

IN THE WEST LONDON FAMILY COURT

Case No. ZW21P00441

Neutral Citation: [2023] EWFC 234 (B)

Gloucester House
4 Dukes Green Avenue
Feltham
TW14 0LR

Tuesday, 4th July 2023

Before:

DEPUTY DISTRICT JUDGE HARRISON

B E T W E E N:

A Father

and

A Mother

THE APPLICANT FATHER appeared In Person
MR J WALKER appeared on behalf of the Respondent Mother

JUDGMENT
(Approved)

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DDJ HARRISON:

The names used in this anonymised judgment are not the names of the parties, witnesses referred to, subject child or other children.

Introduction

1. This case is about the welfare of Matthew, a little boy of five years. He was born in 2018 to Jonathan, his father, and Claire, his mother. Throughout this judgment, I will refer to the mother and father in those respective roles and by those titles. I do so for ease and continuity of reference. I mean no disrespect to either of the parents. This is my judgment at the conclusion of a finding-of-fact hearing within the father's application for a spend time with order.
2. The application was made by notice dated 17 March 2021, which is now over two years ago. The proceedings have been case-managed by the magistrates from the outset following the receipt of safeguarding. The safeguarding letter identified the need for a finding-of-fact hearing and, thus, this hearing was directed. The matter came before Recorder Norman for directions and the matter listed, originally, in June and July 2022. That hearing was adjourned due to judicial availability and the matter re-listed before me. This hearing has taken place as a finding-of-fact hearing via CVP over two days.

Background

3. The background to the proceedings can be shortly stated. Matthew is the only child of the parents although Matthew has a step-sibling, an older child, Robert, who is the son of the mother. The parties began a relationship in 2015 and, at that time, the father was living in India. They married and the family relocated to this country. The child, Matthew, was born in the summer of 2018 and, in 2019, the relationship between the parents ended. I note, however, that that date is contentious and I will come to that in due course.
4. Since that date, the mother has applied for and obtained a non-molestation order against the father on the basis of a litany of allegations of serious domestic abuse, including physical and emotional abuse and coercive and controlling behaviour.

5. An order was made on 25 March 2021 by Deputy District Judge Sofaer at Uxbridge County Court, and the matter made as a final order on 14 April 2021, on the basis of no findings, by District Judge Jordan. The application before me was issued on 17 March 2021 and was issued, effectively, after a cessation of contact between the father and Matthew. It is now about two years since the father last saw Matthew.

Issues and parties' positions

6. At this hearing, I have to determine a number of allegations made by the mother in respect of the father and the relationship that the two of them had. The allegations are ones of physical and emotional abuse and they are serious in their nature and character, particularly, the conduct of the father post-separation. The mother contends in seven pleaded specific allegations that over a period of about four years, the father behaved in a way towards her that is abusive. The father, as he said in his submissions, denies each and every allegation and has sought to explain his behaviour insofar as there is agreement between the parties about some of the incidents but, effectively, says that that is not abusive behaviour and, therefore, Matthew's welfare is not, in any way, compromised.

Law

7. It is right to observe the following legal principles at the outset. The burden of proving an allegation rests with the person making it. The person on the end of an allegation does not have to prove anything. The standard of proof in the Family Court is the simple balance of probabilities. In other words, the court must ask itself whether it is more likely than not that the event occurred. This principle must be applied with common sense.
8. As per Hoffmann LJ in *Re B (Children)* [2008] UKHL paragraph 35:
"If the legal rule requires the fact to be proved, a fact in issue, a judge or jury must decide whether or not it happened. There is no room for finding that it might have happened. The law operates a binary system in which the only values are 0 and 1. The fact either happened or it did not. If the tribunal is left in doubt, the doubt is

resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, a value of 0 is returned and the fact is treated as not having happened. If he does discharge it, a value of 1 is returned and the fact is treated as having happened.”

9. Findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence, and not on suspicion or speculation. However, the court can have regard to inherent probability. The court may have regard to circumstantial evidence and give it such weight, individually or in combination, as it considers to be justified. The court must take into account all of the evidence and consider each piece of evidence in the context of all of the other evidence.
10. The court invariably surveys a wide canvass. The evidence of the mother and the father is of utmost importance. It is essential that the court forms a clear assessment as to their credibility and reliability and explains why their oral evidence was given weight or not in deciding the allegations.
11. In assessing the credibility of the parents, I have had regard to the totality of the evidence and considered how it fits in with other pieces of evidence, how consistent it is with other pieces of evidence, motives as to their behaviour, and, of course, how they give their evidence and present generally during the course of the hearing.
12. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything. If the lie was for an innocent reason, namely one that does not denote guilt, it may be ignored. However, if the lie was not told for an innocent reason, it may be used to support the truth of the allegations, if there is other supporting evidence, per *R v Lucas* [1981] QB 720.

Evidence

Preliminary Observations and Procedure

13. I have considered the bundle of documents running to 136 pages. I have also considered additional statements filed by the father, most recently, a statement filed some four days ago running to 26 pages of prose and exhibits. I should say that throughout this judgment, and in

respect of each of the allegations, I will refer to the evidence, as I see it, being relevant and will confine my remarks to the evidence that I consider probative and important. I have, however, considered all the evidence before me; everything I have read and everything I have heard. If I do not refer to a piece of evidence, that does not mean that I have not weighed it in the balance.

14. At the start of this hearing, permission was sought by both of the parents to file additional statements from various witnesses. That application was not pursued by Mr Walker on behalf of the mother who had sought to file evidence from two family friends and a former friend in the church. I say it was not pursued because the last time this matter came before the Court on 8 November 2021 before Recorder Norman, the learned recorder made a direction that any additional third-party witness statements sought to be relied upon should be filed by 6 December 2021.
15. Neither of the parties complied with that very clear direction and, so, Mr Walker effectively conceded that the statements should not be admitted into evidence and, in addition, of course, the mechanism of challenge of those statements was controversial because I was not guaranteed to have those witnesses available should the father wish to challenge the evidence in cross-examination.
16. The father sought to, in addition, file a statement from his own parents. Again, this was filed some six months after the deadline set by Recorder Norman and, therefore, I did not admit the statement into evidence. However, in respect of all the statements, I, of course, had the discretion under FPR 22.1 to allow evidence if it is probative. In my view, the statements that all of the parties sought to file were not probative to the allegations made by the mother, firstly, because in respect of the statement of Violet Smith, there was a significant number of original source text messages and Facebook messages exhibited by the parents that dealt with her involvement in the things said and done. Accordingly, additional evidence from her, in my view was otiose.
17. In respect of the other witnesses, including the grandparents, they could not provide direct evidence of the allegations sought. All those witnesses, effectively, were providing hearsay which, when I have the evidence of both parents, in my view, was of diminished importance

but also widened the issues. That, in my view, was not conducive to concluding this case in a proportionate way and would have led, in my view, to significant distraction from the issues at heart. In addition, there was an issue with the grandparents' statement because, of course, it made a number of retaliatory allegations against the mother. I was particularly concerned about this given the context of the messages to Violet Smith exhibited by both the father and the mother when it was clear that the involvement of the paternal family in the marriage became in issue. I, therefore, did not see how that evidence could be safely admitted and relied upon. Accordingly, in the end, I considered evidence from the father in terms of the statements he has filed and from the mother in terms of the statement she has filed both in these proceedings and, indeed, in the proceedings for an injunction.

18. Before I turn to the evidence, itself, I should also say this: there being no pre-trial review and, indeed, this application being issued before the commencement of the Domestic Abuse Act 2022, the Court had not made any directions about cross-examination of the mother. This is particularly important to be done where the father represents himself and wishes to directly challenge the mother's evidence. As it happened, as I attempted to do this as a housekeeping issue at the start of this hearing, the father indicated he had no wish to cross-examine the mother and would rather give his own evidence. I considered that to be a reasonable position and that was not objected to by Mr Walker.

