

The judge has given leave for this judgment to be reported on the strict understanding that in any report no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name or location and that in particular the anonymity of the children and the adult members of their family must be strictly preserved.

No.FD09C00223

Neutral Citation Number: [2009] EWHC 850 (Fam)

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

Royal Courts of Justice

Monday, 12th April 2010

Before:

MR. JUSTICE BAKER

(In Private)

B E T W E E N :

A LONDON BOROUGH COUNCIL Applicant

- and -

K & Others Respondents

Transcribed by **BEVERLEY F. NUNNERY & CO**

Official Shorthand Writers and Tape Transcribers

Quality House, Quality Court, Chancery Lane, London EC2A 1HP

Tel: 020 7831 5627 Fax: 020 7831 7737

info@beverleynunnery.com

MISS CHERRY HARDING appeared on behalf of the Local Authority.

MISS JANET BAZLEY QC and MISS SALLY STONE appeared on behalf of the Mother.

MR. ALEXANDER VERDAN QC and MR. LEE ARNOT appeared on behalf of the Father.

MS. SALLY BRADLEY appeared on behalf of the Guardian.

J U D G M E N T

MR. JUSTICE BAKER:

INTRODUCTION

1

These extraordinary proceedings concern two little girls, A and B, the children of the first and second respondents. The proceedings started as a private law case under Part II of the [Children Act 1989](#)

involving a contested application for defined contact by the mother. In August 2008, however, the first respondent mother informed the Local Authority that the children had made serious allegations of sexual abuse against their father and other named men. In effect, her allegations were that the children said that they had been abused in horrific circumstances by a paedophile ring. That led to a major police and social services investigation. In the course of that investigation the professionals came to have considerable doubts about the truth of the allegations, suspecting that the children may have been coached or influenced by the mother into making the allegations. The police investigation concluded with no charges being brought against the father or anybody else. The mother then raised the allegations in the continuing dispute about contact, and subsequently the Local Authority started care proceedings which were in due course transferred to the Family Division. This is my judgment at the end of a six week fact-finding hearing in those proceedings.

CHRONOLOGY

2

M, ("the mother"), was born in 1968 and is therefore now aged 42. Her father is a restaurateur, who runs a successful restaurant. The mother has two brothers, R and H. They are a close family, well settled in London. The maternal grandparents' household includes C, a housekeeper who has worked for the family for many years and known the mother since she was 10 years old. The family is very comfortably off, owning several properties and able to afford holiday homes in P, private education, and private medical treatment from the family GP, Dr X, who has treated all members of the family for over 40 years.

3

In July 1983, when she was 15, the mother was seriously injured in a car crash abroad. She was in a coma for several days and sustained a serious injury to her leg which required a series of operations and prevented her from walking for 18 months. She made a full physical recovery from the injuries but she says that the accident had an effect on her social and emotional development. She felt that her adolescence had been delayed, and in her early twenties she went through what she described as a delayed adolescence, taking drugs, including ecstasy and cocaine, drinking to excess on occasions and rebelling against her parents. In her medical notes, Dr X records her as being tearful and depressed during this period, uncertain about her future, frightened with people, and having a very poor image of herself. He prescribed Tryptizol (an antidepressant) and Temazepam and Valium on a number of occasions during her mid twenties.

4

F, ("the father"), was born in 1978, and is therefore 31. He was born and brought up in S where his mother and other family members still live. His father and stepmother live in A. In June 1996 the father moved to London on a two year working holiday visa. He says that in 1997 he experimented socially with drugs for a period of about six months. During that time he met the mother and, it is accepted, offered her drugs on the occasion of their first meeting. In August of that year the parties started living together at a house owned by the maternal grandfather. The father said he stopped taking drugs shortly afterwards, although the mother denies this and believes that he continued. In July 1999 the parties married, partly it seems because the father's visa was running out. The mother says that the father put pressure on her to get married and she did not even turn up for the first appointment at the Registry Office. Nonetheless, the evidence of both parties is that they were happy in the early years of the marriage. On 23 September 2000 the mother gave birth to their first child, A. On 1 September 2002 she gave birth to their second child, B. The father was not present at either birth, at the mother's request.

5

For several years the family continued to live at the house owned by the maternal grandfather, a one-bedroomed property. The children slept in the same room as their parents and frequently in the same bed. The parents say they were discreet about their intimate behaviour, but did engage in sexual activity while the children were asleep, although the extent of that activity is disputed between them. It is agreed that in the early stages both parents were fully involved in the care of the children. Both were working: the father in a succession of jobs, and the mother in the family business. The father therefore played a major role in the care of the children in these early days and in particular usually gave them their bath in the evening. In their oral evidence the paternal grandfather, the family housekeeper, C, and an old family friend called D, all spoke positively of the father. They said that he got on well with the family and was a good father. C described affection between the father and the girls, and recounted how when the girls saw him they would say "daddy, daddy" and run and embrace him.

6

The mother says that the father was prone to volatile mood swings, sometimes aggressive and on a few occasions violent. He was, she says, bullying and domineering to her and the children. She attributed this to the fact that, as she believed, he was continuing to take cocaine. In 2003 an incident occurred in which she says he headbutted her in front of the children, as a result of which she sustained some damage to her neck which required her to visit her osteopath. The father denies that he attacked her, although he admits that his head came into contact with hers. The mother says that she threatened to report him to the police if he behaved in this way again. Thereafter the mother says that the relationship deteriorated, with frequent arguments. She says the father withdrew from family life, stayed up late on the computer and became more sullen and moody. In February 2004, the father went to Thailand on a business trip that had been planned to last two weeks but in the event continued for two months. On his return the mother says that he was evasive and uncomfortable. Although the father initially said nothing, it has gradually emerged that while in Thailand he had sexual relations with a prostitute. When he first told the mother about this in 2007 and later when interviewed by the police in the course of this investigation, he insisted that the sexual activity had not included full intercourse. In his oral evidence, however, he volunteered for the first time that full intercourse did indeed take place. In March 2006 it is alleged that a further incident of domestic violence occurred. The mother says that the father put his hands round her neck and pushed her forcefully into a chair. The father says that the mother returned home very drunk and that she became angry and slapped his face, at which point he placed his hands upon her shoulders to press her into a chair to calm her down, whereupon she fell and banged her head on the sideboard. By the time the police attended, the father had left the house. The police noted that the mother appeared to be drunk and incoherent with no visible injuries. A few weeks later when the police returned and spoke to the mother about the incident, she said that she had been drinking that night and could not remember why she had called the police, and made a statement withdrawing the allegation. Subsequently, the police informed the parties that "this matter has been recorded for Home Office purposes and [the father] will be shown responsible for this assault".

7

Around this time, according to the mother, things started to happen which led her in due course to believe the children had been sexually abused. B began to exhibit unusual obsessive behaviour, sitting on the toilet for long periods, wiping her private parts repeatedly, being reluctant to wear underwear and walking with her hands down the front and back of her knickers. The mother then says that in about 2006 she came into the bathroom and found the father aroused in the shower, with A sitting by

the wash basin looking at him. The mother says that the father excused his behaviour by saying that he was thinking about her. The father has always denied that anything improper occurred, although he accepts that the children sometimes saw both him and the mother naked. In August 2006 A started attending a local private school. In December 2006 the family moved to another address, again a property owned by the maternal grandfather. In February 2007 the father visited S. At about the same time, the mother and the children accompanied the maternal grandparents and C to N for a visit to Dr. R, a homeopath whom the family had consulted regularly in the past. The principal reason for the trip was to obtain advice for the grandparents, each of whom has suffered significant health problems, the grandmother in particular having suffered a series of strokes. Whilst there, the mother took the children to see Dr. R. According to the mother, B walked in with her hands inside her knickers, as was her custom, and Dr. R immediately said: "Has this child been abused?" The mother says she told her parents about Dr. R's comment, and the grandfather, who gave evidence before me, remembered that she had said something about this. Significantly, the comment allegedly made by Dr. R was not mentioned either to the father or to Dr X at this time. The mother insists, however, that it was said, and therefore it was always in the back of her mind. Dr. R has not given evidence at this hearing. She is said to be suffering ill health herself. Her notes of the consultation in N in February 2007 have been produced and translated. There is no reference in the notes to her raising the question whether B had been abused.

8

Shortly after their return from N and the father's return from S, the family was visited by the paternal grandfather and his wife. During the visit, the whole family was sitting in the drawing room with A and the grandfather sitting under a blanket on the sofa, and the grandfather's wife also present, when A suddenly jumped up and moved over to her mother. According to the mother, A told her later that while under the blanket she had felt something hard pressing against her.

9

By this time the marriage was beginning to break down. The mother said that she became aware that the father was looking at pornographic images on his computer and his mobile phone. She challenged the father about this. He denied that he was behaving improperly. It was at this time, however, that he confessed that he had visited the prostitute in Thailand in 2004. In addition, the mother says that she became aware that the father had been misusing her parents' credit cards. (By agreement between the parties, no evidence on this matter has been led at this hearing.) In April 2007 another alleged incident of domestic violence occurred. The mother says that the father held her wrists forcing her to punch his forehead repeatedly with her knuckles. The father says that the mother pushed him and provoked him and, as a result, he grabbed her hands to stop her and in a mimicking manner told her that if she wanted to hurt him, to do it properly. He now accepts that both parties were behaving unreasonably. Following this incident, the mother saw Dr X and told him about her concerns. These are listed in her medical records, including that the father had been leading a promiscuous and double life. The medical records also stated at that point: "Worried about his father molested A... B has an interest in her own genital area... M been to a good solicitor - needs to document all the facts - will have to separate from him - ? custody, he from S".

10

On 18 May 2007 another incident occurred at the family home. B had developed a habit of hitting the father in the groin. On this day, it is agreed that she did this again but the details of the incident are disputed. The mother, who did not witness the incident herself, said that A described to her how B had hit the Father, whereupon he had retaliated by grabbing her by the head and lifting her up with his

thumbs in her eyes. The mother says that when she saw the child afterwards, there were red marks around the eyes. The father agrees that he pushed B's head as a sort of reflex reaction because he had been taken by surprise, but then cuddled her. The mother did not take B to the doctor, although she did mention it to Dr X and said that B had been bruised. She told Dr X that she could no longer trust the father and was seeing her lawyer to get an order. The mother states that after this incident B began to have more nightmares, dreaming about "daddy killing mummy with a knife" and pushing her out of the window. Also about this time, according to the mother, B's obsessive behaviour increased. She started complaining that her genital area was wet, and as a result Dr X prescribed calendula powder which she put on repeatedly and dried herself between the legs over and over again.

11

In August 2007 the parties separated, the mother and children remaining at the family home, and the father moving into a succession of temporary flats. According to the mother, however, the father visited the matrimonial home on a number of occasions without her knowledge or consent, a matter about which she complained to her solicitors. At about this time, B started at the same private school as A, and A's teacher noticed her behaviour becoming more introverted and difficult. According to the mother, the school suggested that A should see a therapist. There are allegations around this time that the father was abusive when collecting and returning the children at contact, and sending abusive texts to the mother. The allegations are chronicled in considerable detail in emails which the mother started to send to her solicitor. For example, on 22 October she sent a long email, stating, *inter alia*:

"... [T]he children have been having nightmares about him taking them away... They are also naughty with me after they see him. They call me names and tell me (especially the older) they hate me. I believe that he is not behaving appropriately. I am quite upset about this as when the children have not seen him, they are okay. I believe that he needs to see a therapist as his lack of morals and the realisation that what he has done and what he is doing is wrong could be bordering on schizophrenia. His half-sister has recently been diagnosed with manic depression (bipolar). I also believe that he is taking cocaine, drinking and smoking pot... Is there a person who could advise me with regard to the children's psychology and how to deal with this man?"

