit) in the bath and larger nappies from the bins outside. There is no reference to any other clothes being seized which had vomit on them</b></p> <p><b>The parents don't say on their return from police custody they did anything with the clothes Z was wearing</b></p> <p><b>The bins weren't put out as they police photographed them in the back garden</b></p>	
??	<p>M says she calls F F says M had called ambulance before calling him <b>This does not seem to tie in with the phone records [??]</b></p>	P6
	<p><i>..... I picked up my phone to ring my husband. My husband returned home and I thought I had actually phoned him but in fact he had returned home without me speaking to him. When my husband entered the home I sent A down to speak to his father. He told him to come up the stairs quickly and what had happened. At this time I had taken Z's dress off. F made a phone call to his friend and asked his friend to request an ambulance.</i></p>	C68
10.50	<p>F calls friend: call duration 33 seconds Evid W1: He said call ambulance – Z fell off or down stairs – she is asleep her eyes is closed she is unconscious – I called them and they said ambulance is coming in 1or 2 hours and I went straightway and he was outside with the baby in his arms and we drove the Darent Valley Hospital and after I had parked they had gone in. He said he had gone to Tesco and when he came back she was lying on the floor and she had fallen down the stairs and hit her head on the wall or the floor or the radiator and that the back of her head was soft.</p>	J674  C143

	<p>St: W1: [F] called me and was really upset, he told me that Z needed to go to the hospital and was not opening her eyes. He asked me to take him to the hospital and to call an ambulance for Z. I said that was not a problem and I did this. First, I called the ambulance and then I left my home to collect [F] and Z. When I arrived at [F's] home he was already outside holding Z and waiting for me. Z seemed unconscious and [F] was not okay, he was very worried and was really crying. He knew that something was really wrong because Z's eyes were closed, and she was hardly breathing. The drive took a maximum of 10 to 15 minutes. I dropped F and Z outside of the emergency department.</p> <p><b>If she was not opening her eyes then she was probably unconscious which does not seem to be consistent with either the mother or father's accounts of her being awake or conscious at that point although F said she became unconscious whilst he was outside waiting.</b></p>	
10.51.14	F calls to friend: call duration 3 secs	J674
10.52.11	W1 calls ambulance. Call connect at SECAMB, Tape records him asking for ambulance. Tell call handler that child has hurry head and he has been told her brain is coming out or her head is broken and she is dying. Says she may have fallen off or down stairs. Handler asks to speak to person with her and W1 tells her 'F' cant speak English and handler asks what language and W1 says Dari or Persian. Handler says an emergency ambulance has been requested but it could take up to 2 hours. W1 says he will go there himself.	
	<i>Then F changed her nappy. Z was still vomiting. Z had been placed on her side in the recovery position. My husband asked his friend to call an ambulance. I understand my husband's friend was told the ambulance might be a long time so it was decided that the friend would take Z to the hospital in his taxi. There was not enough room for the whole family so I stayed at home with the other children.</i> .....	
	<b>10.53.15</b> - Caller states 'PTS brain is coming out'	J120
	<b>10.53.24</b> – Caller states 'PTS head is broken'	J736
	<b>10.54.05</b> – Problem confirmed	S5
10.54.42	F call to friend: 6 seconds	J674
10.56	Photo of Z on floor in a nappy only <i>A photo was taken of us changing Z and I think one of the children did this by mistake.</i> <i><u>This was taken by B by mistake. It was on the floor of the bedroom. I changed her and put her in the dress which she</u></i>	J1056 C69

	<p><i>went to hospital in. I do not recall any bloodstained clothing. The best was used to clear up sick it was not Z's it was C's</i></p> <p><b>A number of injuries are visible on her face and are noted at the post-mortem. For reasons which the father did not explain Z is lying with her injured head on the wooden floor with part of her body on a towel or blanket. Her lying with her head on the floor when she has a serious head injury is hard to fathom. Both the mother and father say her head was soft and she was clearly seriously unwell and so placing her head on a hard floor is completely counter-intuitive. Taking the photo is also odd – why would B have the mother's phone when they were in the process of seeking emergency help? A had been using it upstairs. I am unable to determine why it was taken. If it was B I would imagine he knew how to take photos so a mistake is unlikely given the framing of it. I can understand why the parents would have wanted to change her from vomit stained clothing although it is odd that the clothing was thrown away and the mothers explanation did not really seem genuine which suggested there was something about the clothing (for instance blood) that meant it was too damaged to retain – another explanation might be it was torn but that is speculation.</b></p>	
10.57.50	– First Unit alerted	S7
10.58.04	- First Unit en route	
11.02	Last of F's calls to friend: 12 secs	J674
11.05.28	SECAMBS call number for scene, handler doesn't seem to grasp fact that F doesn't speak English. Limited conversation with F who speaks broken English, confirms address, says taxi is going to take them. F says he speaks Dari, Afghanistan and that it is the same as Persian. Interpreter called – no difficulty with language – we are expecting an ambulance but it is late and we are making our own way to the hospital – no we don't need an ambulance we are going to the hospital by ourselves -	S7
11.05.55	F phone Unsuccessful call in from 01293....	
11.06	Incoming call to F's phone from 01293 (Crawley).... Call duration 5 min 22 secs	J674
11.12.35	– Ambulance to stand down	
11.13.18	Caller states no ambulance required, pt being conveyed to hospital in private transport interpreter confirmed twice that no ambulance is required	S5
11.16.07	– Caller rung and stated the pt's brain is falling out, unable to confirm if pt is breathing or conscious or what has	