19. Accordingly, the procedure adopted was by consent. However, I did give the father an opportunity, after the end of the mother's evidence, to consider any questions he would like to be asked and to send those to me through his clerk. Therefore, there was some cross-examination on behalf of the father but that was ventilated through me with, effectively, the judicial filter being put on it to make sure that that cross-examination was measured, appropriate and did not realise the fear, and policy reason behind the prohibiting of cross-examination which is, of course, to prevent the process itself being used in a way that is abusive.

Evidence and analysis

20. I will not embark on a slavish run-down of the evidence I have surveyed. Instead, I will discuss the evidence and my analysis of the evidence together, and I begin with a number of

preliminary remarks about the relationship because it seems to me that given the background of the relationship is so contentious, given, firstly, the date of the end of the relationship and, indeed, the conduct of the father in the aftermath of the relationship are so contentious, it would be, basically, impossible for me to dispose of this finding-of-fact hearing and make findings without a proper appreciation of the context. I say that because where I have two competing versions of events and where I have little in the way of contemporaneous evidence, although I will come back to the contemporaneous evidence shortly, the Court must have recourse to other sources of evidence including the nature of, or any agreed facts between the parties, the context of events and allegations and, of course, contemporaneous evidence. It seems to me that the context in this case was so contentious that it, itself, required some determination.

Context: the end of the relationship

21. It is obvious that spring 2021 was a turning point for the father. I gleaned from his evidence that he persisted with the belief that the relationship would be salvageable even when it would not be up to that point. In cross-examination, the father was asked about going to see the mother over the time between 2019 when the mother says the parties separated, and spring 2021, when the father says that he chose to separate, finally. He was asked if he went to threaten her. He said:

“I posed no threat to her. This had always happened in the past as well. We always used to work it out after a period of time”.

22. It was obvious to me that there was some denial from the father’s perspective, and it was obvious that the parties were on very different pages in terms of their relationship prospects throughout that period. The father, in my view, was plainly unable to accept the end of the relationship in 2019 and spoke of this continuing for some time as the parties lived apart from 2019. I do not consider that this is an example of the father respecting the mother’s decision-making.

23. The mother described the parties’ separation as following a period where she became, as she said in her statement, “degraded, demoralised, trapped and helpless”. I do not accept that the relationship was consistent up until the point in 2021. In my view, the relationship

ended in 2019 and the father pressured her to continue the relationship under the guise of “sorting things out”. The father has exhibited Facebook Messenger messages to his latest statement of a conversation between him and Violet, a friend from the church, in 2019. These begged for Violet’s intervention as “She...”, the mother, “...will only listen to you”. It is obvious that the mother is making noises that the relationship is over and the father’s response, tellingly, is to ask for intervention and proposes even getting an evening job to stay out of the way. Violet’s analysis of the situation was to explain that the mother was experiencing a tough time and that the mother finds the intervention of the paternal grandparents difficult. Even in these cherry-picked messages from the father, the father’s attitude of non-acceptance in the face of being told the reality by Violet, shines through.

24. The father’s evidence diminishes in weight when I also consider the letter he filed from the mother in 2020 in which she notes there was no relationship but “a mutual agreement”. The letter says, “But we have a mutual agreement in which he...”, being the father “...has access to the child two to three times a week but also contributes financially towards the cost of his upbringing”. This adds weight, in my view, to the mother’s statement in the non-molestation proceedings at page 110 where she says:

“In 2019, the relationship ended and the respondent moved out of the property. I needed to get some distance from the respondent and I kept things civil for the sake of the children, hoping the abuse would stop. The respondent could not accept that the relationship was over and would not stop trying to control me”.