A few days later she emailed again enquiring about the possibility of applying for an injunction, and stating, *inter alia*:

"That evening I discover that my basement door is unlocked... My daughter A has also mentioned to me over dinner that they saw daddy in the house whilst we slept the night before (she could have been dreaming). But this amplifies my suspicions about F [the father] and the mystery of the basement door."

An argument occurred around this time between the parties in front of the children, and D, the family friend who was present, urged the father not to involve the children in the dispute between the parties. Meanwhile, the mother and father were also disagreeing about some of the contact arrangements. In November the father asked if he could take the children camping. The mother refused.

12

It is at this point, in another lengthy email to her solicitor dated 2 November, that the mother mentioned, apparently for the first time, the possibility that the children had been sexually abused. She introduced the matter by saying:

"I stress that I do not trust my husband at all and will be very wary of his intentions. Goodness knows the people he may introduce to my children if he were to take them away. They are both very pretty. I do not mean to brag."

She then referred to Dr. R's alleged comment; the father being aroused in the shower in A's presence; the incident when A had jumped up from under the blanket, and several other matters. She concluded: "I thought this might be of interest to you." The inference to be drawn is that the mother was concerned that the father might sexually abuse the children or introduce the children to others who might abuse them. She did not, however, ask for an order for contact to be supervised. The difficulties over contact and the allegations of bad behaviour by the father continued, recorded at length in further emails from the mother to her solicitor. On 14 November the solicitor wrote to the father threatening to apply for a non-molestation injunction. According to the mother, this did not stop the incidents. On 20 November the mother told her solicitor that the school had recommended a therapist for the children, but she asked if he could recommend another one, preferably with whom he had worked before. In a note in his appointment book on 25 November, Dr X recorded that "B needs counselling".

13

Around that time, according to the mother in her oral evidence, she learned from a long-standing friend that her children had been sexually abused by their father for many years without her friend's knowledge. The children, now grown up, had suffered very significant harm and one was now addicted to drugs. The mother referred in evidence to the fact that her friend "had not seen it for years, as if she had been blocking it out". The mother, who was very clearly affected by this experience, said in evidence that it crossed her mind whether it was possible that something similar had happened to B. This incident is not mentioned in any of her statements, and apparently had not been mentioned by her to anybody, save her lawyers, until she gave oral evidence.

14

The dispute over contact continued. There were incidents when the father allegedly shouted at the mother and banged the gate when returning the children. On 26 November the mother complained to her solicitor about the father taking the children to strangers' houses. By this point solicitors were involved on both sides. The mother's solicitor wrote to the father's on 11 December, complaining about the father's behaviour at contact and suggesting that there should be a defined order. He also confirmed the mother's intention of applying for a divorce.

Over Christmas the mother took the children to F. The father visited over the holiday and on one evening the family had dinner in a restaurant. During the evening, the father took the children to the lavatory in the restaurant. After Christmas the mother contacted Dr X again about a therapist for B. On 10 January he referred the family to Mr. Simon Dermody, a therapist in private practice in the Child and Family Practice in Wimpole Street. When asked during his oral evidence how he had selected Mr. Dermody, Dr X said he had sought advice from a consultant paediatrician. Later, however, Dr X's appointment book was produced and I noted that on the page for 9 January, which includes a note of Mr. Dermody's name and telephone number, there is also written "Dr. Adebussyirnon Bentovim". Dr. Bentovim is well known to these courts as a consultant child psychiatrist who has appeared as an expert witness in many cases over the past 30 years. He was formerly consultant to Great Ormond Street Hospital and the Tavistock Clinic, and is still an honorary consultant at both of those establishments and also practices at the Child and Family Practice in Wimpole Street. In his statement to the police, Mr. Dermody later recalled that Dr X had called and told him of his concerns about the emotional effect of the breakdown of the relationship between the parents on the two

children. There is no evidence that Dr X mentioned sexual abuse to Mr. Dermody. Mr. Dermody duly saw the mother and the girls on 14 January for a preliminary assessment, and then the mother and B again on 29 January. In his police statement, Mr. Dermody said:

"At the end of the session, I recommended child play therapy for a child with typical emotional reactions during the crisis of a family break up: anxiety, fear, anger, self-blame and loss. There was nothing during the interview that indicated sexual abuse. It had not been even mentioned at this time."

Thereafter Mr. Dermody started weekly play therapy for B. He used non-directive free play in which B enacted story making, which he described as "very typical of a young child whose parents and family are negotiating their way through break up". The mother always observed the sessions and, in addition, Mr. Dermody had occasional sessions with her alone. During those sessions, according to Mr. Dermody, the mother:

"... started to introduce sexual imagery about B, saying on 17 March 'she has been pre-occupied with her breasts since a phone call with daddy last week'. The mother continued to impress upon me in my individual sessions with her and quietly during the play therapy work with B, her continuing concern that 'something has happened'. Despite this, no overt sexual disclosures of any nature occurred concerning anyone that appeared in the non-directive play work."

In February, according to the mother, B started obsessively washing her hands. This behaviour was not displayed during Mr. Dermody's sessions. In the note of a session with the mother of 19 February, Mr. Dermody recorded: "Am I being seduced by this woman?" He explained in evidence that this was a reminder to himself not to be over-influenced by the mother's concern.

15

Meanwhile, contact continued on a weekly basis. The father took the children on occasions to his rented flat. During the first few weeks of 2008, the mother continued to send regular emails to her solicitor recording ongoing arguments around contact. She made no reference in this period to her concerns about sexual abuse. On 1 February the mother's solicitor wrote to the father's making further allegations about his behaviour and threatening to apply for an injunction. On 18 February the father's solicitors replied denying the allegations and asserting that the mother was obstructing contact. They proposed that there should be regular overnight contact and threatened proceedings if this proposal was not accepted. On 20 February the mother's solicitors wrote to their client, including a copy of that letter, and giving this advice:

"If it is your position that any form of overnight staying contact is not appropriate, it is imperative that we are able to say precisely why. You will need to set out in detail precisely why you consider that staying contact is not appropriate. The court is very unlikely to prevent overnight staying contact because of friction between the parents subsequent to separation, and even aggressive or abusive behaviour between respective parents will not necessarily preclude contact, so long as that behaviour does not relate directly to the children. If there are specific allegations or indeed evidence of some form of abuse of the children, whether that be physical or verbal, then, if you are to oppose staying contact (successfully), then the position will need to be set out by you in full."

16

Five days later, the mother took A to see Dr X, complaining that she was suffering from a vaginal discharge. Dr X's notes read: "Two to three days green vag discharge ++", although it is not clear from the notes whether or not he actually observed it. Although I understood Dr X's evidence to be

that he did see it, I was not persuaded that he had. He carried out a vulval swab and prescribed a course of penicillin. The discharge allegedly persisted and the prescription was repeated. The notes also record that A's tonsils were inflamed, and in evidence Dr X said that vaginal discharge is a symptom of throat infections, and the swab confirmed the existence of an infection.

17

On 3 March the mother sent another email to her solicitor including, inter alia, a complaint that when the father took the family dog S for a run "O would wee wee blood". She also related how the father had been cruel to spiders and mice. On 5 March the mother's solicitor wrote to the father's solicitor setting out a number of further complaints, including allegations about drug and alcohol abuse and his use of pornography and prostitutes. They indicated that the mother was opposed to staying contact at that stage, and asking for details about the father's accommodation, flat mates and the names of people introduced to the children by the father, including girlfriends. The father's solicitor replied confirming his address and invited the mother to inspect the property and to meet his (male) flat mate, T. On 19 March the mother filed an application for defined contact. On 1 April Dr X referred A to a consultant paediatrician, Professor Ricky Richardson, because of her allegedly ongoing vaginal discharge. Professor Richardson also practices at the Child and Family Practice and is therefore a colleague of both Dr. Bentovim and Mr. Dermody. In the event, the mother took both children to see Professor Richardson on 7 April. Professor Richardson records that, in addition to the pre-arranged examination of A, the mother wanted B to have a general paediatric checkup. He noted that she was said to have an itchy vulva like her sister, which she was prone to rub on occasions. Professor Richardson records that examination of B's vulva showed it was minimally red but no excoriation and no puss or discharge visible. He felt that the redness was due to her rubbing it. The examination of A revealed that her vulva was normal and that the discharge had cleared up.

18

On 15 April the mother emailed her solicitor recounting how B had been in a "complete state that day, taking off her trousers, hysterical and not wanting to go to school. Wanted the father. Screaming that her private area was wet and uncomfortable and she did not want to wear anything". As a result of the mother's continuing concerns that something had happened to B, on 17 April Mr. Dermody referred the child to his colleague, Dr. Bentovim. The letter of referral implies that they had discussed the case previously, although no note of any earlier conversation has been produced. On 23 April 2008 Dr. Bentovim met the mother and the two girls together. In his oral evidence, Dr. Bentovim described his meeting with the mother and the children as a "low key psychiatric assessment". Following the consultation, he wrote a report dated 28 April, and sent it to the mother for use in the contact proceedings. In it, Dr. Bentovim recounted aspects of the history as presented by the mother, in particular concerns about B's emotional responses and "quite unusual obsessional behaviour, including particular sensitivity in the genital area", and that she often has her hand in the vaginal area and appears to masturbate with some intensity. The report concluded:

"There are clearly many anxieties about the nature and understanding of B's very significant anxiety and her preoccupation with her genital area, associated with obsessional anxiety about contamination, being touched and a very significant degree of sensitivity. In my view, she is a highly vulnerable child and she is going to require a significant amount of psychotherapeutic work to help understand the nature of her anxieties. It is in the interests of both A and B for any contact with their father to be regular and circumscribed in nature. It would not be in the interests of either of the children, given the degree of anxiety and emotional difficulties, to have overnight staying contact with their father. In my view, there is far too much uncertainty about the nature of the children's anxieties and without a

greater degree of knowledge or information and understanding it would not be in their interests for there to be other than circumscribed contact with their father at this point. It will be important to have the opportunity of meeting the father to get a picture of his perspective."

In his police statement, dated 27 October 2008, Dr. Bentovim commented that:

"A lot of the behavioural patterns displayed by B are known to be associated with sexual abuse but there was no direct statement or questions asked as this would have been inappropriate, as this was a psychiatric assessment. I did not say to the mother that the children had definitely been sexually abused or that they would make a disclosure of sexual abuse. As somebody who has worked in this field as an expert, I am very aware of the court's view about the nature of the allegations and not making direct statements or asking direct questions. That is also why I advised Mr. Dermody to continue with a non-directive approach."

19

On the same day of the consultation with Dr. Bentovim, B had another session with Mr. Dermody. In his rough notes, which are somewhat difficult to interpret, it is recorded: "Obsessional characteristics of sexually abused child. Obsession with cleanliness, clothing, not changing, routines, lying with her leg open, 'Oh, mummy', touched her genitals". In cross-examination, Miss Bazley QC, on behalf of the mother, asked Mr. Dermody whether this note indicated that he was considering the possibility that the child had been sexually abused. Mr. Dermody replied that: "Looking back, what I am explaining to myself is that an obsession with cleanliness can be evidence that a child has been sexually abused".

When cross-examined by Mr. Verdan QC, for the father, he said that he had not seen any indication of sexual abuse in the play therapy. He said that he considered that the obsessional hand washing was characteristic of a child going through a difficult family breakdown. It occurred to me, re-reading his notes, that he was simply recording what the mother had told him or possibly what Dr. Bentovim said. I am satisfied that Mr. Dermody was not describing anything that occurred during therapy.

20

On 29 April, the day before the conciliation appointment in the contact proceedings in the Principal Registry, the mother sent her solicitor two emails. In the first she described herself as "feeling quite vexed" and asked:

"WHY SHOULD I HAVE TO GIVE MY CHILDREN PART TIME TO BE LOOKED AFTER BY HIM JUST BECAUSE HE HAS RIGHTS? He is unfit to have A and B because of his emotional imbalances... I will fight for as long as it takes to have complete control of the children and for him to have as little money as possible."