	happened. Caller extremely distressed and shouting hysterically at EMA	
11.17	?? F and friend leave Add2 to drive to Darenth Valley Hospital.	
	<i>There was not enough room for the whole family so I stayed at home with the other children. Z was conscious when she left the home but my husband says she became unconscious when they left the home on the way to the hospital.... Once Z had left for the hospital B and A were hungry and so although I was aching I made them some food. I put shopping in the fridge. The dress and nappy were in the bathroom and then I put them in the garden and my husband has a clip of this on his phone. I had no choice but to do these chores although I was aching.</i>	C70
11.25	Z arrives at EDVH DR Bokhari: We managed to get history from Dr Hamid who is one of the Respiratory Consultants working at Darenth Valley Hospital who acted as an interpreter for father's Farsi language. Father mentioned that he was in Tesco and got a call from Z's mother that she had fallen and was not responding. Mum had heard a loud thud and when she went to check she saw Z fallen at the end of the stairs unresponsive and that is when she called Z's father. Z's father mentioned that he was very close by and rushed to the house to call the ambulance, but unfortunately the 999 service could not understand his language so he called his taxi driver friend who brought Z and father to the Emergency Department.	P3
11.27.49	F's friend calls him: 2 secs	J675
11.28.58	F's friend calls him : 2 secs	J675
	<p>Dr Bokari: Father stated that he had been in a local Tesco's when he was called by his wife and she told him that Z had fallen down the stairs. He therefore went home and tried to call 999 but was unable to make himself understood due to the language barrier. F's English was broken. He said he then called a friend to take them to the hospital. He was very keen to show us a copy of the receipt he had from Tesco's but as I was so busy treating Z I did not actually examine it closely myself.</p> <p><b>In terms of the medical evidence he confirms there was a boggy swelling from which blood was coming as he recalls fresh blood on the pillow and in her hair. He said they did not roll her to examine the swelling further as they were concerned about her brain injury and cervical spine. He said blood could have come from a laceration or a graze and the pressure of the blood in the swelling would have caused it to exude more than a normal</b></p>	J365

	<p>graze. He said it wasn't a significant amount otherwise they would have done something.</p> <p><b>In terms of what the father said Dr Bokhari's recollection was consistent with the notes that were made at the time and he was clear that the father's account was given in fractured English and then in Farsi and that it was clear and repeated. He thought the regular references to the Tesco receipt were odd but Dr Raouf didn't and his concern about the odd behaviour of the father about the interpretation I think is within the normal boundaries of unexpected behaviour under stress – I read nothing into that. I am confident that his recollection of the father making clear he was called when he was at Tesco is accurate and was not the result of him misunderstanding something as it was the message that was got loud and clear in Triage and by the initial A &amp; E attendees who passed it on to Dr Bokhari. His references to F saying he rushed back are only explicable by F having receive a call. It would also explain more the reference to the Tesco receipt showing when he got the call from W.</b></p>	
11.31	<p><b>11.31</b> – Z arrives at ED (Sue Govier Safeguarding nurse on safeguarding update) – severe head injury having reportedly fallen down about 9 carpeted steps onto laminate floor. History given by F through Dr. interpreting – M heard a 'thud' and found Z at bottom of stairs, unresponsive, called for ambulance but couldn't make self understood. Called F who was in Tesco and he came home. Child still unresponsive and F called ambulance couldn't make self understood and so called friend with taxi to take them to hospital</p> <p><b>F's later account in his statement was that when he arrived home A told him to come upstairs as Z was not well. M's statement says she picked up her phone to call him but then he came home before she actually called. A's account was both that his mum called his dad and that he told his dad. On her arrival at hospital Z is wearing a sage green dress with butterflies on it</b></p>	P6
	<p>At triage – Z said to be unresponsive and full paediatric cardiac arrest put out -significant boggy swelling on side of head noted</p> <p>In patient record – reference interpretation by Dr. Hamid – fall down 11 stairs, mother heard thud, called F (who was in Tesco) as child was unconscious. Called ambulance but couldn't make self understood so called friend with taxi to take to hospital</p>	P104

C145

Interpreter Dr Raouf : He called his wife to get some of the answers to our questions. He spoke to his wife in another language that I could not understand. As father told me, he was out in Tesco and after returning to house he was told by wife that child had a fall from stairs. As he told me his wife had not seen the fall but had heard a bang and found child at the bottom of stairs. Height of stairs was told about 2 meters. Child was not alert when was found. Wife did not know how child fell from stairs. Time of the event recorded as he told (I do not remember it). He tried to call for ambulance but as he could not speak English well he was not able to answer their questions. So he had hung up and called a taxi to bring child to hospital.

**Dr Raouf: He is a fluent Farsi speaker and he considered that the father was fluent in Farsi and that their conversation was smooth. He confirmed that their conversation took place outside the bay over 20-25 minutes of which the father was on the phone to the mother for perhaps 10 minutes. This does not seem consistent with the phone records and is probably a reflection of how time is hard to gauge looking backwards. The context in which the father raised the issue of the Tesco receipt seems more likely to have been around the father asserting that he was at Tesco when it happened and that the question of the time arose from the doctors rather than the father when Dr Raouf realised the receipt would have the time recorded on it which might shed light on the timing of the injury. He is probably right that the Mother was not on loudspeaker otherwise he would have remembered something about how she seemed to be and the interaction of F and M. He completed a memo 2 days later and his statement was based on that. It does record the father being told when he got home but every other individual and particularly Dr Bokhari have the impression from multiple conversations that the father said he was called when he was at Tesco. I think Dr Raouf's recollection in the short memo he wrote is therefore less reliable than the contents of the notes created by various individuals over the course of the morning and who were far more deeply involved than Dr Raouf. There was nothing particularly notable about the father's demeanour or interaction with M or anyone else, He thought F was upset but together.**

	Records history taken over 1-2 hours/ Farsi recorded as language History: pt at home beforehand with mother and 3 day old baby. Pt fell down carpeted steps to wooden floor at bottom of steps. Mum called father who was at Tesco who attended – called 999 but owing to language barrier dad hung up and called his taxi driver friend who brought him to ED	P101
11.31.22	M's phone seems to record incoming call from F (no voicemail) : missed call	J677
11.31.52	M's phone seems to record missed call from F	
11.32.08	M's call seems to record call from F (no voicemail)	
11.37	M's phone being used to play 'Amazing Rope'	J676
12.08	M's phone receives call from unstored number 2m 18 secs	
12.14	CT Thorax and Neck by Dr Garryck Tan, consultant Radiologist Healing fracture of the right humerus with callus formation.	
12.15	Triage Notes <ul style="list-style-type: none"> <li>- Dad had received a call from mum who was at home with 3/7 baby and 3 other children. Dad received a call whilst at the shops by mum who had said that pt has fallen down 8-9 carpeted steps and landed on hard flooring and has been unresponsive= since dad came home it said it was close. Called 999 at the time however due to language barrier couldn't understand call a friend's taxi and brought him here</li> <li>- O/E pt is unresponsive at triage full paediatric cardiac arrest put out significant boggy swelling noted to left side of head</li> </ul>	P95
12.21	Body Map shows area of swelling on centre/right rear of head.	P116
12.22	CT head: vertical linear fracture extending from the right parietal to the occipital bone. Right subdural collection.....acute component and much of rest being subacute.... Marked midline shift and rightward uncal herniation which is compressing on the right mid-brain or cerebral peduncle... Posterior scalp oedema seen diffusely	P15
12.23	M's phone (....) receives call from F's phone (...798). 1m 14 secs	
	<b>13.15</b> – urgent referral to KCC	
13.24	<b>13.24</b> – Telephone call from F to M (1min 32 second) <b>M receives call from F 's phone 1m 3 secs</b>	J117
	Anaesthetic record has history from F via interpreter as fall down 11 steps, M heard a thud, called F at work. Called ambulance but language issues took child in taxi to DVH	
	<b>14.11</b> – Z transferred to KCH neurosurgical unit	