25. Likewise, the text messages between the mother and the children’s godmother, Violet; again, the same Violet that is a friend from the church, portrays, throughout 2020, a mother who was on the receiving end of increasingly unsettling and persistent behaviour from the father. I am entirely satisfied that this behaviour was unwelcome. One example is 21 October 2020, messages again exhibited by the father in his own evidence. It is clear that the father becomes insistent when the issue of collecting Matthew from nursery is discussed between the parents. The exchange that he provides in his statement is as follows:

Father: “I’ll pick Bubba from school at 4.00pm and drop him if you don’t mind”.

Mother: “No, I’ll get him myself cos he’ll be unsettled”.

Father: “I will pick. No, no, no. And then just along with him. You can’t stop me meet the boys”.

Mother: "If you want to see him, let me know what time. I'll pick him and drop him".
Father: "Today from school for now".
Mother: "No. He's with [a friend] for the time being and that's his responsibility".
Father: "He travels, himself, after school".
Mother: "Let him".
Father: "As I said, I'll be there at four to pick up Bubba. Thank you".
Mother: "I guess you didn't understand what I typed previously. Do not create a scene at the nursery or else I'll stop you going there".
Father: "I'm not doing any scene; I'm just going to see him. That's it".
Mother: "No. My child gets very unsettled".
Father: "On what grounds are you saying no? You've made things this way now and you'll have to live with that fact. I'll take him out and drop him at 6.00pm",

and so it continues.

26. An exchange like this, even one heavily cherry-picked by the father is, in my view, a very useful vignette in contrasting the father's unrelenting attempts at continuing with normal family life in the face of opposition by the mother and the way he attempts, in my view, to ride a coach and horses through the mother's wishes. I can well see that the mother felt disrespected and, in my view, this exchange is a useful lens through which to understand the father's attitude to the mother during that time.
27. Accordingly, what do I make of the context in terms of how the relationship ended when it ended and the attitude of the parties? In my view, taking this evidence together, I must make a number of preliminary findings to properly set out the context of this case. Firstly, that the father would not accept the relationship was over in 2019 and put pressure on the mother to change her mind. Secondly, that the relationship ended in 2019, and, thirdly, that the father's behaviour from 2019 became increasingly overbearing and unsettling for the mother. The mother sought help from support services within the church community as a result of this.

Context: March 2021

28. The next important flashpoint of background occurs in March 2021 which is when the injunction proceedings were started. The mother had plainly had enough of the father's behaviour which, she says, by this point, was abusive. I will return to the substantive allegations but I want, first, to look at the father's reaction to what I will describe as 'the concrete end of the relationship'. By March 2021, the father was clearly finding events difficult. He appears to have developed what, in my view, is an unfounded view that the mother was orchestrating a campaign of allegations to prevent his relationship with Matthew. Even now, the father hints at maintaining this belief, referring to the mother "stopping" him.

He says, in his most recent statement:

"I am the applicant herein and make this statement pursuant to the court order of 8 November 2021 in support of the false allegations to stop me from my child".

29. The mother admits she restricted the father's time in the aftermath of separation, with Matthew, in large part, in reaction to his increasingly erratic behaviour. The father described, in his evidence, that this was a source of considerable upset to him and, no doubt, motivated continued deterioration in his behaviour. By spring 2021, the father explained that his mental state, in a social media post, was deteriorating. He contrasted two selfies: one where he looks well-put together and another where he is missing hair. He says, as a caption, "That's before and after I joined her", meaning the mother:

(1) I'm going through a mental breakdown and have been considered as mentally ill by my mental health team.
(2) Going through alopecia".

30. The context to this, of course, is that the father moved over from the middle east in 2017 where he had a markedly different life, free of worry and responsibility. He was, in many ways, spoiled by his own parents. Upon coming to the UK and being expected to support a family, it is, in my view, inherently likely that the father would have struggled with the adjustment of caring for a child and working long hours. It is obvious that the effect was to cause the father to sour. He did so publicly, in a Facebook post in March 2021, describing, "My ex-wife is a typical bitch, not letting me meet my son for over one week", calling it "a

toxic relationship to gain attention and sympathy just because I refuse to do what she wants”.