In a second email she forwarded Dr. Bentovim's report which she had just received. At the conciliation hearing the following day, Dr. Bentovim's letter was duly produced, the order recording that it had been made without the father's knowledge. The District Judge ordered a CAFCASS report by 20 August, and a further hearing on 2 September, and that interim contact should continue every Saturday between 10.00 and 4.00 and every Friday between 4.00 and 6.30. The order recorded that the parties agreed that the therapy with Mr. Dermody should continue but the father should be fully involved and that any future referral to a consultant should be either by agreement or court order. Thereafter, Mr. Dermody's non-directive play therapy continued. Meanwhile, negotiations over the financial settlement between the parties continued. The mother continued to send emails to her solicitor complaining about the father's conduct at contact. Increasingly, those emails focused on the father's alleged "sexual deviance", and asserted that he was a risk to the children: see, for example, a

very long email sent on 8 May. In the therapy, Mr. Dermody noticed that images of the Father started to appear in B's drawings. On 21 May she drew the father with a penis urinating over the family front fence, although unfortunately that drawing has been mislaid. On 28 May she told Mr. Dermody: "Daddy tells us not to speak about him here". These developments, coupled with Dr. Bentovim's letter, raised Mr. Dermody's concerns about the nature of the contact with the father.

21

The mother continued to email her solicitor complaining about the father's behaviour at contact. For example, in an email dated 30 May she referred to something he had said as "a classic example of him poisoning their young minds and turning them into negative beings". She also quoted A, while shopping, pointing out items he had bought for his girlfriend whom she named as U. The email continued: "I am merely marking your card and I may be wrong but if I am right U is the (Chinese, skinny and beautiful) wife of a very wealthy American. They have two young daughters and they live near us". The next day she sent yet another email stating that A had said that whenever she talked or thought about her father, she got itchy all over. In addition, she alleged that M had said she remembered daddy "washing his willy" and said that he always squeezed it 20 times when he had a shower. The mother further alleged that B had said that she did not miss "daddy's hot sticky willy". According to the mother, a further session with Mr. Dermody took place on 4 June. Although Mr. Dermody has no note of it, the mother referred to it in an email to her solicitor two days later. According to the mother, Mr. Dermody said that on this occasion he thought that B had been abused, that "things are coming to the surface". In his oral evidence, Mr. Dermody said that he had not told the mother that he thought B had been abused, although he accepted that he may have referred to "something coming to the surface". In her email, the mother said that Mr. Dermody said that, after speaking to Dr. Bentovim, he thought that she could apply for supervised contact. The mother added, however: "I would rather wait".

On 27 June the mother filed a long statement in the proceedings reciting the history, including B's reference to the "hot sticky willy", opposing the father's application for staying contact but not seeking any supervision of his visiting contact.

22

On 3 July the father took the children to the Science Museum. Afterwards, A told her mother that the father had told her not to talk about him to her. The father has not had contact with the children since that date.

23

On 9 July the mother and the children went to P with the maternal grandparents to stay in the family holiday home they had visited on many occasions in the past, sometimes with the father. According to the maternal grandfather's evidence, the mother always shared a bedroom with the girls when they stayed at the family home in P, including that summer. At that stage the plan was that they should return at the end of July. The mother in her statement and oral evidence has described a normal, happy holiday in the early stages, save for nightmares suffered by the children and one incident when, whilst playing hide and seek, A became frightened that the father would suddenly appear with a knife and kill the mother. Meanwhile, in England an agreement was reached between solicitors about financial matters in the divorce proceedings, whereunder the mother would pay a lump sum to the father in stages - the first payment to be made in September. On 24 July the mother emailed Mr. Dermody, told him about the financial settlement, and said that she had been told by her legal team that she was very lucky because the father "could have gone for three quarters of a million to £1 million". She described the father and his father as wolf-like, manipulative and greedy men. She also

told him about the nightmares and A's Fear that the father would attack the mother. She said that subsequently she had asked A whether the father had ever said that he was going to hurt mummy, to which A had replied "Yes". She went on:

"This evening I told the children, as they stood beside me as I was writing to you, that I was writing an email to Simon, as they had asked what I was doing. B immediately said: 'Are you going to tell Simon about daddy, how he poohs out of his willy and pees out of his bottom?'"

During the holiday, the father only spoke to the children once over the telephone. There is a dispute between the parties about whether he tried on other occasions. The father has not subsequently spoken to the children.

24

According to the mother, on 28 July the children made allegations that they had been sexually abused by the father. The account given by the mother, initially in emails to her solicitor and Mr. Dermody, then in her police interviews and statement in these proceedings, and lastly in her oral evidence, is, in outline, as follows. That evening the children were in bed wearing Victorian nightdresses. The mother was reading to them from an old copy of Peter Pan, which she had read as a child, and which was kept in P. While she was reading it, B suddenly made a comment about daddy's willy. The mother asked if she had touched it. The mother's email to Mr. Dermody continues:

"[B] smiled, as did A, and they both seemed quite excited to tell me that they both had. A lot was said by the two girls, but A took the lead. She said that the first time was when B was born. He took her to the loos in the private maternity wing of the hospital where he squeezed his willy like this', and showed me. She said that whitish, yellowish and greenish liquid came out. That night, she said, daddy asked to do it for her. She said that daddy would ask her to do it every day before lunchtime... A told me that this continued until we moved into the new house, December 2006, after which she said that he just stopped without any explanation, without saying why. A said that he did it with her and her sister B from when B was born. A would touch, stroke his 'spaghetti pasta thing' and B would hold or stroke his 'ball'."

Later in the email, the mother recounted how she had:

"Asked the children if daddy had ever asked them to put it into their mouths. A said yes, but they did not want to. She said that it felt wrong. B said that she liked touching daddy's willy. A said that although she did, it felt wrong. The children did not like the whitish, yellowish, greenish liquid that came out and that he would put into loo paper. They said that it smelt horrible. I asked A whether daddy had ever touched her private area. She said no, only when she was a baby, and he would wash her private area and her bum."

The email continues:

"When the children had finished talking, they asked for hot milk and cookies. I let them watch a short video in bed, and they said that we were having a midnight party. The children were cheerful and happy and wanted to talk about it more. That night we all slept very well, there were no nightmares."

After the children had gone to sleep, the mother spoke to her father about what they had said. The following morning she told her own mother, who initially refused to believe that the allegations were true.

25

The mother sent an email to Mr. Dermody setting out what happened on the first evening. A day or so later she sent a second email giving further information:

"There has been further disclosure today. When I took the children for their afternoon nap, B said that everything that they had said about daddy was a lie. I did not respond to this comment but instead I told her and A that they had been very good at telling me about daddy and his willy. I said that when we would go back to London that I would make sure that it would all stop and not happen again. I also told them that it was wrong. I then reinforced the fact that they had done the right thing. I said that they would still see daddy. B looked at A and they both started speaking about their daddy. A said that it was disgusting what he did with them, especially the gooey stuff coming out. B said that the goo tasted like blood. A said that she had got a spoon to try it but it was disgusting. B said that she had put his ball thing in her mouth. A and B are giggling. B said that daddy put it on her cheeks and that it felt nice. I asked A whether daddy had put it anywhere else. A said that daddy had put it and rolled it on the inside thighs, on their arms and on their bottoms."

Later the mother noted that the children asked why it was wrong and whether she had done it with her father.

26

The mother had been due to meet Dr. Bentovim and Mr. Dermody on 30 July but following the financial settlement, which had obviated the need for any court hearing on 28 July, she had decided to stay on in P. Because of the allegations, however, a telephone conference between the three of them was arranged for 30 July. During that conversation, Dr. Bentovim advised the mother to write down everything the children said and to ask as few questions as possible and not probe. According to a letter sent to the mother's solicitors a few days later, Dr. Bentovim also advised the mother that disclosures of this nature needed to be investigated by Social Services. Dr. Bentovim did not, however, contact either Social Services or the police himself. After this conversation, the mother decided to remain in P for a further period. At the suggestion of her parents, who were not staying on, she and the children moved into a nearby hotel. Over the following days, according to the mother, the children continued to make allegations. She gave details in further emails to her solicitor and Dr. Bentovim. It is quite clear from these emails that the mother was continuing to question the children. The allegations involved penile penetration of both children, ejaculation, oral sex, sexual abuse by other men, sexual activity at the father's flat, abuse by the father in public lavatories, including at the Science Museum and the restaurant in F. In evidence the mother described how the children would make these allegations at bedtime or before their afternoon nap, sometimes after she had read more from Peter Pan. On 8 August the mother telephoned Social Services and informed them of the allegations. On 9 August they returned to England and further conversations took place between the mother and Social Services. A strategy meeting was held on 12 August, and later that day the mother was interviewed by the police. Her interview was recorded on video and I have watched the recording. Among the many things that the mother said during this very long interview I note that:

- (a) she gave a full account of all the children had allegedly said;
- (b) she repeatedly used the word "disclosures" to describe the allegations;
- (c) she said that the father had accepted a lower financial settlement because "he wanted to take the money and go";
- (d) she was "expecting a disclosure";

- (e) "you read about Maddie", meaning Madeleine McCann, and added "that woman, poor little girl and a network of paedophiles, and they are like sects... you cannot trust anyone";
- (f) B "has always been interested in men. She fell in love with a man of the father's age and similar to him, tall, dark, handsome, sort of, not with people of her own age";
- (g) the children had told her that A had touched "her little sweetheart's willy like she touched daddy's", and B had "seen her little friend, she has touched hers, so they are quite, hate to say it, promiscuous";
- (h) "it feels like they have been shaped into, like, little prostitutes";
- (i) that when the children spoke to her about the allegations it was "sort of like a game";
- (j) that Simon Dermody had said that he was sure that there was going to be a disclosure;
- (k) the allegations about the men were "so real and so accurate but I do not know if it is their imagination";
- (l) that the father had stolen money from her parents;
- (m) that in one conversation in the hotel that she had told the children it was very serious what he had done, she had mentioned the police, and later in the afternoon they had told her it was lies what they had said about the men;
- (n) that the children were "a team with this thing", that they had "both been abused simultaneously and it is like their big secret".

27

On 13 August both children were interviewed by the police under the "Achieving Best Evidence" ("ABE") procedure. I have watched video recordings of those interviews. A made detailed allegations of abuse by her father and other men. B made less detailed allegations. I shall analyse these interviews later in the judgment.

28

Over the following few weeks the mother sent to DS Smith, one of the police officers involved in the investigation, a series of emails setting out further statements allegedly made by the children. It is clear from these emails that the mother was still continuing to question the children. The new allegations included sexual abuse of a baby at a party, a "nice party", according to A; the children talking of touching the mother's private area; father licking their private areas and "biting the willy bit"; that B had seen two of the named men passing by in taxis; allegations about a man called "Three Heads" who had abused them; the children playing sexualised games, and that A had made a noise contracting her vagina during the medical examination (referred to below). The mother was also concerned about men sitting in cars outside her home. It must be noted that the emails also refer to positive things said by the children about their father: For example, that A missed him and wanted to see him. However, on 1 September the mother sent an email to DS Smith: "The children were annoyed and angry over the weekend saying things like they had fun with daddy. I reminded them that daddy and the men had done very bad things to them".

29

On 18 August the father was arrested, detained for several hours and interviewed at length by the police. His premises were searched and his computers and telephones examined. Nothing

incriminating was found. He was remanded on police bail. Subsequently, one photograph was found in his possession that could arguably be suspicious. It consisted of one of the children naked holding up a bath towel. It is agreed, however, that in the context of the rest of the film, which is apparently taken in the mother's presence, it does not incriminate the father, and no party has sought to argue otherwise. The police computer files, in the "CRIS" report, which was only disclosed halfway through the hearing, recorded that the Father "had been known to frequent the school disco dating web site using the name Dutchie". It is not clear, however, whether this information was gleaned from his computer or from the mother or from another source. The father denies the allegation.