	<b>14.15</b> – Strat meeting organised by Sue Govier at DVH	
	<b>15.46</b> – KCH – Mr. Ali Elhag, specialist registrar on call – history reported as brought into ED by taxi having fallen from 8-9 stairs. Found unconscious by M after hearing a thud, M called F was close by	
13.15	Urgent referral made to KCC	P6
14.15	M's phone receives call from F's phone 21 secs F's phone shows call to M (...725 "I love you")	
	<b>15.52</b> – CT scan by Jozef Jarosz concludes post evacuation of right SDH with ischaemic change/infarction involving almost all of the right cerebral hemisphere and with damage to the left cerebral penduncle adjacent to the free edge of the left tentorium	
16.28	<b>M's phone receives call from unstored (withheld number)</b>	
17.02	Strategy meeting chaired by Victoria Harlin Sister Rachel Thornton – record that MDT decision is to arrest both parents. Z had previous bleeds on CT scan and a humerus fraction	
17.29	M's phone receives call from F's phone 1m 8 s – Video call (PC HIL BWV)	
17.51	Clinical nurse specialist Maura Hubbard – gets updated from Sue Govier (safeguarding nurse at DVA) – history said to be F in Tesco doing shopping. M heard a thump found child on laminated floor. M tried to call Amb but couldn't make herself understood. F dropped shopping and came home and tried to call Amb.	
18.05	M arrested at home. M appears to be in some discomfort, holding her stomach. Her reaction to being arrested is not evident – she is distressed at the idea of being separated from Mahdi and is crying when she is taken to the car about the baby and the milk. M says she speaks Dari Farsi when asked and then says Dari. When the interpreter speaks to her she and interpreter appear to communicate without difficulty, PC Hill and PC Cronin attend at the family home to arrest M in relation to attempted murder (and BWV available)  Crime Report – 46/89338/20 – attempted murder (and slightly updated) <b>18.00</b> A spoken to we used language line to ask him if anything had happened today, A said his sister had fallen down the stairs, he pointed to the stairs, he said that he and his Mum and the baby were in the bedroom we were standing in, and pointed	J736  J120  J736

	<p>to the mattress on the floor, he said his Dad and younger brother B had gone to the shop, when his sister Z fell down the stairs, I asked if anyone was with her he said no she was alone, I asked him to show me where she had fallen and he took me to the top of the stairwell and pointed down the stairs. I asked him what happened after she fell and he said his Mother went and got her, and placed her on -top of a sleeping bag which was lying on the floor in the corner of the bedroom. A said that this happened about half a minute after his father and brother had left for the shop. He said that his Father came home called his friend,</p>	
18.22	<p>Brain injury appears to be about 48 hours old: Dr Jaymohan Eye injuries timed to same as brain injuries: Dr Malcolmson Latest time for acute skull fracture (48 hrs pre-death): Prof Mangham</p>	J425 E319 J645
18.32	<p>Dr. Gaurag Upadhyay, specialist registrar note on admission to PICU – repeat history but reference to 11 stairs and found unconscious by M at bottom of stairs. Note GCS 5/15 on admission. Transfer to KCH for evacuation of subdural hematoma. Underwent emergency right frontal craniotomy for evacuation of subdural hematoma – CT following craniotomy showed still midline shift and craniotomy enhanced and ICP bolt inserted</p>	
18.53	<p>further head CT scan to compare earlier, SDH overlying the right cerebral convexity almost completely evacuated. Left sided trans frontal pressure bolt placed with tip in left frontal white matter. Almost all of the right cerebral hemisphere remains of low density and swollen indicating evolving ischaemic injury</p>	
19.20	<p>3 children made subject to PPO with PC Rosemary Acton and Detective Inspector Scott Relf</p>	
27.05.20	<p>Red Cross safeguarding team send letter to KCC Director of services advocating that the children should be placed on CP plan. This was before they knew of the incident on 27<sup>th</sup> at home with Z.</p>	C55 / V62
20.01	<p>following transfer – hospital contact OIC – John Summers to inform him that Z’s green dress with butterflies and earrings remained at DVH – collected at <b>22.20</b> and statement taken on chain</p>	H43/P97/R134
20.48	<p>Neurosurgery performed by Dr. Harutomo Hasegawa 1<sup>st</sup> craniotomy to evacuate subdural haematoma – left pupil reduced in size but both still unreactive. CT scan shows</p>	R19/C134