31. Father told me, about this time, that, “I had lost my mind and I was not well”. He told me that he had called the mental health therapy hotline. He said he was not sleeping. He was very stressed with his work and not seeing his son. He also described “losing the full support of the respondent in February 2021”. He said this upset him for some time. It is obvious that the father resented the mother for the situation he found himself in. The father told me that the abusive Facebook post was a “one-off”. I find this to be highly unlikely.
32. Whilst the father came over to me in evidence as having the capacity to be thoughtful and articulate, I do not consider that the social media post was out of character for the father at the time. I find that it was completely concordant with my impression of the father in May 2021, acting destructively, laced with spite towards the mother. I am satisfied that, by this time, the father had lost control of his emotions and behaviour. In spite of recognising, in evidence, that the social media post was hurtful, he offered no satisfactory reason as to why he would choose to do this as a one-off, and I do not believe that it was. I consider that the social media post, on the contrary, epitomised the father’s attitude towards the mother around that time. The context of the ultimate end of the relationship, in my view, holds the key to understanding the allegations that the mother has made and the likelihood in terms of Father’s behaviour.
33. My findings, again, as a preliminary to the allegations themselves, on the basis of the evidence I have heard are as follows: the father’s behaviour worsened in March 2021 where he lost the ability to regulate his emotions where the mother was concerned. He began to speak about her in a publicly vitriolic way. The father wrongly blamed the mother for his presentation and declining state of emotional health and the father had lost insight into his destructive behaviour. My preliminary findings, in my view, set out the essential background to this case which runs through Mother’s allegations and events as if it were a golden thread.

Findings Sought – My conclusions

Allegation One

34. Accordingly, to the allegations themselves: allegation one:

“The father would take frustrations out on the mother, push her around use words like ‘evil’, ‘dirty’ and ‘rubbish mother’”.

I have already made findings about the context of the allegations. The timing of this allegation was in 2018 which pre-dates separation. It was in the infancy of the father’s life in the UK which was a world away from his life in India. He was spoilt in the middle east. He had lived a life provided by his parents where he was insulated from work and responsibility.

35. The father said, in his evidence, that this was a big adjustment to him, and the context of events adds weight, in my view, to the mother’s observations about the father becoming increasingly ill-tempered and frustrated with his life. In his evidence, the father described a miserable existence involving hard work over long hours and many jobs. He told me he often worked from 6.00am until 10.00pm. He told me he had to do to support his family. He described sometimes working on rotation, meaning that this life was inconsistent. He would sometimes work in the afternoons and sometimes overnights. He described having, prior to moving to the UK, few caring responsibilities. He had free time and the luxury of choice but described his UK life as a sharp contrast. He described the mother as being, from 2017, heavily pregnant, unable to work. He said there was little time to do anything for himself and that this was a big lifestyle change.

36. I consider it likely, against that backdrop, that the father felt very frustrated by his new life. I consider it likely that this boiled over into the father using verbal abuse against the mother for the following reasons:

- a. First, the father has shown, already, that he is prepared to use abusive language about the mother. He did so, sometime after on social media. His own description of that language and explanation that it was a one-off is, in my view, incredible. I do not consider that anybody who used language like that as a one-off would use a public forum to shame his ex-partner. I am satisfied that this social media post was reflective of the language that the father would have, in all likelihood, used about the mother, and would have continued for some time.

- b. Second, the home was plainly a tinderbox of pressure: long hours, financial pressure and adjustment to new adult responsibilities. There is a solid base of evidence to conclude that the father would have felt this pressure particularly.
- c. Third, there is a tone of resentment to the father's attitude towards the mother. Both in his oral and written evidence, it was plain that he blamed the mother for his present predicament. I have no reason to consider that this abrogation of responsibility is a new feature of their relationship.
- d. Fourth, I have already found that the father's behaviour under pressure has descended, to be destructive. Under pressure, in my view, the father simply cannot control his emotions.