30

On 21 August the mother emailed Dr. Bentovim, saying that she had made it clear to Social Services and the police that although she has had her suspicions over the last couple of years, she did not want to take action until it was confirmed in the form of a disclosure: "My legal counsel has told me that I needed more evidence. If I had made allegations prior to the disclosures, it is possible that had he been proved innocent that the case would be closed for ever and I would never be able to make allegations in the future".

31

On 26 August a child protection case conference made the children subject to a child protection plan under the category of sexual abuse. Afterwards, the Local Authority wrote to the court proposing that they should prepare reports for the court instead of CAFCASS. On 27 August the children underwent a physical examination at The Haven Clinic in Paddington. During the examination, a comment was made to the effect that the mother was possessive and/or obsessive about the girls. The source of this comment is unclear. Nothing of significance was discovered in B's examination, but in A's case the clinicians found what they thought was evidence that was suggestive of sexual abuse. I consider the evidence about this examination later in the judgment. The significance of this finding, however, was that it gave added impetus to the police investigation, which was on a scale sufficient to justify being given an operational name. The police officers regarded the allegations in this case, involving a possible paedophile ring, as among the most serious they had come across.

32

On 2 September the District Judge discharged the contact order, directed the Local Authority to prepare a section 7 report, and adjourned the matter to 17 November. On 4 September A was interviewed again. I have also watched the recording of this interview which I consider below. According to the mother, the children continued to make allegations. They spoke of being abused by their father and a woman called V, who ran an art gallery near their home. The mother had previously suspected the father of conducting an affair with this woman. The mother also claimed that when walking past a butcher's shop the children alleged that the father had said that children were chopped up in there. She told social services that she had taken the children into the shop to demonstrate that there was nothing untoward. Meanwhile, the mother's solicitors indicated in correspondence that she wished to apply to set aside the financial order on the basis of the father's conduct, and it was subsequently agreed that the balance outstanding of £100,000 would only be paid if no further action was taken within the criminal proceedings and no findings of fact made against him in respect of the allegations. On 16 September G, a social worker, referred the mother for counselling to MD, another social worker who had been trained as a psychotherapist. He met the mother on 10 October and thereafter, for about a year, saw her every fortnight. His notes have been produced in these proceedings.

33

Towards the end of October, prior to a second interview which the police had arranged with the mother, she reported that the children were making further allegations, For example, that B had used a whip, that the father wore a cape with a thong and devil's horns, that the father made the children "eat his poo and drink his wee", that the children were forced to wear metal knickers, and that the father had put a knife to B's knee and said he was going to cut her legs off, gouge out her eyes, peel her skin off and slowly feed her flesh and blood to animals, hang up her skeleton for Halloween and eat her brain. In addition, the mother noted new names of abusers mentioned by the children, including "Barickson Hall". (It should be noted that this was a few days before the election of Barack Obama.) In a meeting with MD on 24 October, the mother said that B had spoken of how the father had put an apple in his bottom and then put it back in the fruit bowl and told her it was to trick the mother. The mother told MD that she was packing away all the things the father had bought the children. She said that she tried to help the girls "visualising them surrounded by white light trying to diminish the father's power over them". On 27 October the mother was interviewed again by the police. I have watched the recording of this further lengthy interview. She recounted what the children had alleged since the earlier interviews; produced copious notes of further allegations made by the children; listed names of men and women identified by the children, including some surnames; repeated the allegations of the children that the father had threatened to mutilate them; spoke of how the children had said that the abusers had been rude and insulting about her; and reported the children describing users in bizarre terms, e.g. "a poor fisherman with a tattooed willy". The mother also told the police that after Dr. R had asked whether B had been touched, "everything started making sense". At one point in the interview, however, she also said that the children had said to her that they "wished these were lies".

34

The initial Social Services assessment and the subsequent section 7 report prepared by G on 28 October described the mother as working well with all professionals and as being loving and dedicated to the children, with whom she had a strong attachment. She describes the children as suffering emotionally due to the parents' separation and having confused feelings towards the father. G expressed the opinion that the mother did not have the support, knowledge or skills she needed to deal with this very difficult situation, and thought it would be a natural response for any parent to find out as much as possible from the children, although she recognised that there was a possibility that she might have encouraged the children to talk.

35

On 1 November a friend of the parents, called W, visited the mother at the restaurant and told her that he was going to provide a character reference for the father to use in the proceedings.

36

On 4 November the mother emailed DS Smith with further allegations. She claimed that the children had spoken about meeting many men (fifty to eighty) and children at "the scary house", meaning the father's flat; that the children had put their hands into a fat man's bottom right up to the elbow; that the children wore glasses so that they could see inside his bottom; that other men did the same to daddy, sometimes two men at the same time, and similar allegations. B had said that the father would hurt her with needles, saying that he was infecting her. She had also said that the best part she missed was whipping the men. On the same day, at a strategy meeting with social services, the police questioned whether the allegations were fabricated as a result of the mother's excessive questioning of the children, and concern was also expressed about the mother's mental health. The Local Authority decided to ask the mother to undergo a psychiatric assessment. At a child protection

conference on 18 November the mother said that the children were making allegations most evenings and she has recording them on her mobile telephone. G said that the police had enough information and she should not pass on any further disclosures. Further concern was expressed about the children still sleeping with the mother, but by the time of a home visit by G a few days later on 26 November, the mother said that the children now had their own bedroom. During that visit, the social worker spoke to the maternal grandfather who said that B had recently told him in a "jokey" way: "My daddy took pictures of my private area and he put his willy inside me and wee'd". Despite concerns about the ongoing allegations, G expressed the view in a telephone call with DS Smith that the social workers thought that it was very likely that the children had been abused by the father, given their consistent allegations and the fact that there were no concerns about the mother's parenting. DS Smith agreed but said that the investigation was jeopardised by the further information being provided by the mother. She also observed that the father had been far more plausible than the mother in interview, although he had recently attended for a second interview at which he had made no comment, on advice. In fact, G herself had not met the father and indeed never met him. Meanwhile the mother was reporting further allegations by the children, claiming to MD that they had alleged that the father had made them lick V's vagina and that she was present at a party when the baby was abused. The mother told MD that she had searched V's name on the internet and found a link to sexual abuse.

37

On 2 December the mother went out for the evening leaving the children in the care of a babysitter, J. Subsequently the children told her that the father had visited the property that evening and abused them. Following a further police investigation, it became clear that this allegation was quite untrue. I shall consider this incident (which in these proceedings has come to be called "the J incident") in detail later in the judgment. Suffice it to say for the moment that, following this incident, the police concerns about the credibility of the allegations were very considerably heightened. On 8th December DI Jeffries expressed concern to social services about the mother's health and that, if she did not receive the response she wanted from the police, she would harm the children. These concerns were considered at a strategy meeting later that day attended by police, social services and MD. He said that the mother presented as immature, child-like, very needy and someone who struggles with boundaries and questioned her psychological function. At the strategy meeting, the Local Authority agreed to consider whether the children should be accommodated. However, following a further meeting with the mother, in which she said that the children had made up the allegations about the J incident, and agreed again not to question the children, the Local Authority decided not to pursue that option. It is clear that the social worker, G, had a more positive view of the mother's care of the children and fewer concerns about her involvement in the allegations than did the police. Indeed, DI Jeffries wrote to the social services team manager at this time stating that the mother's repeated questioning of the children was likely to cause emotional harm and suggesting that the mother was "grooming" the social worker. She said there was concern that the mother might harm the children if there was no prosecution, and felt that not enough was being done to safeguard them.

38

Over Christmas the mother took the children to F again. She took them back to the restaurant where they said they had been abused by the father in the lavatories. At the next session with MD, she said that A had told her that she hated her and wished she had never told her about the allegations. On this occasion, she also told MD that she thought the father may have been involved in abuse of the dog, S, because he used to go running with him and he would return bleeding from the anus. On 12 January 2009 the mother emailed her solicitor claiming that the children had not alleged that J had done things to them in the scary house. On 15 January the mother was assessed by Dr. Claire Smith, a

psychiatrist, who concluded that she was not suffering from any mental illness and described the mother as "thoughtful and insightful".

In a core group meeting on 16 January the school teachers spoke of B telling lies at school and speaking in grown-up language. On 1 February a CPS summary expressed concern that there were "serious difficulties with the evidence in this case and there are signs that the mother is perhaps orchestrating the children into fabricating evidence against the father ... either ... coldly and deliberately or perhaps unknowingly". The police sought advice from experts on factitious and induced illness. In their report, dated 8 February, those experts - Professor Roberts and Victoria Hackels, two forensic psychologists - concluded that "perhaps more significant than factitious or induced illness here is the risk of suggestibility of the children interacting with an anxious mother leading to a confabulated account of abuse".

39

In another session with MD on 27 February the mother expressed the view that she and the children had been helped by an angel and she could have ended up killed or in an institution if the girls had not disclosed. On 20 March, the new social worker, I, who had taken over from G, visited the home, to discuss inter alia contact with the paternal grandparents, to which the mother objected, citing the alleged incident under the blanket. She told the social worker that she felt the grandparents "made this monster", meaning the father.

On 27 March the CPS recommended that no charges be brought against the father. I and DS Smith visited the mother to break the news. She was upset and shocked at the decision, and the social worker encouraged her to pursue matters through the family court. I told the mother on this occasion that she did think that the girls had been abused. On 1 April I visited the family again. B said to her: "You are meant to be asking me about daddy", and added that she needed help as her father had abused her. The mother spoke in front of the children about talking to her legal team. On 2 April, in another session with MD, the mother talked again about the allegations and said that she hoped that in future the father might be guilty in relation to other acts of child abuse. She also referred to a chef who worked in the family restaurant about whom she said there had been previously concerns about child abuse. There had, she said, been a court case because he had been found in bed with a nine year old boy. She also said that the chef had told her once of a visit he had made to a gay club where a fat man dressed in leather had two children on leads. The mother said to MD that this was the first she realised that there was "this kind of world out there". In a telephone conversation, I and MD now agreed that the mother had an enmeshed relationship with the children. MD advised I that the professionals needed to consider whether the mother had coached the children. On 1 May the mother told MD that she had been researching the father on the internet and found that he appeared to be fund raising for a children's charity which had internet links to porn sites. (In fact the charity concerned is well respected and has no such links.) The mother also wondered whether there were paedophiles in the CPS, "and this is why so many child abuse cases did not get to trial". She observed that "the whole world might be destroyed by ever-increasing abuse on the internet". At a review child protection conference on 6 May it was decided that the children should remain under a child protection plan but the category changed from sexual to emotional abuse. Dr X told the meeting that he disapproved of the CPS and was very concerned about the father. Meanwhile, the mother continued to reveal more allegations made by the children, For example, that the father had touched B's vagina with metal instruments.

40

Through his solicitors, following the CPS decision not to bring charges, the father now revived his application for contact. It was agreed that there would have to be a fact-finding hearing in those proceedings. I now met the father on a number of occasions. On 18 May she visited him and his then girlfriend L.

At this point the Local Authority decided to institute care proceedings. It was decided that the immediate removal of the children from the mother would not be in their best interests, although it was thought that placement in a neutral environment would be advisable while assessments were carried out. On 22 May the District Judge at the Principal Registry directed a section 37 report and listed a fact-finding hearing for December 2009. At this point a school report on B provided further information: that B spoke of missing her father; that she said things that were formulaic built on previous discussions and a perception of what the adult wanted to hear; that she had a tendency to embellish or tell lies; that she had continued to come to school without underwear, and that she clung to her mother. The teacher also recounted that the mother had told her about how the father was not being prosecuted in front of B and described how the "three girls" (meaning M - the mother - A and B) had "made a pact to be strong together and support each other". A's teacher reported that she did not mention her father but added that she too often seems to embellish stories. The Local Authority's section 37 report prepared by I on 5 June recounted how the mother seemed at times preoccupied with finding further evidence against the father. On 16 June the Local Authority issued their care proceedings application with a care plan and supporting statement that repeated the proposal of removing the children from the mother's care during assessment. At the next hearing at the Principal Registry, the District Judge made directions, including approving a joint instruction to Great Ormond Street Hospital ("GOSH"). On 1 July the mother took the children to P for a holiday, under a written agreement with the Local Authority.