	although haematoma was evacuated the mass effect had not resolved due to swelling of the underlying brain – this returned to theatre for decompressive craniectomy with duraplasty and insertion of ICP monitor. Brain described as being very tense. Second CT showed improvement in mass effect – Z transferred to PICU at 19.50	
	<p>Escalation Referral by BRC</p> <p>We have liaised with Children's social care and worked closely with the British Red Cross Safeguarding team. Our safeguarding team suggested that we fill out this referral as the next steps because we have significant concerns regarding risk of harm to M, her three children and her unborn child. We are concerned M is experiencing domestic abuse in the form of sexual, physical and emotional abuse. We are also concerned that the children are experiencing significant harm, in the form of emotional and possibly physical abuse, due to their exposure to the domestic abuse within their family. We are further concerned that the behaviours of domestic abuse from F to M appear to be escalating and there are a number of factors in this case which point to factors in historical domestic abuse cases which have resulted in Intimate Partner Femicide as per Monkton, 2019, for example;</p>	V55
<b>28 May 2020</b>		
28.05.20	<p><b>08.47</b> – Dr Bodvar Ymission – notes injuries as right SDH, midline shift, ischaemic right frontal lobe and right sided occipital fracture and humerus fracture</p>	R21
	<p><b>11.27</b> – Dr Christoforos Syrris, SHO review and plan to keep asleep under neuroprotective measures, manage hypernatremia and trauma survey to be completed</p>	R22
	<p><b>14.49</b> – Dr Lampros Lamprogiannis specialist registrar and paediatric fellow – note no haemorrhages in either eye but periocular bruising noted</p>	R23 / R130
	<p>15.10 – Dr Drupti Jogia SHO ward round – note history and refer to repeat CT scan noting a left frontal subdural haematoma and right parieto-occipital fracture</p>	R23
	<p><b>16.31</b> – Suki Thompson undertakes further CT scan and review with previous. Deterioration in imaging appearances, increased swelling of right cerebral hemisphere. Right frontal haemorrhage has not worsened. Increased cerebral swelling, MLS and effacement of cerebral structures</p>	R150

	<p>18.13 Strategy Meeting update by Lisa Robertson (senior management team)</p> <p><b>23.40</b> - Mr Prajwal Ghimire specialist NS registrar. Call from PICU following spikes of 50 on ICP. Discuss with Mr Hasegawa. No benefit from further surgical intervention</p>	<p>R25</p>
	<p>14.42 – F Police interview (Part 1 15.07) And transcript of pre-prepared statement read by solicitor Part 2 – 16.22 until 17.21</p> <p>I, , make this statement of my own free will. Although my Solicitor is reading this out these are my own words. I have never caused any physical harm to Z. Yesterday I went shopping at Tesco. I have the receipt in my property. There is also a photo of my son in a pram which was taken just before we left the house. I was gone with my 4 year old son for about an hour. Please check my phone for the photo. When I returned home my wife was sitting on the bed holding our new born child. Z was on the floor on a sleeping bag. She had been vomiting and she had small cuts to the side of her mouth and the bridge of her nose. Z was not conscious.[In evidence F corrected this to say ‘she was conscious when I got home and became unconscious when I was outside waiting for my friend] My wife told me that Z had fallen down the stairs and hit her head. I checked Z's head and it felt soft. I became scared that Z was seriously injured. I called my friend and asked him to call an ambulance. Whilst I was waiting for an ambulance I changed Z's nappy and clothes. I did this because she had done a poo. She opened her eyes as I did this. In the end I got my friend, W1, who is a Taxi Driver, to drive us to hospital. Because the ambulance was taking too long. I was not aware of any previous injury to Z's head. I spent some time in prison a few months ago. She may well have sustained injuries while I was away [corrected in evidence to say he was not aware of any injuries suffered by Z] . My wife never told me about an injury to her head. I was aware a couple of months ago that Z had swelling to her forearm. I asked my wife about this and my wife told me that Z had hurt her arm by falling off a trampoline. My wife did not think that Z needed medical treatment. The swelling went down shortly afterwards. I have never sexually abused Z. I am not aware of her, of her being the victim of sexual abuse.</p> <p><b>The father's account is broadly consistent with what he is recorded to have said at the hospitals and also with what he said subsequently. The significant potential difference is about the telephone call. He was of course aware by this time that the police had his telephone and</b></p>	<p>J682 J687 J1596</p>

	<b>did not repeat what he had said to the doctors about he having received a telephone call from his wife whilst he was at Tesco's. The disappearance of this assertion I'm satisfied is linked to his realisation that his phone would be examined and would not disclose any such call. Given he specifically refers in his preprepared statement drafted by his solicitor to his phone and the evidence contained upon it he was plainly aware of the significance of material on his telephone. Of course by this time he was unable to communicate with the mother or with A.</b>	
14.50	Police Crime Scene examiner (ends 17.27) Particular looking for vomit stained items and nappies Outside bins searched Blood on pink slipper and duvet cover from M	J472 J1218
18.32	18.32 – M Police interview (until 20.02) interpreter confirms she is Farsi Afghan [J709] <i>Yesterday I was asleep I had given birth to my baby, 4 days ago or 5 days, I had lots of bleeding at the hospital and I was very weak when I came home and I was crawling to the toilet and about. I was in the bedroom with Z, my daughter who is at the hospital now. [I was ill, I had pain in my tummy and could not walk down the stairs ] She was sitting with me and the new baby. She was singing some baby songs for the new baby. She was busy with that and all of a sudden she closed the bedroom door and I heard a drop noise. When I crawl to the door I saw that she had fallen from the stairs, maybe she has hit her head by the heater or by the door. When I with lots of difficulties I crawled down the stairs I hugged my daughter then I came upstairs and I noticed that she was vomiting. When I took Z upstairs she was vomiting, like vomiting. I changed her clothes and I noticed that she was not responding that much and I tried to press on her chest when I saw that she's not responding that much. My husband and my 4 years old boy had gone to Tesco for shopping-I didn't call the ambulance because of the language barriers that I couldn't speak. I called my husband. Then my husband made haste and he came very fast, he came home because he was not speaking the language that good he also had called his friend to bring his car and with the help of this friend he took Z to the hospital.</i>  <i>.....For example she had injuries, small injuries on the skin here and here and here. (pointing to face).</i>  <i>M suggests the fall happened 5 minutes after F left or a few minutes</i>	J690