37. For these reasons, I do not consider the father has given me an accurate touchstone of evidence through which to assess the situation as it existed at the time. His insight into his own behaviour and his ability to look back reflectively and accurately describe that behaviour is not, in my judgment, of a level that I can trust to be reliable and I, therefore, prefer the evidence of the mother. The mother, in my view, has provided threads of evidence in respect of this that I consider to be clear and compelling and have the ring of truth. I am fortified in this impression by the consistency that she has provided in both her written and her oral evidence. I am satisfied, on balance, that this allegation is, therefore, made out. I, therefore, find that the father would, from time to time, take out his frustrations on the mother. He would physically push her during arguments and abuse her with language such as "evil", "dirty" and "rubbish mother".

Allegation Two

38. Allegation two:

"Whilst the father was adjusting Matthew's car seat, he became frustrated and impatient as Matthew was crying, and threw a shopping bag at Robert's face".

The father's evidence is that he had a close relationship with Robert. This was, in large part, unchallenged. He told me, and it was not challenged, that Robert would spend summers

with him in the middle east and that they had a close bond. The father told me that they shared food and would spend quality time together. The mother, in her statement, described a different aspect of the relationship between the father and Robert, however, which involved conflict and jealousy. I am not asked to make findings in relation to the relationship between Father and Robert but it seems, certainly, that the father's relationship with Robert was complex and, perhaps, not as rosy as the father had explained in his evidence.

39. What do we know about 2019 and the father? Firstly, he had caring responsibilities which were new and difficult for him. Secondly, he was working long hours and he was tired. Third, his relationship was, almost certainly, drawing to an end which he was plainly distressed about. Fourth, he felt pressure being the only man in the house. Fifth, his ability to regulate his emotions was poor and, sixth, he had a small two-door, four-seater car. I have also explained my view that the father's evidence is diminished in its weight owing to his inaccurate recall of his own behaviour. This impression subsists throughout my assessment of all the allegations.
40. The father recalled, in evidence, an event where he adjusted Matthew's car seat. He had no reason to recall this. It was, by all accounts, an unremarkable event, on his own evidence. He said he was cross with Robert because he would not turn up YouTube to distract Matthew, his only response, in cross-examination, that he has never lifted a finger to him. However, of course, this is not the allegation. I find it to be inherently unlikely that the father would remember such a mundane event so vividly unless something else did, indeed, occur. I weigh these factors together: the context, the agreed facts, the febrile home environment that the father was living in. Like in 2018, I am entirely satisfied that this spilled over into the physical. On the evidence I have considered and the evidence I have, I find this to be inherently likely. I find that in 2019, the father lost his temper with Matthew. He admonished Robert for not helping him with the distressed Matthew and threw a carrier bag at Robert.

Allegation Three

41. Allegation three: "In 2019, the father strangled Robert".
42. I do not make this finding for the following reasons:

- a. First, I have no direct evidence that this event took place. I am, therefore, dealing only with hearsay evidence. The mother could not give me any direct evidence that the father had, indeed, strangled Robert.
 - b. Second, I have no reliable information about the time where Robert “reported” the event to the mother. I have no note of the conversations, no log of what was said to her or the police or explanation as to why there was such a delay and I am, therefore, unable to rely on the integrity of that conversation, even as it was reported.
 - c. Third, the allegation was not repeated to or reported by any other person or body.
 - d. Fourth, at the time it happened, the mother told me she was only 15 paces away in her kitchen. She told me that the door was closed and her extractor fan was on. I do not consider that this would be a barrier to hearing a significant physical assault which, on her own account, stemmed from a verbal argument. The incident, as it is described, culminated in the father, as she said, “going for Robert”. I consider it inherently likely that this would have been audible, and that with the mother in close proximity, she would have been alerted to some kind of incident. That she was not, in my view, is of concern.
 - e. Fifth, I am troubled by the lack of evidence in relation to the aftermath. One might expect the mother to have noticed some marks on Robert or a change in his presentation in the aftermath of what was a serious physical assault but I have no evidence that that took place.
43. I accept the mother’s evidence that Robert told her that the father “throttled” him. I have no reason to consider the mother is lying about this. However, I am not satisfied that the mother has discharged the burden of proof on this allegation and I, therefore, do not make the finding.