41

On 3 September a letter of instruction was sent to the Child Care Consultation Team at GOSH, asking them to carry out an assessment of the family. Meanwhile, the Local Authority was exploring options for placing the children during the assessment and had identified as possible candidates the mother's brother, R, and his wife, K. The mother opposed any move of the children. At a professionals' meeting attended by Dr. Margaret De Jong, consultant child psychiatrist at GOSH, and Sharon Pettle, consultant child psychologist, plus social workers and the parties' solicitors, Ms. Pettle said that she was "very clear that the children needed to be moved to a neutral placement while they undertake their assessment and that without such a neutral placement the validity of the assessment will be compromised". The question of an analysis of the ABE interviews was also discussed. Dr. De Jong said that she preferred to look at the interviews in the context of the whole assessment and did not consider that a second assessment of the interviews would particularly assist their overall assessment. She said that there was not a history of doing a separate assessment of video interviews in her department. After the meeting I saw the mother, who reiterated that she would not agree to the removal of the children during the assessment. Amongst the things she was concerned about was that R would tell the girls that the abuse did not happen. On 18 September the Local Authority wrote again to GOSH noting that the doctors had indicated that they wished to view the ABE videos, and added that the mother's solicitors were considering instructing an independent expert to view the videos as well. The Local Authority's solicitor also said: "I note you stated that your assessment will be undertaken upon the premise of the findings of the court at the fact-finding hearing".

42

On 21 September the District Judge gave further directions, including permission to the father to instruct an expert to consider the paediatric evidence; a further instruction to GOSH as to whether the children should remain with the mother or placed elsewhere during the assessment, and the transfer of the proceedings to the High Court. The mother remained resolutely opposed to the removal of the girls during the assessment, and in the further letter of instruction the Local Authority asked GOSH to reconsider this. After an interview with GOSH staff, R withdrew his offer to care for the children at that stage and, after seeing the mother with the children, GOSH concluded that it might be harmful to remove them at that juncture. In their interim report, dated 9 October, GOSH concluded that "if the fact-finding hearing raises serious concerns about the mother's influence of the children's allegations, we can then give further thought to our position regarding the children's placement". They further recommended that there should be no resumption of contact with the father until after the fact-finding hearing.

43

On 23 October the matter came before Ryder J. A full transcript of that hearing is available. At that stage the parties were not applying to instruct an independent "veracity" expert to consider the ABE interviews, although the judge indicated that it might be appropriate to take that course. He expressed some concern, however, about GOSH's methodology and capacity to carry out that sort of assessment. He listed the fact-finding hearing for 15 days in February 2010 (at that stage before him), with a case management conference on 10th December to consider, inter alia, the need for an independent veracity assessment and whether there should be an observed contact with the father as part of the assessment. He requested that Dr. De Jong attend that hearing. Dr. De Jong and her colleague, Dr. Hodges, a psychologist, then embarked on their assessment, seeing the children on a number of occasions. Dr X, who had continued to see the children with a variety of illnesses and complaints, now expressed concern at the direction of events, warning in a letter to the case conference chair that "the dangers of a wrong step in interpreting what they say could have serious long-term consequences", and how he found it "hard to understand how the mother stands accused of influencing the disclosures from the children considering the circumstances when they came to light". On 10 November Dr X saw B, and recorded in her medical notes, and described in evidence, how he had seen a "look of terror" in the child's eyes as she clutched the family cat in a panicky and "semi-psychotic" state. He recorded that this was his "first experience of terror in a child". A few weeks later, on 7 December, Dr X told I that he was not aware of child protection safeguarding procedures and did not want to read the information about them. I noted that Dr X "seems to lack insight into the reasons for the Local Authority involvement and care proceedings. He seems fixed in a position of absolute support for the mother's position".

44

In their next interim report on 13 November, GOSH set out their proposed programme of work and recommended that the father should have contact with the children in January as part of the assessment. That programme of work provided for cognitive psychological assessment of the children prior to fact-finding, and psychological assessment and psychiatric evaluation of both parents as soon as possible. The letter expressly stated that the proposed work would include a detailed examination of the ABE interviews, using statement validity and criterion-based content analysis. It stated, however, that the court might find it helpful to instruct a separate expert to assess veracity, including an analysis of the ABE interviews. On 10 December the adjourned case management conference took place before Ryder J. The timetable for the proceedings was amended, extending the fact-finding hearing to 22 days, this time listed before me, starting on 15 February, with a welfare hearing in June 2010. After hearing further argument, the judge concluded that an independent veracity expert was

not required. Dr. De Jong gave brief evidence on the issue of whether there should be observed contact with the father. It was decided that no such contact should take place before the fact-finding hearing. The order also contained a long list of further directions, including giving the mother permission to obtain her own paediatric evidence and for a further interim report from GOSH before the fact-finding hearing. Directions for disclosure were made in respect of Dr. R's homeopathic records, the notes of the mother's sessions with MD and, after legal argument, the emails that had passed between the mother and her solicitor relating to the allegations. Dr. De Jong and her team continued with the assessment and met all family members. Psychological assessments of the children were carried out by Dr. Adebuseyiyan-Assee, showing that A had superior level verbal reasoning skills and reasonably well developed literary skills, but weaknesses in other areas, and that B suffered from a specific difficulty with literacy and possibly dyslexia. It is recognised that both children are proficient in English and another European language, and have some knowledge of other languages. As indicated in the programme of work, Dr. De Jong now inspected the ABE interview videos. She sought clarification from the Local Authority about the scale of the interim report required of her for the fact-finding hearing. Having received no further letter of instruction, she decided to proceed on the basis of the programme of work as previously outlined. In a conversation on 22 December, she indicated to the Local Authority that the allegations were very serious, if true, and, if not true, it was equally serious. She was, according to the solicitor's note, "bothered that the police have dropped it with seemingly little reason". When she gave evidence before me, Dr. De Jong could not recall saying that, although she had been concerned whether the police had interviewed the right people. She said that she was not expressing surprise that the police had dropped the sexual abuse allegations but, rather, that they had considered factitious and induced illness as a possible explanation. On 6 January 2010 the Local Authority solicitor wrote to Dr. De Jong confirming the outcome of the previous hearing, although she did not refer to the court decision that there should be no independent veracity expert. On 15 January Dr. De Jong and Dr. Hodges interviewed the children again. On 5 February Dr. De Jong emailed the Local Authority: "I am finishing off the report now and want to ask you a question. In my conclusion, should I give an overall opinion about the validity of the allegations or should I simply set out our findings and allow the court to decide? We have no instructions about this report so I wanted to clarify." The solicitor replied: "Please just set out your findings and it will be for the court to decide".

45

When Dr. De Jong's report arrived, shortly before the start of the hearing before me, the parties (or most of them) were alarmed to find that it included a full analysis of the ABE interviews, although this should in my judgment have been anticipated from a study of the proposed programme of work. Lengthy submissions were made to me about whether or not I should admit the report, given the earlier decision by Ryder J. that there should be no independent veracity expert. In particular, as Dr. De Jong's report seemed on one reading to be suggesting that the children's allegations were credible, Mr. Verdan QC, on behalf of the father, strongly submitted that there was a danger of unfairness to his client if the trial proceeded without the father being afforded the opportunity of obtaining his own veracity assessment. After hearing those submissions, I delivered a judgment ruling that the report should be admitted as evidence at the fact-finding hearing before me, and I requested Dr. De Jong to attend for oral evidence. But I made that decision subject to three caveats: (1) that I would remain vigilant to ensure that no party was unfairly prejudiced as a result of my decision; (2) that in reaching the decision I was giving no indication as to how much, if any, weight I proposed to attach to the report; and (3) that it was, in any event, likely that only limited weight would be attached to Dr. De Jong's report because the responsibility of deciding where the truth lies rested on me as only I would be hearing all the evidence, including, crucially, the cross-examination of the parents. I therefore

anticipated that I would be in a much better position than Dr. De Jong to analyse the ABE interviews because I would do so in the context of all the evidence. I predicted that by the end of the hearing the picture would be far clearer than it was at the start of the hearing, and certainly far clearer than it was to any individual professional involved in any part of the investigation. Having, not without some hesitation, rejected Mr. Verdan's submission on this point at the start of the case, it was with some interest that I read the first two sentences of his majestic final submissions: "Rarely has oral evidence shone such light on a case. Rarely has the position been so clear by the case's conclusion."

THE HEARING AND ISSUES

46

The hearing has extended for 31 days and covered a wide range of issues. The court bundles exceed 3,000 pages. The chronologies prepared by the parents' representative at the conclusion of the hearing exceed 200 pages. Closing submissions, with accompanying attachments, exceeded 500 pages. I heard oral evidence from 28 witnesses, in order of appearance: Dr. Adebusuyi and Dr. Volpelliier, the clinicians who examined the children at The Haven; Dr. Croft and Professor Heger, the expert paediatricians instructed respectively by the mother and father; Dr. Bentovim; G; Professor Roberts; H, a friend of the father's; Y, the father's former flat mate and the girlfriend of H; U, a neighbour of the parties; W; Dr X; PC Puvitharan, who interviewed the girls; MD; DS Emma Smith; T, another former flat mate of the father, D, the family friend of the mother; C, the mother's family's housekeeper; Dr. De Jong; the paternal grandfather; DC Greedy, another police officer in the investigation; Dr. Smith; Mr. Dermody; DI Jeffries; I; IR, the social services team manager, and, finally, the mother and the father.

47

The Local Authority and the parents' representatives prepared schedules of findings which they invited the court to make but, in essence, the parties' positions can be summarised as follows. The mother, represented by Miss Janet Bazley QC and Miss Sally Stone, invites the court to find that the father has sexually abused the children and that he was violent and physically abusive to the mother. The father, represented by Mr. Alexander Verdan QC and Mr. Lee Arnot, contends that the allegations are untrue and that the mother has deliberately coached and led the children into making false allegations either knowing that they were untrue or, alternatively, falsely and unreasonably believing that they were true. The Local Authority, represented by Miss Cherry Harding, appeared to be fully supporting the father's position throughout the hearing, although right at the end the authority seemed to revert to a neutral position on the question of whether the children had been sexually abused. The children's guardian, represented by Ms. Sally Bradley, adopted a neutral position, whilst clearly maintaining a degree of scepticism about the allegations. Despite the ill feeling between the parties and the high degree of tension in these proceedings, this hearing has been conducted with a high degree of professional skill. Save for my criticisms about the instructions of GOSH (see below), I have nothing but praise for all counsel in these proceedings, including the pupils, Miss Calnan and Miss Pinder who have provided invaluable assistance, and the respective instructing solicitors.

THE LAW

48

The law is well known in this field and uncontroversial and need not be recited at length but can be briefly summarised as follows:

(1) In family proceedings there is only one standard of proof, namely the simple balance of probabilities: *Re B*[2008] UKHL 35.

(2) The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred: "Common sense, not law, requires that in deciding this question regard should be had, to whatever extent appropriate, to inherent probabilities" - Lord Hoffmann in *Re B* at para.15.

(3) "If a legal rule requires a fact to be proved (a 'fact in issue'), a judge or jury must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are 0 and 1" - Baroness Hale in *Re B* at para.2.

(4) Where the evidence of a child stands only as hearsay, the court weighing up that evidence has to take into account the fact that it was not subject to cross-examination: see the decision in *Re W*[2010] UKSC 12, reported in the course of this hearing. It should be noted in passing that no party, following that decision of the Supreme Court, sought to call either A or B as a witness in these proceedings.