	<p>F released and taken home. F wanted police to remain with him and didn't want to be with M</p> <p><u>the father said that he did not want to go in because he knew the children were not there and he wanted not to go back to police custody but to wherever the children were.</u></p> <p><b><u>It seems far more likely that the father's reluctance to re-enter the family home was because of the emotional impact of returning to the home; whether this was because it was the place Z had sustained her injury or because he did not want to face the mother because he feared what she would say to him or he feared what he might do to her can only be a matter of inference. Given the unlikelihood of the mother having deliberately injured Z and the improbability of the father's explanation the more probable reason is that the father was reluctant to face the mother</u></b></p>	
15.45	<p>15.45 - A and B – CP medical carried out by Dr. Elizabeth Ajayi, Dr Maria Patoczka and Dr Shahinul Islam Khan.</p> <p>- A had multiple scars, some of which he said were caused by B and were considered to be normal childhood marks although a query was raised over his having so many facial scratches. A partially torn and healed labial frenulum was found which could have many causes (accidental and non-accidental)</p> <p>- no signs of acute injury or bony deformity</p> <p>B</p> <ul style="list-style-type: none"><li>- Various scars and scratch marks. Normal childhood marks</li><li>. NO reason to undertake skeletal surveys following medical examination</li></ul>	E33 / E39  E37  E31
<b>29 May 2020</b>		
00.56	<p>Dr. Anuj Khatri, specialist registrar night review. Note ICP as high as 65</p>	R25
	<p>M and F made subject to Police bail no unsupervised contact under 16, any supervisor approved by SS, to comply with SS in respect of family and home circumstances and to live and sleep at FMH</p>	
11.41	<p><b>11.41</b> – Dr Pam D'Silva, consultant– refractory ICP despite neurosurgical and medical management. Clinical status and CT scans discussed with Mr Hasegawa and Dr Kirkham (neurology) all agree continued treatment futile death inevitable and withdrawal of intensive care appropriate. Not for resuscitation in event of cardiac arrest as is inevitable outcome of head injury. Imam to be contacted to offer prayed and blessings</p>	R27

13.07	<p>(- 13.50) A has ABE interview by DC Hardie (NB – trained to quickly assess children’s communicative abilities – see statement J492) and PC John Summers (see statement J496) Second Interviewer (PC JS) notes J344</p> <p>So we were sitting in our mum’s room. And she was outside. And my brother sleep she fell from the stairs down. She (inaudible)... Yeah my mum was sitting there sit with baby. My brother sleep. I sit and have watch the (inaudible) I was busy with my mum’s mobile phone and Z went out of the room and she wanted to go downstairs..... She fell backwards from the top out to down to the last step/stairs where the door of the house is. [Okay did you see Z fall?] no we just, me and my mum were there, Z just.... No we didn’t see where but we heard some noises and we came out of the room and saw that Z was at the last step of stairs and my mum grabbed her or hugged her...[What noises did you hear?] It’s a bang bang...[We were in] mum’s room and the door of the room was a little bit open. If it wasn’t open we wouldn’t have been able to hear it.... What whatever I asked my mum she couldn’t speak she was crying and screaming... My dad was with B in a shop. My dad called his friends and took her to the hospital. [He found out when] he arrived home and my mum told him about it. [A explains that his mother put Z in her room, she was wearing a dress, which was pink and colour of the sky with some flowers on it and Afghan dress trousers. He said she was screaming and vomiting and the fruit squash came from her mouth. A explained that they called the ambulance but they realise that they would arrive late so they called a friend. A goes on to explain that he saw her at the bottom of the stairs that he didn’t know where her head banged or how she hit her head, could be on the fireplace or on the stairs. <b>His mum called his dad and he said he was coming quick to get her to hospital. And that his mum said to his dad to come home quickly.</b> He was playing a game called TT rockstar. He later says that he and Z were watching a film on the mother’s handset of her mobile phone. And that after Z left the room to go downstairs and they heard the noise his mum said to him to go and have a look and he then said to his mum that she had fallen down the stairs and that he and his mother took her upstairs. Towards the end of the interview when asked what he doesn’t like about his mummy and daddy he says fight... They shouldn’t fight. They don’t fight they don’t fight but I don’t want them to fight</p> <p><b>The mother confirmed in her oral evidence that she had watched A’s interview and that he had said that she called the father and that his father came. Thus the</b></p>	F11/J432
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	<p><b>reference to it being 5 mins after F left and the telephone call are consistent with M’s account but not dads. There is a lot of interaction between the interpreter and A when talking about the incident so that is difficult to tell to what extent he has been led His explanation that it was a bang is illustrated with 2 knocks of his fist and he says if the door hadn’t been open they wouldn’t have heard it – this seems odd (as an impact at the bottom would have been quite loud with that force being generated and she was said to have screamed ) His account is more animated when talking about how Z was after the ‘accident’. He talks about ‘we don’t know’ where her head banged etc – which suggests he has discussed it with his family before hand (22-23m) He says his mum called his dad – come quick – (in English) Curiously he seems to describe his M looking after C more than Z – who seems to be lying on the floor untended?</b></p>	
13.15	<p>EPO granted by DJ Abigail Smith EPO application SW (Ruth Gavin) statement in support of EPO</p>	B2
17.00	<p>M and F arrive at KCH and described as ‘throwing their selves at Z’. DC Hardie instructed that parents not allowed to touch Z due to forensic opportunities and so parents pulled away from laying on Z’s body and crying hysterically. Chairs made available so they could sit close. M chanting loudly to God . F trying to comfort her but M kept refusing his contact</p>	J493
17.55	<p>Sister Lucy Levick present on unit when M and F arrive. Both began touching Z and lying over her. Bedside nurse Sandra called on Police to help stop the parents – risk of dislodging intensive care equipment. Non-emergency security called.</p>	R28
18.12	<p>Dr. Pam D’Silva, consultant. Z’s adoptive parents very distressed on seeing her wailing loudly. Explained via language line that in spite of surgery and intensive care treatment Z was going to die. F asked if he could donate a part of his brain to help her (repeatedly). Parents asked if more time or further surgery would help her recover. Her brain was very swollen, and this would cause her heart to stop very soon. After repeated explanations the parents consent to intensive care being stopped. Parents asked that other children not be told about Z and SW, Louise Johnson who was present said this would be discussed.</p>	R28