Allegations Four, Five and Six

44. I will consider allegations four, five and six together.

Allegation four:

“The applicant father telephoned the respondent and threatened to chop her into pieces”.

Allegation five:

“The applicant father repeatedly called the respondent mother 15 times on no caller ID. The applicant father then turned up to the respondent mother’s property shouting further verbal abuse and demanding that she open the door”.

Allegation six:

“The applicant father, once more, turned up to the respondent mother’s property unannounced and demanded to see his son. As the respondent mother went to draw the bedroom curtains, the applicant father grabbed the mother’s arm”.

45. I have already made findings about the situation in March 2021. Likewise, I have made findings about the father’s disinhibited and gradually more irrational behaviour. It is obvious to me from the Facebook post I have seen and the evidence I have heard, including from the father, that the father has, by this point, lost control of his behaviour. I have found and explained my reasons why I consider the father’s behaviour, at this time, had worsened. I found he was unable to accurately recall and describe his behaviour at that time. I have no faith if the father had behaved like this, that he would have the ability to recognise it and describe it, firstly, accurately and, secondly, as any way problematic.
46. The father’s range of emotions at this point in time were wide. There was, in my view, a smörgåsbord of feelings from anger to resentment to contrition, and back to anger and resentment. These feelings and the feeling that Matthew was being taken from him, in my judgment, provide a clear but toxic behaviour drivers for the incident that Mother, at the time, is describing. I am not going to engage as to the question of whether the father, at this time, was suffering a mental health crisis and whether, indeed, this influenced his behaviour. He has, fundamentally, not produced any medical evidence as directed and all I have is his self-reported social media post, formulated on the basis of a helpline. I am sceptical as to whether or not this was for show as, certainly, the truth as the father described it, did not

amount to a diagnosis of mental health emergency from a mental health team as he was trying to give the impression.

47. What is described by the mother in these allegations are three clear and, in my view, well-made-out examples of disinhibited behaviour. I am satisfied that each of them occurred for the following reasons:
- a. First, I prefer the mother's evidence where it conflicts with the father's evidence. I have already observed that I do not consider the father to be a reliable historian.
 - b. Second, I have made findings about the father's behaviour toward the mother at this time. It was disinhibited.
 - c. Third, the father gave evidence that he would go to the mother's address and "request to see Matthew". He split hairs in evidence about whether this amounted to "demanding" but he effectively describes several occasions where he attended the mother's address as an unwelcome visit, attracting her attention by knocking on the windows and insisting on seeing Matthew. He conceded that he did that in forthright terms but would not depart from his recognition of that as anything other than insisting; the father exercising the right he perceives him to have, as Matthew's father. There are striking similarities in what the father, eventually, conceded and what the mother described. I accept the mother's evidence that he was unwelcome and that she would try and dissuade him, following the well-documented advice of Aunt Violet and that the father was, ultimately, persistent. This persistence, in my view, would have, in all likelihood, spilled to physical force and protestation. The father's persistence, by that time, knew no bounds.
 - d. Fourth, the father's state of mind, in any event, was appalling. He described that he was "distraught and upset". He told me he wanted to work things out and he hoped it would, too. He was clearly incapable of thinking straight and it is obvious that this will have affected his behaviour. This only fortifies my view that he was persistent to a wholly inappropriate degree on these occasions.
48. I am, therefore, satisfied that the mother was truthful about these events. The evidence from the father and the context of events concords with the mother's evidence. I find

that in March 2021, the father, first, threatened the mother over the telephone, including a threat to chop her into pieces, second, called the mother on a withheld number when it was not wanted. He would turn up at her house and demand to come in. When he was not welcome, he would knock on the windows and try to attract the mother's attention. Third, on one occasion, the father attended the mother's address and knocked on the windows. When the mother closed the curtains, he tried to grab her arm.