(5) "In principle the approach in private family proceedings between parents should be the same as the approach in care proceedings. However, there are specific risks to which the court must be alive. Allegations of abuse are not being made by a neutral and expert Local Authority which has nothing to gain by making them, but by a parent who is seeking to gain an advantage in the battle against the other parent. This does not mean that they are false but it does increase the risk of misinterpretation, exaggeration or downright fabrication" - Baroness Hale in *Re B* at para.29.

(6) "If a court concludes that a witness has lied about one matter, it does not follow that he has lied about everything. A witness may lie for many reasons, for example, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure" - *R v Lucas*[1981] QB 720.

(7) When carrying out the assessment of evidence, regard must be had to the observations of Butler-Sloss P in *Re T*[2004] EWCA (Civ) 558, [2004] 2 FLR 838 at para.33. "Evidence cannot be evaluated and assessed in separate compartments. 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 the conclusion whether the case put forward by the Local Authority has been made out to the appropriate standard of proof".

(8) Whilst appropriate attention must be paid to the opinion of medical experts, their opinions need to be considered in the context of all the circumstances. Charles J in *A County Council v. K, D and L*[2005] EWHC 144 (Fam), [2005] 1 FLR 851 at paras.39 and 44 observed: "it is important to remember: i) that the roles of the court and the expert are distinct, and ii) that it is the court that is in the position to weigh the expert evidence against its findings on the other evidence... the judge must always remember that he or she is the person who makes the final decision".

49

In considering the allegations against the father in this case therefore I bear in mind that (1) it is inherently improbable that a father would sexually abuse his daughters; (2) it is even more improbable that a father would allow his daughters to be sexually abused by a group of paedophiles; (3) the allegations in this case arose in the context of a bitter private law contact dispute, and (4) the fact that the father may have lied or exaggerated in his evidence about some matters, for example his conduct before and after the breakdown of the marriage, does not mean that he has lied about the sexual allegations. Most importantly, however, the allegations have to be proved on the simple balance of probabilities. If they are so proved, the alleged facts are true. If they are not so proved, they are not true.

THE PHYSICAL EXAMINATION OF A

50

Both girls were subject to a physical examination for signs of sexual abuse. In B's case, nothing unusual was seen. In A's case, however, the clinicians made observations concerning the condition of her hymen that were thought to be supportive of abuse. This was the subject of extensive evidence at the hearing from the two clinicians who carried out the examination, Dr. Adebuseyi and Dr. Volpellier, and two expert witnesses instructed in the proceedings, Dr. Croft and Professor Heger. Reports or statements from all four doctors were included in the court papers, together with a DVD of the examination - the first time that this has occurred in family proceedings so far as I am aware. All four participated in an experts' meeting and gave evidence at the hearing.

51

The main issue arising out of the clinical examination concerned the significance of an indentation observed in A's hymen. On this point the following relevant guidance from the publication "The Physical Signs of Child Sexual Abuse: An evidence-based review and guidance for best practice", published by the Royal College of Paediatrics and Child Health in March 2008, was drawn to my attention. In clinical examinations a location on the hymen is described in terms of its position on a clock face with the child lying supine. The twelve o'clock position is thus the front or anterior, and six o'clock is the back or posterior position (page 15 of the guidance). There are various common hymenal configurations, including a crescentic hymen in which there are attachments anteriorly but no hymenal tissue visible between the two attachments, a fimbriated hymen in which the hymen edges are highly folded (also page 15). A "transection" is defined as "a discontinuity in the hymenal membrane that extends through the width of the hymen to its face so there appears to be no hymenal tissue remaining at the location. The term is used to describe healed appearances" (see glossary and page 38). The presence of a transection should be confirmed in different examination positions or with different techniques (also page 38). The term "hymenal notch or cleft" is defined as, and should only be used to mean, "an indentation in the hymen not extending to its base" (glossary and page 42). Hymenal transections are seen in a small proportion of pre-pubertal girls with a history of penetrative abuse. The transections seen in research studies of children who have been abused have all been in the posterior portion of the hymen, i.e. between three o'clock and nine o'clock. Transections have not been seen in research studies of girls who have not been abused. Thus, where posterior hymenal transections are found, penetrative injury should be strongly suspected (pages 34 to 38). On the other hand, notches or clefts in the anterior hymen have been described in both sexually abused and non-abused girls, and superficial notches in the posterior hymen have been reported in both pre-pubertal girls with a history of vaginal penetration and pre-pubertal girls selected for non-abuse. Deep notches in the posterior half of a non-fimbriated hymen have only been reported in pre-pubertal girls with a history of penetration. In practice it is impossible to be precise about measurements of the hymenal width, but where deep posterior notches can be clearly visualised, penetrative injury should be considered (page 42). Measurement of the hymenal orifice diameter is of little value in diagnosing penetration (page 50). The absence of any anogenital sign does not negate a child's history of abuse, nor exclude the possibility of abuse. The anogenital findings must always be interpreted in the broad context of a detailed medical, social and family assessment and the child's behaviour and demeanour (page 17).

52

Dr. Adebuseyi is a consultant paediatrician with a special interest in community child health, based at the Chelsea and Westminster Hospital. She has worked in paediatrics for the last 16 years. For a

number of years she worked in Kenya, and has been formally registered in the UK since 1995. She has been a consultant paediatrician in her current place for seven years. Her general paediatric clinical work does not normally involve the examination of a child's genitalia with the degree of intensity used in this case. Dr. Adebuseyi told me that she had been on training courses on genital examinations, the last being in June 2009. Over her time as a consultant, she had probably conducted about 20 examinations of this sort, of which about 12 would have been of pre-pubertal girls. In those examinations, she had seen a transection in at least four girls, including A, some of whom had been examined after A. Of the others, at least one would have had acute signs. So she agreed with Mr. Verdan that she had only seen a transection in a non-acute case in a pre-pubertal girl on two or three occasions. Dr. Volpellier was trained in France, qualifying in 1989, with an additional qualification in HIV. She has worked in the field of sexually transmitted diseases for a number of years in London, for different hospital departments, and also for the Brook Advisory Service. During that time she has conducted over 10,000 male and female genital examinations. She has undertaken specialist training with the Metropolitan Police on the medical evaluation of both adult and child survivors of rape and sexual abuse. She is now working as a senior doctor at The Haven Clinic in Paddington carrying out sexual offences examinations. The Haven normally sees acute cases, i.e. where an alleged assault has taken place not more than 72 hours previously. In this case, however, Dr. Adebuseyi decided to ask The Haven to carry out the examination of A and B because of the information passed through Social Services about the alleged assault. Dr. Volpellier told me that there are very few paediatric cases seen at The Haven. She herself is very used to examining young girls but not children. She is not a paediatrician. She has a great deal of experience in genital examinations with the Brook Advisory Service and other different sexually transmitted disease clinics, but all of those examinations involved teenagers or older people. Dr. Volpellier told me that she had examined about 15 pre-pubertal children at her time at The Haven, including boys, and a total of seven to nine girls before A. In answer to Mr. Verdan, Dr. Volpellier said that probably all the girls she had examined, with the exception of A, had been in acute cases. She agreed that her experience of examining pre-pubertal girls is "very, very limited". She said that this was the first time that she had formed an opinion that she had seen a transection in a pre-pubertal girl.

53

Dr. Adebuseyi performed a general physical examination and then both doctors jointly performed a genital examination. Dr. Adebuseyi said that for most of the time she operated the coloscopy machine, while Dr. Volpellier was doing the hands-on examination and taking swaps and samples. Dr. Adebuseyi was both looking at the child and at the screen on the machine. The record of the examination of the two girls was taken using a standard-form booklet after the examination, with each doctor completing part of the record, copies of which were included in the court papers. Dr. Adebuseyi also obtained a paediatric medical history from the mother. She was unable to recall whether that was carried out in the presence of the children, but stated that generally she tended to take the history from the parent alone. In the booklet the doctors have recorded: "full transection at three o'clock. Edges smooth. No bruising. No bleeding. No erythema". So far as I can see, the booklet does not ask the examiner to specify the anatomical configuration of the hymen, and nowhere is the configuration of A's hymen recorded in the booklet or the clinicians' written recordings.

54

In her statement to the police, Dr. Adebuseyi summarised the examination of A as follows:

"A was examined lying on her back with her leg apart, supine frog leg position. On inspection of her external genitalia, the appearance was that of a normal pre-pubertal female. There were no fresh

injuries or vaginal discharge noted. Gentle labial traction was then applied to expose the vestibule of the hymen. There was a full thickness transection seen in the hymen at three o'clock position. This transection did not appear to represent a recent injury as there was no associated redness, bruising or bleeding or pain. A DVD recording was made which was kept securely at The Haven. On review of this recording it was also apparent that there is a significant loss of hymenal tissue between the one o'clock and three o'clock positions."

In her police statement, dated 15 September 2008, Dr. Volpellier stated, inter alia:

"The genital and anal examination was done in the lithotomy frog position and in the knee-chest position. The examination of the hymen showed a full transection at three o'clock. The transection did not look fresh. There was no erythema, no bleeding and no bruising... I recorded that the genital and anal examination was made on DVD. The DVD is kept at The Haven. After viewing the DVD, it appeared that there was a loss of hymenal tissue between one and three o'clock."

55

Professor Astrid Heppenstall Heger is recognised as one of the leading experts in the world in the diagnosis of sexually abused children. She is Professor of Clinical Pediatrics of the University of Southern California, holds numerous honours, fellowships and society memberships, lectures nationally and internationally, and is the author of textbooks and many articles in this field. Her work is a major component of the research material underpinning the Royal College's guidance cited above. In a career stretching over 30 years, she has conducted over 30,000 anogenital examinations of children, of whom 80% were pre-pubertal. In their final submissions, Miss Bazley and Miss Stone observed that Professor Heger "does appear to be instructed often on behalf of those who have an interest in a normal finding", citing *Leeds City Council v. YX and ZX (Assessment of Sexual Abuse)* [2008] EWHC 802 (Fam), [2008] 2 FLR 869, as an example. Like Holman J, in this case, however, I have no reason to question the objectivity or independence of Professor Heger, and manifestly she had much greater experience in this field than either of the clinicians. Professor Heger was instructed on behalf of the father to review the medical documents and the DVD of the examinations of both girls, particularly A. From the DVD of A's supine examination, she described her hymen as "crescentic", the first time, so far as I am aware, that the anatomical configuration of A's hymen had been described, "with longitudinal intravaginal ridges at four o'clock that extend out on to the hymenal edge as a bump. There appears to be a notch/cleft immediately above of ventral to this bump at three o'clock, but it does not appear to extend to the base of the hymen when the traction on the labia majora is released. The hymen appears to continue eventually to one o'clock". She commented: "I do not agree that there is a transection of the hymen at three o'clock... There appears to be a cleft adjacent to the bump at four o'clock". She added: "The fact that both girls have normal genital examinations does not preclude the possibility that abuse has occurred". She suggested that it might have been advisable to conduct a further examination using the technique of floating the hymen in water. In an email to the father's solicitors dated 17 February 2010, she added this further comment: "When you read the guidelines in total, it is clear that the only transections, deep clefts or notches being brought into question are those in the posterior half 180 degrees from three o'clock to nine o'clock clockwise. It is accepted by every researcher published to date that there are normally occurring clefts or notches in the ventral nine to three half of the hymen because you have normal hymenal variants such as a crescentic hymen or posterior rim in which there are naturally occurring notches that extend to the base of the hymen at 11 and 1, or 10 to 2, or in fact hymens that insert into the vaginal wall close to nine and three o'clock, leaving the ventral half without a hymen."