18.15	<b>parent's said a prayer</b> , care withdrawn by disconnection from ventilator, Z becomes progressively bradycardiac and hypertensive and Z peacefully passed away straight away with nurse cuddling her and parents at her bedside.	R29
18.22	Dr. D'Silva certified death taken to mortuary at 20.00	R30/54
	JD and Isabel Frost visit Family Home JD: M pale and sick, didn't talk at all to JD. F agitated and upset, F communicating in English. He was talking about the children feeding and C drinking milk.	J1236
29.5.20	C – CP medical by Dr. Shahinul Islam Khan – no physical signs of any injuries and so no further investigations required	E33
30.05.20	M reported to have called W2 at British Red Cross and left a voicemail message saying ' please help me, please help me, please help me.'	C55
31.5.20	Post natal visit to home by RM S Woodcock – Whilst alone with Mum she is asked if she was concerned for her safety and says not.	E26
01.06.20	F in contact with Niki Bibudis Vicente, casework coordinator at the British Red Cross and explained that 'his daughter had passed away last week' saying I went to the supermarket and then I came back, and this had happened, The social services took my children and put my wife in prison.'" and asking for a lawyer to help Last direct contact from the family to the Red Cross  Crime Report – 46/92631/20 Welfare referral (from Red Cross?) expressing concern that M at risk from F of domestic abuse – following receipt of voice mail – 'please help me'. F makes no comments in relation to the abuse but references death of Z. Parents say unclear why children have been taken by the family court and that they have to go back to Court on 04.06.20	V49  C46  J84
02.06.20	C110A  SW (Ruth Gavin) statement (1)	B4  C2
03.06.20	Case transfers to the children in care team in Dartford and is allocated to Senior Practitioner Claire Jones  Strategy Meeting  Contact agreement between M and F and C  Placement Planning Meeting	C82  F101/ R31  F129  C82

	MARAC referral form	J200
04.06.20	Further to Strategy Meeting, HV to contact M and ascertain her health and well being via a Dari interpreter by 'phone. F present and so not possible to ask about relationship. M feeling very sad although physically well. M sad at loss of Z and says "my whole life is my children and they took them away from me" CMO – 1 – HHJ Davies making disclosure orders directed to the Police to C&W and DVH and to the HO and children subject to ICO	C38 B34
05.06.20	Report of Dr. Hemant Ambulkar, ST8 neonatology and paediatrics and Dr. Ali Bokhari, consultant paediatrician at the Darenth Valley Hospital  Review of F's mobile phone (Exhibit NO/01) by DC Oliver	P3 J117
08.06.20	Preliminary Post Mortem report by Dr. N Cary (autopsy carried out on 03.06.20 at GOSH)	E46
10.06.20	CMO – 2 – HHJ Davies –	B48
11.06.20	Outcomes strategy Meeting  A and B move placement	F88 C83
17.06.20	MARAC meeting –  Independent Second Postmortem undertaken	J1683 J123
22.06.20	C's initial health assessment by Dr Suriaaratchie – no concerns raised at CP medical on 29.05.20. Described as thriving and gaining weight  Letter from Kent Police to the Court updating progress of the investigation	E15 J88
23.06.20	A's initial health assessment by Dr. Kim Blackwell.  B's initial health assessment by Dr Kim Blackwell. -  C2 application by LA for DNA testing – maternity and paternity of Z  C2 application by M for release of papers to criminal solicitors and for a direction pursuant to s.38(6)  M seen by HV and says she cant grieve as Z's body hasn't been released.	E2 E9 B52 B59

24.06.20	CMO – 3 – HHJ Sullivan	B81
25.06.20	<p>F's Second Police interview – conducted by DC Hooper "I, J, make this statement of my own free will. Although my Solicitor is reading this out these are my own words. I cannot add much to the account I gave to Police on the 28th of May 2020. Most of the information I have regarding Z's injuries has come from my wife. On the 27th of May I woke up and went downstairs for breakfast. I made breakfast and took it upstairs for everyone to eat. My wife was unwell as she had just given birth on the 24th of May 2020. Z ate a big breakfast. After breakfast I went downstairs with my wife, Z and B. My wife and I discussed what we needed from Tesco. B and I got ready to go to Tesco. I took a photo of him in the pushchair and then we left. My wife and went back upstairs. Z did not have the fatal injury to her head before I left the house, which was at about 9:45am. We came back at about 11am. This probably, probably was not the exact time but around that time. As soon as I walked back into the house A informed me that Z had vomited and fallen down the stairs. I left the shopping in the kitchen then went upstairs. I have already explained what happened after this point. I was only at home for about 7 or 8 minutes before my friend arrived and took us to hospital, I never knew about a previous fracture to Z's head. I have already told Police what my wife, my wife told me about the injury to Z's arm, I did not know it was fractured and if I had known she had such an injury I would have sought medical treatment. Regarding Z's fingernail, this fell off whilst my wife was in hospital having our new born baby. My wife told me a few days before that Z had caught the finger in the kitchen door. This caused blood under the nail and for the nail to eventually fall off. In relation to the burns, these occurred at a time when we had no hot water and my wife was using the kettle to heat water and fill the bath. She told me that Z had tripped over the kettle cord and fallen to the floor. The kettle was knocked over and the water caused the burns as noted by the hospital. I was informed of this when I returned home. My wife said it had only just happened. I took Z to hospital in a taxi straight away. I have nothing further, further to add at this stage'. F can you just sign the bottom of each page just so we know that they're both your pages, alright. (SOLICITOR hands Prepared Statement to F to sign). Okay, and there. Can I have a copy of this afterwards please?</p> <p>Part one (12.47 – 14.39)</p> <p>Part two (14.59 – 16.11)</p>	J500 J511 J560 J722

	M's second Police interview conducted by DC Adams : No comment	
26.06.20	M's further bail notice as before and including weekly reporting to police station and including surrender of passport until 23.07.20	J93
29.09.20	F's further bail notice as before and including weekly reporting to police station and including surrender of passport until 27.07.20	J96
02.07.20	Schedule of Police evidence 1  Statement of CSI Paulson – attends family home on 28.05.20 to examine the scene and to retrieve materials	J99  J497
03.07.20	CMO – 4 – HHJ Scarratt Considering the DNA application of LA, supported by CG, do it asap to avoid need for delay in burial or for further samples to be required and noting no permission from Coroner for further samples to be taken and Coroner has said use samples in possession of the Police and Police understood to consent to testing	B105
06.07.20	Macroscopy report by Professor Al-Sarraj, consultant neuropathologist	E49
07.07.20	Extraordinary MARAC meeting – chaired by the Police	C91 / J1692
10.07.20	Interim Coroner's report	J274
14.07.20	First Statement of the Father  Claire Jones (SW) spoke to M and introduced her to IDVA but M denied domestic abuse and did not want services of IDVA	C22  C92
24.07.20	C seen for his 6-8 week check.	C89
28.07.20	DNA tests confirm that M is not biological mother and F not biological father of Z	E27 / E30
06.08.20	Biology report – Tested a blood stain found on 'vomit stained long sleeve white dress' and at least a billion times more likely to have come from Z Tested blood stains on the mattress – and at least a billion times more likely to have come from Z	J171