Allegation Seven

49. Allegation seven: "On 23 July 2021, the father sent a message to the mother where he threatened to kill her and her son Robert". On 23 July 2021, the mother received a Facebook message from an anonymous account. The account was in the name of John Durane. The message said this:

"Listen, you bitch. I wanted to come United Kingdom, which I did now. You can't remove me from this country. I will take my child rights even if I have to destroy you and you ugly fat son. Do not try my patience or else I will kill you and your fat son".

50. The mother told me that the message was received for an account which looks like it had been created to send the message. She told me that nobody else, apart from the father, would know the intimate detail of the mother's involvement in the father coming to the country, in particular, that she sponsored his visa which is what the message alludes to. Finally, that she believes the message came from the father. In his statement, the father told me this:

"I have not texted her or tried to contact her directly or indirectly, respecting and following the orders given by the Court. When I got to know that she has received a text, I voluntarily went to the [Police Station] on the same evening to inform the police that I have not texted her and that this really made me worry for myself and my child. The police arrested me because they also thought that I had messaged her. When I saw the printout of that message, it was from some account which was unknown to me".

51. In his second statement, the father gave a different account: “These messages which she has received is from the person who is a common friend of me and the respondent”, meaning the mother:

“I was renting a room in Mr Fred James’ house [in London]. On 22 July, he called me and threatened me to break my legs and hit me if I entered the property as the kitchen was left unclean. I was scared and had to call the police before entering the house alone in the middle of the night. Since I have no tenancy agreement, I had to vacate the room on the same night.

The following day, I had a call from a friend who was my neighbour, saying that the respondent has called the police, and also asked me if I had sent any messages to the respondent. I straight went to the Police Station to inform them that the respondent had received few texts, and it was not me. They arrested me thinking that I had messaged her. Whilst at the police station...”,

and this is my emphasis:

“...I had written my statement in which I did mention who has done this and wanted the police to investigate this. Police has not reacted to this at all”.

There are two very different accounts of the perpetrator: one, where the father says he simply does not know and one where the father says he does know and gives a full account.

52. In evidence, the father told me that he maintained that Fred James sent the messages. He explained that he was a prior landlord. He could not tell me why he chose to live with somebody who was so violently vengeful but suggested that he knew, anyway, and chose to live with him. He could not tell me why Mr James had held a grudge, and it must have been the kitchen being untidy and his involving the police. Father’s own evidence, however, that this could not have happened because he was a tidy person and would not have left the kitchen in that state. The father maintains that the message was sent but that this was, effectively, a form of revenge. He could not tell me why on earth Mr James would want to do this or how, indeed, he came to know the intimate details of his personal affairs or relationships.
53. In this case, I have already made findings about the father’s disinhibited behaviour. I have, likewise, made findings that the father’s poor behaviour was exacerbated by his inability to spend time with his son. This message, in my view, chimes with the mother’s evidence as it

shares intimate details that only the father would know. The message is direct and addressed to the mother in the first person. The message, in my view, is completely in keeping with the father's presentation in spring and summer 2021: He was angry. He was desperate. He was trying to get to the mother by presenting at her address, calling her and threatening her.

54. The father's explanation, in my view, is simply incapable of belief. It is an incoherent and illogical story, told over several different versions in statement and live evidence that begs more questions than answers: Why did he choose to live with such a vengeful character? How did a vengeful character know who to find and which buttons to press? How did an effective stranger know the intimate details of his and the mother's history and relationship when he only met them once at a wedding? Why is there nothing produced by the father to substantiate this story?
55. In my view, the father has concocted this incoherent and illogical story to avoid the consequences of what are very serious actions. It is a lie so far-fetched that I unhesitatingly dismiss it. I have no hesitation in preferring the mother's evidence. In all likelihood, on 21 July 2021, the father sent the mother a death threat, and that is my finding.
56. Those are my findings, and that is my judgment.

JH, 8 December 2023

End of Judgment.

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