56

Dr. Russell Croft is a consultant community paediatrician employed by the East and North Herts NHS Trust, a post he has held since 1994. He has a wide range of specialist interests, including child protection, and has held many posts in his long career which extends back to 1982. In his present post he was for many years the named doctor for child protection and had responsibility for drawing up the protocol and guidelines for child protection and clinical work for his district based on the Royal College's national guidance, for which he was also partly responsible. He has conducted genito-anal examinations on many hundreds of children. He acknowledged in evidence, however, that "our practice is based entirely on the work of Professor Heger and her colleagues and associates". Dr. Croft was instructed on behalf of the mother to review the medical evidence and Professor Heger's report. Commenting on the DVD of A's supine examination, in his report dated 3 February he said that "it was possible to see a notch and underneath this a bump or mound at about three o'clock... This did not appear to be full thickness". He observed that there was unanimity among all four doctors as to the DVD findings. He emphasised, however, that Dr. Volpellier "has very clearly and unambiguously recorded a full transection in her contemporaneous clinical notes". He then added:

"In my opinion, based on my experience, one should not assume that that photographic images, especially digitised images, always represent the reality or are the reality. One should not assume that the report of an eye witness is always less reliable than or a more faithful version of reality than images generated by photographic equipment. This is not necessarily always the case. In my experience, some injuries are less obvious on photo documentation than in real life, and also the opposite can be true as well... If a transection had in fact been present, then I consider this would be more strongly suggestive of previous abuse than the mere notch... Since we are dealing with a pre-pubertal, in my opinion, if it can be established that a full and complete transection rather than a notch was actually seen at the three o'clock position, then, in my opinion, on the balance of probabilities, this does suggest sexual abuse... If it is alleged that the girls were subjected to repeated full penetrative sexual intercourse, in other words penile rape, by 10 men on a single day, or if this could have occurred in July 2008, or if full penetrative sexual intercourse had occurred over many occasions over a period of years, it is difficult to believe that the physical findings would have been so normal in either girl".

57

All four doctors participated in a telephone conference on 9 February 2010. The two clinicians acknowledged the greater experience of the two experts but stuck to their guns as to what they had seen. All four then gave evidence at the start of the hearing before me. It was not possible for Professor Heger to attend the hearing in person, so arrangements were made for her to listen to the other doctors and give evidence via video link. Because of the time difference with California, that evidence was taken on three successive days between 3 p.m. and 6 p.m. In the event the video link did not function on two of the three days so the Professor had to participate on those days by telephone. I agree with the comments made by Holman J. in the Leeds case, in which the Professor also gave evidence, about the disadvantages of evidence via video link, which in this case were exacerbated because the link did not function properly. Nonetheless, I am satisfied that the hearing was conducted in a way that ensured fairness to all sides.

58

I acknowledge and take account of the evidence of both Dr. Adebusi and Dr. Volpellier, that they each saw a transection during their examination. I note that, while each was prepared to admit that they could have been wrong and the expertise of Dr. Croft and in particular Professor Heger was much greater, they each remained firm in their evidence that they had seen a transection. Dr.

Adebusuyi said at one point in answer to Miss Bazley that she had been "totally convinced" that she had seen what she had recorded. I believe Dr. Volpellier when she says: "We are extremely careful. I would never have written that if it was not truly, truly what I believed I saw". So I accept that both clinicians have expressed their genuine professional opinion. For several reasons, however, I have reached the firm conclusion that they were mistaken.

59

First, all the doctors agree that a transection is very rare, and I accept the evidence of Professor Heger that it takes considerable expertise to be confident that what one is seeing is in fact a transection. Secondly, it is significant that the notch was at three o'clock and not in the posterior half of the hymen. I accept the evidence of Professor Heger that any indentation, even one that extends to the base of the hymen at that point and anywhere in the ventral portion, may be a normal variant, particularly in the case of a crescentic hymen.

60

Thirdly, in the course of the hearing I had the advantage of being able to view the DVD myself on several occasions. During Dr. Croft's evidence, he and I conducted a frame by frame analysis of the appearance of the hymen. I reached the very clear conclusion that at several points in the film it was possible to see areas of hymen below or behind the indentation at three o'clock. Dr. Croft agreed that this was "probably" correct, and Professor Heger expressed the view that there was "plenty of hymen at the base" of the indentation. Miss Bazley pressed Professor Heger on whether the edges of the hymen were in fact sticking together so as to give the appearance of hymen behind the base of the indentation. The Professor thought this was possible but unlikely. I conclude that what was seen on the DVD was therefore a notch rather than a full transection.

61

Both Dr. Adebusuyi and Dr. Volpellier accepted in evidence that the DVD did not demonstrate a transection. They maintain that they had seen a transection during the examination. At the time of the examination, Dr. Volpellier thought that the transection was "quite striking", but when she saw the DVD she thought "well, it is not the same thing as I saw". Although the clinicians were able to see the patient with the naked eye, whereas the experts and the court are only able to examine the DVD, I am satisfied that in this case the DVD of the examination in the supine position provides a much stronger basis for reaching a conclusion about the condition of A's hymen. Dr. Adebusuyi thought the DVD was "not the best quality" but Professor Heger thought it was "pretty good" and Dr. Croft described it as "good". Dr. Volpellier thought the quality of the DVD of A's supine examination was much better than other DVDs that she had seen, but she believed that it was not perfect. "It is not like looking with your naked eye". This assertion was, however, significantly undermined when she was asked by Mr. Verdan to draw the real life size of the hymen. She drew a drawing which was of a circular shape with a diameter of no more than 2 or 3 millimetres, agreed to be smaller than a fingernail and more the size of a small pea. The experts subsequently confirmed these dimensions, Dr. Croft saying that the diameter of a child's hymen at this stage is between 2.8 and 3.1 millimetres, and adding, in cross-examination by Mr. Verdan, that he was perturbed that so much depended on the perceptions of fractions of a millimetre and fractions of a second. The transection, if it existed, on A's hymen was therefore extremely small to the naked eye. As Dr. Croft observed, any attempt to locate a position on such a small structure is going to be somewhat approximate. In contrast, as Dr. Volpellier and Dr. Croft accepted, the DVD image of the hymen during the examination was significantly magnified. Furthermore, as Dr. Croft conceded, another advantage of the DVD is that it allows the examination to be reviewed at length, whereas the clinical examination cannot be prolonged because it is distressing

and difficult for the patient. Professor Heger pointed out that during the examination "there is so much going on at the same time... the child may be moving, you are trying to manage the equipment". As is clear from the DVD in this case, there is movement of the hymen as it is being examined, which may only allow a split second inspection in the clinic, whereas by using the ability to observe the DVD by slow motion and freezing the frame where necessary, a more thorough analysis is possible.

62

I acknowledge the points made by Dr. Volpellier in answer to Miss Bazley during the evidence that there are many reasons why a DVD might not show what a clinician had seen with the naked eye. The child's anatomy might be in the way or the doctor's arm in the way or there might be a problem with the light. In addition, it is not possible to take more than a short time over the examination because it would be inappropriate to prolong the uncomfortable and unpleasant examination for the child. In this case, however, I am entirely satisfied that the DVD demonstrates something that was there but missed by the clinicians, namely hymenal tissue at the base of the indentation which means that it was a notch, not a complete transection.

63

Fourthly, while Drs. Adebusuyi and Volpellier recorded seeing a transection during the physical examination in the supine position, they did not record seeing it in the knee-chest position. As Professor Heger explained in her oral evidence, the knee-chest examination is often important because it will be assisted by gravity pulling the hymen down. Although boxes in the booklet were ticked indicating that both positions had been tried, there is, in my judgment, no clear evidence either in the booklet or in the evidence of either Dr. Adebusuyi or Dr. Volpellier that the transection was indeed seen in the knee-chest position as well as the supine position. The clinicians thought that they had confirmed the existence of the transection in both positions. On this point the DVD is totally unhelpful because it is commonly accepted by all parties and the doctors that the DVD of the knee-chest position was of poor quality and nothing could be seen with any clarity about the hymen area.

64

Fifthly, I find that the opinion of Drs. Adebusuyi and Volpellier is undermined by the conflict between them as to when they examined the DVD. In answer to Ms. Bradley, Dr. Adebusuyi said that she had first looked at the DVD "immediately after the examination because we have to check that the DVD has recorded properly". In answer to a question from me, she said that she thought she had completed the booklet after viewing the DVD "because the DVD is actually part of the examination". She had no specific memory of what she had done on this occasion but that her normal practice was to conduct the examination, then to check the DVD and then write the notes. Dr. Volpellier, however, said that it was possible that she had watched the DVD on the day of the examination but certainly not before the police left The Haven because she had not mentioned it in her summary of findings in the booklet. Initially she was unable to remember whether the first time she had looked at the DVD was with Dr. Adebusuyi or by herself. Later she told Miss Harding that she and Dr. Adebusuyi had definitely reviewed the DVD together at some point.

65

Sixthly, I find that the clinicians have failed to record, as the Royal College guidance requires, that there was a discrepancy between the clinical findings and the DVD images, and the reason for that discrepancy. Dr. Adebusuyi conceded in her cross-examination by Mr. Verdan that this was something that should have been noted because the difference between a transection and a partial notch was significant. Dr. Volpellier accepted that she had not made it clear in her police statement that the

appearance of the hymen on the DVD was different from what she had seen with the naked eye or that the transection was not visible on the DVD.

66

Seventh, I reject the opinion expressed by Drs. Adebussyi and Volpellier that there was a loss of hymenal tissue between one and three o'clock visible on the DVD. It is interesting to note that Drs. Adebussyi and Volpellier had not noticed during the examination what they later interpreted as a loss of hymenal tissue but were willing to record it on the basis of the DVD. In oral evidence they were less clear, and deferred to the two experts on this point. Neither Dr. Croft nor Professor Heger was able to see this feature on the DVD and, given their vastly greater experience, I prefer their evidence. Professor Heger said in oral evidence: "In a crescentic hymen, the hymen may insert onto the vaginal wall anywhere from 9.30 to 2.30 and so there may be no hymen in the ventral portion of the examination and that is a normal finding". Dr. Croft agreed that what the clinicians thought they saw at that point was a normal variant. This point demonstrates the relative inexperience of the two clinicians in this case.

67

Eighth, I accept the evidence of Professor Heger that there is an intravaginal bump visible on the DVD and that this is likely to be a normal variant. I also accept her opinion that the presence of this normal variant makes it more likely that the notch, as I find it to be, in the hymen at three o'clock is also more likely than not to be a normal variant. Ninth, I reject the suggestion that any significance is attached to the depth of the notch. Dr. Croft said in cross-examination that although the measurement of the depth of the notch was subjective, he thought it looked "pretty deep". He pointed out that if there was a deep notch, it would still be a finding that has not been described in normal, non-abused pre-pubertal girls. He conceded in answer to me, however, that his observation is only true of notches in the posterior half, as explained in the passages from the Royal College's guidance cited above, and confirmed by Professor Heger in her oral evidence. She stated: "In the ventral or anterior 180 degrees going clockwise from nine to three, there has been documented in every research project looking at normal anatomy that there are going to be defects, notches, clefts that extend to the base of the hymen because of the nature of the variations of a normal hymen, so I would never call a defect or a notch in the ventral 180 degrees a transection". In any event, Professor Heger did not agree that there was a deep notch because there was plenty of hymen visible at its base.

68

Finally, I accept the contention made by Mr. Verdan during the hearing that the presence of suspicious signs on examination cannot and should be used in isolation. History and context are highly relevant. Unless there is the presence of a foreign body, such as semen, a visible finding cannot predominate or be diagnostic. Thus, even if there had been a full transection, the most that could be said is that it is suggestive of sexual abuse.