07.08.20	CMO – 5 – Moor J Agreeing to instruction of experts as sought by CG (neurosurgeon, paediatrician, burns expert and permission to CG to instruct Police experts including Professor Mangham, Professor Al-Sarraj, ophthalmic histopathologist and Dr. Cary	B172
13.08.20	Second statement of the F – setting out his concerns about the children’s care. Concerned that it has not been possible to bury Z.	C77
01.09.20	Child in care review – A – B – C -	F133 F137 F140
16.09.20	Order – by consent Holman J  Statement of Dr. Pam D’Silva, consultant in paediatric intensive care – covering Z’s treatment at KCH from 20.00 on 27.05.20 and 18.22 on 29.05.20	B193 J177
12.10.20	Communicourt assessment of F by Maija Siren, recommending an intermediary be appointed to assist the F	E128
04.11.20	Further contact agreement	F147
06.11.20	Case recording of discussion between SW (CJ) and F (using language line)	F151
10.11.20	CMO – 6 – Keehan J – vacating hearing on 11.11.20 and relisting for 26.11.20	B209
26.11.20	CMO – 7 Williams J –  Statement of Midwife in relation to visit to family home on 26 <sup>th</sup> May 2020 (this is L. Dixon)  Statement of Dr Abdohamid Aminy Raouf of DVH	B213 J1291
03.12.20	CMO – 8 Williams J  Third statement of F	B223 C95
08.12.20	Further ABE interview with A and notes and drawings	J742

	<p>A asked about him saying to foster carer if someone does something bad when they are a child could they go to prison when they are an adult. He says he wasn't thinking about anything in particular when he said it</p> <p>DC Emily Hooper and DC Adams (and Amy Driscoll intermediary)</p> <p>10.39 – 11.18 – 41 mins</p> <p><b>It is difficult to draw any conclusion about this. He said in the interview he wasn't worried about anything which seems unlikely given his situation, but the reference might have been entirely theoretical (children do sometimes ask these things) could be related to a childlike concern unrelated to this case or could be about something that happened in the case like a fight between the children or at the extreme end of possibilities that one of the children had done something which caused Z's injury.</b></p>	
09.12.20	B's review health assessment (by Teams by Jo James – LAC nurse) –	E208
10.12.20	C's review health assessment (by Teams by Jo James – LAC nurse)	E212
	M's pregnancy with unborn was registered by midwife Meghan	F195
18.12.20	CMO – 9 Williams J	B230
23.12.20	Statement of DC Perez examining the parents' mobile telephones	J671
27.12.20 13.12	<p>Crime Report 46/227173/20. DOMABUSE in prog ...female screaming and male shouting .. lot of banging.. female is crying.. Inft says F speaks Persian and pigeon English and M does not speak English, this is regular occurrence in last 5 months, she is dominated by him, ...it seems to have gone quiet.. this is the norm it goes quiet and then escalates on and off for hours... female definitely being beaten.</p> <p>PC Garrett</p> <p>We were called to an address by a neighbour in Add2 to reports of a female screaming and male shouting. Upon attendance around 1330HOURS the male answered the door calmly and let us into the property. I spoke to the male downstairs in the kitchen where he was washing pans and my colleague PC 13511 Stewart went upstairs to find the female, I now know to be called M The male stated he had just had an argument with his wife because it has been hard since their baby died and their other children had been taken</p>	J382

	<p>from them. I noticed some reddening to his thumb and asked him where he got it from. he stated that he was cooking using the knife and cut himself. He then turned around to walk out the back door and I noticed he had a small slice in his tee-shirt on the left shoulder on his back, this area was covered in wet blood.....</p> <p>went upstairs with the female and sat in the main bedroom. Whilst upstairs I noticed a pair of scissors on the floor to the side, these looked wet on the edges.</p> <p>PC Stewart F said M caught his face when she accidentally caught her face when she was expressing frustration over her children being removed.</p> <p>M reports nothing has happened and call was malicious as her neighbours don't like her F declined to be taken to hospital and declined to sign notebook via interpreter. Police dress wound.</p> <p><i>M says F brought food upstairs and then slipped in oil and she scratched him as she tried to grab him as he slipped. The wounds were caused by scissors or forks or cutlery. M 2: My husband and I had been eating some food involving pouring some butter oil onto the food. It is a dish called Ishak which is a favourite dish of the children. It was very upsetting to think that the children could not be with us enjoying this meal. We ate the food in a bedroom. As my husband got up to clear away the dishes some of the oil spilt on the floor as he then slipped over. At the time I had been making a cover for a mattress. I therefore had some scissors and needles on the cover I had been working upon. I believe my husband must have fallen onto these and this is how he ended up with the injuries which I have seen photographs of. 41. At the time we did not realise he had sustained these injuries and it was only when Police officers attended did we see what injuries he had sustained. I had some marks on my face. These were from a reaction to me having eaten an aubergine the previous night. I am allergic to aubergine. My husband and I had not been arguing as has been alleged. I had however been upset and crying. My husband had been trying to get me to stop crying.</i></p> <p><u>My wife was sewing the mattress cover, I came downstairs and prepared some traditional food, I did not want to call my wife to come down so I took the food up, we ate food together and so a little but of oil, spilled on the floor. When we ate and I collected the dishes I said was going to get something to clean the spilled oil and the dishes and I accidentally slipped on the spilled cooking oil – so was fork,</u></p>	<p>J660/ J661</p> <p>J658</p> <p>J386</p> <p>J386</p> <p>J388</p> <p>J393</p>
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	<p><u>scissors, garments and dishes and I slipped backwards and you can see the oil stains on the curtain as well</u> <u>My wife said why are you not careful and she tried to lift me up and she grasped my shirt collar and one hand on my face and she lifted me up...I wasn't aware of the cuts. Later he said my wife was crying and I embraced her and the neighbours who were outside washing a car saw us and must have thought we had a fight</u></p> <p>Photographs of injuries sustained by the Father and Mother</p> <ul style="list-style-type: none"><li>- F two puncture wounds to the left shoulder blade which appear to have bled significantly, scratch to right jaw</li><li>- M scratch/abrasion to left side of neck and right side of face</li></ul> <p>Electronic Pocket Note Book extract of PC Stewart M gave a 'no comment' interview F refused to give a statement and H2H was negative PNB extract of PC Ellis – who attended family home. Spoke with F (14.20) and offered to take him to hospital to have wounds treated but refused and refused to sign officers notebook to confirm the refusal</p> <p><b>The accounts given by the parents are simply unbelievable. My intelligence is not insulted by the father and the mothers brazen lies but what other believable explanation could be constructed? What it demonstrates is quite how dishonest the parents are prepared to be to defend their corner and how they simply will not yield even to the most overwhelming evidence. The photograph of the father's wounds demonstrate two quite deep lacerations running downwards into the shoulder with a significant amount of dried blood around them consistent with the police description of the father's shirt being soaked in blood. The parents account that the father fell downwards two or three times onto a pair of upright scissors is both physically hard to imagine but also inconsistent with the nature of the wounds observed. The fact that a neighbour felt compelled to call the police and to describe what they did together with the injuries the police observed on the father and on the mother simply inexplicable by the parents account. I'm satisfied that the father and the mother had some form of disagreement which degenerated into a fight in which the mother sustained injuries similar to those which have been observed previously which would be consistent with being pushed against something, slapped or grabbed by the hair perhaps. The scratch to the</b></p>	<p>J662</p>
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	<p><b>father's face would be consistent with the mother striking at his face with her hands, perhaps in order to protect herself. The wounds on the father's shoulder are consistent with the mother stabbing him from behind with a pair of scissors which were found by the police in the bedroom appearing to have been recently washed. The stab in the back could have been delivered either as the father was walking away or I think more probably by the mother plunging the scissors into his shoulder from the front as the father attacked her.</b></p>	
29.12.20	<p>Ms Sparkes: in order to explore the DV concerns.</p> <p>M was contacted again when an interpreter was available. M explained that she is well and that although her and her husband have had an argument and she had become upset and cried, she is now home and there are no charges being made against her. M explained that she is unwell and she does not believe she would have hurt him, M became extremely upset and was crying during the call and said "I cannot live here anymore", M explained that if the police were called again she would need to leave her home, I asked why this was and M said 'because if I am innocent and the police come and arrest me then I need to go and leave here'. M explained that she feels she was arrested incorrectly and that she could not have harmed her husband because she was unwell. I asked M what she feels happened prior to her arrest, M explained 'I was crying because of my children and the neighbours thought we were fighting and they called the police but no one was harmed'.</p>	F239
30.12.20	<p>Case recording from duty SW Lucy Sparkes (face to face following contact with Dari interpreter present)</p> <p>M: concerned about her children and how they were being cared for in foster care; risk of Covid; M was poorly. wishes to remain with F as he helps in house; says F doesn't and never would hurt her; M said the incident the day before wasn't her fault and was an accident and she had been in police station for 8 years, ; M said she was in the kitchen that F fell when cooking and hurt himself; said when she is frustrated she screams and cries but they are not fighting; M says she didn't see what F hurt himself on. M was not making eye contact and became visibly angry in Ms Sparkes view.</p> <p>F said oil spilled and he moved away and fell on the scissors 3 times. He demonstrated it with an upright pencil and confirmed he fell on it three times. He says that he was scratched by M as she tried to catch him, as he fell. He said his wife had not hurt him and had never hurt him. Ms Sparkes described F as agitated or manic and kept moving around, over-talking and that the scratch was 10cm long and finger nail sized.</p>	F153

	<i>M says she doesn't remember this meeting.</i> <u>F denied this meeting occurred.</u>	
31.12.20	Strategy Discussion in relation to unborn baby following incident on 27.12.20. Starting s.47 inquiry on unborn and go to an ICPC in relation to unborn child	F156
06.01.21	SW (CJ) phones W1 to arrange a home visit as part of the assessment of him to care for the children and he indicates that he does not wish to proceed. He already has 4 children in a four bedroom house and does not think it is possible to look after any more children. He thought he was only being asked to look after 2 not all 3 of the children.	F161
11.01.21	SW report for the ICPC  PC Nickie Mullooly - Police report for ICPC – notes that this is a 'high risk incident on 27.12.20. She notes that there are 16 investigations for M (2) and F (14) on the database.	F162/ X93  F200 / X125
13.01.21	Vitoria Williams - Health visitor report for ICPC  MARAC meeting	F187 / X111  J1701
18.01.21	ICPC in respect of unborn baby – unanimous decision that unborn baby should be placed on a CP plan under the category physical abuse. Safety goals identified that M and F are to work openly and honestly surrounding domestic abuse and safety (by 29.03.21)	F180 / X133
01.02.21	CMO 10  Order – Police disclosure in relation to incident on 27.12.20 – due date is 3 <sup>rd</sup> June 2021	B235  B242
22.02.21	Crime Report 46/29406/21 Police attend family home at 16.42 following an abandoned 999 call. M admits “mistaken” 999 call but M denied all knowledge of an argument).	J377
23.02.21	Report of Colin Rayner – burns expert	J795
05.03.21	Statement of Dr. Harmeet Seehra, DVH confirming him working on 27.05.20 and treating Z. Based on both notes and own recollections.	J678
08.03.21	Addendum report of Colin Rayner – burns expert following sight of 2 further colour photographs taken on 05.11.19 and	J805

	the 'appearances are in agreement with the course of events outlined in my report and do not alter my opinion'	
26.03.21	CMO 12 – Williams J	B262
12.04.21	CMO 13 – Williams J	B273
	CMO 14 – Williams J (disclosure of records from GP surgery)	B277
26.04.21	CMO 15 – Williams J	B277
	Police disclosure order 6	B279
05.05.21	Police disclosure order 7	B285
07.05.21	Pre-birth assessment by Anne Kohler in respect of D	X1
14.05.21	CMO – Williams J	B288
	Police disclosure order 8	B293
2021	D born	
	Expert's meeting a) Transcript b) Video of meeting (currently being uploaded onto Caselines)	E289
28.05.21	CMO – 17	X162
	ICO in respect of D approving care plan (X81) of separation	X164
	SW (Anne Kohler) statement in support of ICO application	X50
11.06.21	Pre Trial Review	
	CMO – Williams J	
17.6.21	F interviewed: Contents recorded elsewhere	J1719
	M interviewed. No comment.	