69

I find that there was not a full transection of A's hymen. The indentation and the notch was either the result of traumatic injury or a normal variant. Of course I accept the evidence of all four doctors that the lack of a physical sign does not exclude the fact that sexual abuse might have taken place. As a matter of common sense, however, if the allegations made by the children are literally true, that is to say that there was a genuine penile penetration by a number of men over a period of time, I would expect that there would have been some physical signs on one or both of the girls. It follows that the conclusion reached by Drs. Adebussyi and Volpellier in this case, though made in good faith, was

erroneous. As Mr. Verdan and Mr. Arnot submit, this has had grave consequences "and put fuel on an existing raging fire", because it gave credibility to their allegations.

70

A number of lessons arise from the evidence about the physical examination in this case. I shall set them out at the end of this judgment in the section headed "Lessons to be learned".

THE ABE INTERVIEWS

71

The girls were interviewed separately on 13 August. A was interviewed again on 4 September. The interviews were recorded on video and purportedly conducted under the ABE guidelines. The court is familiar with those guidelines which have been discussed in many reported cases, and copies of the relevant pages of the guidelines were annexed to counsel's final submissions. The guidelines recommend a procedure based on a phased approach consisting of four phases: establishing rapport, free narrative recall, asking questions and closure. During the initial phase the ground rules are to be clarified with the child - for example, that the interviewer was not present when the events under investigation took place and is therefore reliant on the child's account. Then the purpose of the interview should be established and the interviewer should explore the child's understanding of truth and lies. In the second phase, described as "the core of the interview", the child is asked to provide an account in her own words. In the third phase, the interviewer expands the child's account through questioning, taking care to avoid leading questions. The guidelines stress the importance of planning an interview so that all the salient features can be provided for.

72

On 13 August B was interviewed first. The interview lasted 43 minutes and was conducted by PC Puvitharan with G in attendance and DC Greedy in the control room. After the rapport phase, the officer asked B what a lie is and what the truth is. B replied that: "the truth is does my daddy have a bicycle and a lie is does my daddy love my mum." Initially she was reluctant to talk: "I don't feel like talking". When asked who lives at home, she said: "my daddy was being mean to us so my mum put him outside". When asked what she meant, she said: "when I was a baby he used to pinch, nothing else". For some reason, not explored in evidence, the officer then asked about Peter Pan, which she said she had been reading next door. B said that: "It is quite scary about Captain Hook", and asked the officer: "Is it really mean?", to which the officer replied: "It is really mean. Why do you think Captain Hook was being mean to Peter Pan?" At this point B asked for a break.

73

Afterwards, the officer returned to the topic of Peter Pan and asked: "Do you think there is anybody that is a bit nasty like Captain Hook?", to which B replied. "Yeah, but my daddy is always mean to my mum. Once when my mummy was going to work, my daddy pulled her scarf and she strangled like that". The officer then asked a leading question: "Is there any other time that you have seen your daddy being nasty to mummy?", to which B replied: "Yes", but then: "I don't know, it didn't happen". Asked to talk about her daddy, she said that she was "Just not feeling like it", and "I just want to go away from here into the other room". After another break, during which there was some unrecorded conversation between the girls, the officer referred to a comment that B had made outside about her father and asked her to repeat it. At this point, B said: "Daddy touched us", pointing at her genital area and added: "and then it bled". Asked why she had put her hand over her mouth, she said: "Because it was funny". She then went on to say, among other things. "He touched our twinkle. He said, 'Do you want to touch my .. his thingy'. Goo was going to come out of his willy. And then he said,

'Do you want to lick that?' I vomited in the bath tub. Even A vomited. Mummy came back from work and said, 'F, what are you doing to the children?' That is how she kicked him out of the family". Later she said, amongst other things, that it had bled for eight days. "There was like a hole and then he scratched and it started bleeding". The officer asked a leading question: "Did he ask A whether he could touch her one as well?", to which she replied: "Yes". She said that it had happened in the bathroom, that there had been blood dripping on the floor, that lots came out. She repeated the word "dripping" 30 times. She referred again to mummy returning and speaking to the father. When asked what else daddy had done, she said: "He only did that", and said that she did not want to say anything. The interview ended abruptly.

74

From this summary, it can be seen that there was limited rapport building, a somewhat unsatisfactory truth and lies process, no free narrative, and a series of questions, some of which are leading. The reference to Peter Pan, if coincidental, was extremely unfortunate, given the suggestion made by the father that the mother had used precisely that book as part of the process of coaching the children. B made only a limited allegation with little detail.

75

A was interviewed immediately afterwards, also by PC Puvitharan, with G in attendance, and DC Greedy in the control room. Her interview lasted 1 hour 35 minutes. When viewing the video, I assumed (as did all counsel and Dr. De Jong) that the tape had been switched on some time after the start of the interview because there was no apparent rapport phase and no truth and lies discussion. In fact, as the police confirmed, the video is a full recording of the interview. There was indeed no rapport building, no explanation of the ground rules and no truth and lies discussion. The reason explained by PC Puvitharan was that A started her account immediately and the officer decided to let her continue. A came into the interview room carrying the journal which her mother had brought, in which were written various things that it was alleged that the children had said, and in some cases written. A's allegations in the interview are substantially prompted by what is written in this journal. She referred to various statements she had written in the journal, including, "Daddy makes me stressed, daddy made me touch his willy", the names of alleged abusers, including Tom, Nicholas, Thomas, Marat (which she described as a very funny name). While referring to these extracts she occasionally smiled and laughed. She referred to mummy writing in the journal and when asked why, she said: "Because this is the daddy journal so that when we get bigger we can remember what our daddy done to us". When asked about things that mother had written in the journal, A went on to refer to the men touching her "at daddy's new house in the bathroom" and described the men putting their willy in her private area. When asked to describe "their willy" she said: "First, it is long here and it has got a ball here". (I should mention at that point that it is agreed that the father has only one testicle.) A went on: "It is this long and the same colour as their bodies. My dad's is white and the rest of him is brown because he doesn't sunbathe it". She said that the willy was soft "but when we touched it at our old house before we moved into our new house, it turned hard every time we touched it. It started to become hard and then some green, yellow, white goo come out. Then he discussed us if we wanted to lick it. B licked it and then I licked it. It tasted salty, bitter, sweet. It was all different, like bitter, spicy". Later, in answer to a question she described touching "other men's willies. He introduced us to his friends and then the willy thing happens, the goo thing comes out. In the bathroom there are 10 friends including daddy. They had their trousers, except they pulled them down". When asked whether their willies were pointing up or down, she replied: "Down". She went on: "They made a circle and we went in the middle. We touched them. B touched the ball [NB singular] and I touched the long bit. I touched two like this and B touched two balls like this". After a break and some general discussion,

the officer returned to the journal and A made further allegations that her father had touched her private area with one finger, then two, then with his willy, "one minute to me and one minute to B". She described what they had been wearing. She said again that his willy had been pointing down and then said: "He put his willy in and he started to shake his willy inside my private area and then goo started to come inside our private area. Then we went to have breakfast". She added that: "Mummy was in the kitchen making scrambled egg and toast". When she said this, A was smiling. Asked whether she had said anything to mummy, she said: "No, only on our holiday". When asked why she had not said anything, she said: "Because I wanted to tell mummy when everyone was ready, even B when she was ready. Daddy said that he would kill us or hurt us". The officer asked what happened on the holiday. A said: "We told mummy. Then she started to ask us questions and we answered them and we started to talk about it".

76

Later in the interview A described sexual games she said had been played with the father. She was asked about more entries in the journal, including the other men who are named and drawn in the book. The drawings are typical of those that a child might draw playing a game. The book is in chapters. A smiles while talking about them. She then gives an account of what the men did in chapter 1: "They did it three times. The first one was Nicholas, the second one was Marat, then it was Bob, then it was Thomas. Then who didn't I say? Then it was Tom". She was asked to repeat that order, and does so. She says that the men put their willies in their private areas. When asked to "describe what their actual willy felt like", she said: "Gooley". When asked if their willies were pointing up or down, she said: "Always down". Then she went on to talk about the men in chapter 2: "Ferris, then T, then Thomas, then Fallister, then dad". Again she repeats the names in the same order. Again she says that the willies felt gooley and were pointing down. The conversation moved away to a different topic, an experience while skiing, which A described in a much more vivid and spontaneous way than she had when talking about the abuse. Later, after a break, A brings a magazine into the room and, prompted by the officer, says that a photograph of Peter Andre, the celebrity, looked like Nicholas, one of the named abusers. She said that the abuse at the father's flat had only occurred in the bathroom. She referred to that property as "the scary house", smiling when she said it. In answer to a leading question, she agreed that daddy had taken pictures when his willy was in their private areas. She described something called a private area dance, which she had played wearing a dress: "It would be so weird if we were naked and doing a private area dance. That is one rule we can't do. Don't take your knickers off when you do the private area dance. Keep your knickers on. You don't want to get germs". A laughed while describing this. Towards the end of the interview, in answer to a question, she said that there were no girls when with daddy and the men. Finally, in answer to a question: "Were their willies hard or soft?", she paused and said: "Soft. I would say soft", and smiled.

77

I have described this interview in great detail because it is perhaps the strongest evidence of abuse in this case. During the interview A gave an account that contained some detail of abuse. In my judgment, however, there is strikingly inappropriate affect, by which I mean that she frequently smiled, laughed and looked happy when talking about things that one might have expected would have been traumatic and distressing. Not once did she look upset or frightened. As already mentioned, there was no rapport, no explanation of the ground rules and no discussion of truth and lies. The interview is largely a discussion of what is in the journal.

78

On 4 September A was interviewed again by PC Puvitharan with G in attendance and DC Greedy and DS Smith in the control room, on this occasion for one hour 10 minutes. This interview is strikingly different from the first. There is some rapport building and a discussion of truth and lies, in which A demonstrates that she does know the difference. The officer does not, however, say to her that it is important that she tells the truth, instead saying: "You can tell me whatever you want". The officer then said: "Your mummy told me that you had some more things to tell me". A remained silent and then, after the question was repeated, said various things very quickly so that it is impossible to make out everything she was saying. Then she said things in an exaggerated slow way, including: "We called their willies a carrot or a pasta string and we went to this party. There was this baby called Daisy, and there was this woman called Gold, just like gold, and she was daddy's girlfriend, and those men had three heads and they put their willies in our private area and they told us to suck in and their willies disappeared into our private area and they were all the way up to our tummy and it really hurt and that is all I need to say". The officer said: "Thank you", to which A replied: "You are welcome". She repeated names which she said the men gave to their willies. She repeated the names of the men from the journal and described where each of them were standing in the bathroom, in a circle, (i.e. a ring). She said that they had gone to a movie, had popcorn and soda, then went for a hamburger and chips and ketchup and a chocolate milkshake. She said that this had happened five months ago. When asked about the party, she said that the men had "touched the baby's willy, the baby's private area. It got big and red. We took a bus home and got a little snack and then we went home, but first we played frisbee in the park". She added that there had been balloons outside the house for the party because it was the baby's birthday. She said that: "They took the baby to the toilet, then daddy touched her private area. He put his willy inside her private area. The private area got big and red and she cried and her mummy came in and we got kicked out of the party". She added: "And she did not give us party bags. Really, she held us up and kicked us out. Daddy said, 'We will never go to that house again'." Thereafter A became increasingly irritated and uninterested. She talked about a man with three heads and said that he had washed their private areas with his left head.

79

Towards the end of the interview, A made a noise which she said was coming from her private area, "suck in, suck out". At first she said that the man with three heads had taught her how to do this. When she later said that daddy had taught her how to do it, the officer reminded her that she had previously said that the man with three heads had taught her, to which she replied: "Curse my acid tongue". When asked what she meant, she said: "Words come out of my mouth. I can't even know -- I don't know what I'm saying because sometimes I forget things". When pressed about why she had said different things, she said: "I can't believe I did that again. Daddy taught me how to do it". When asked what she meant, she said: "I got it wrong again". At that point for the first time, so far as I could see, A looked anxious. The officer reassured her saying that no one was going to know what she had said apart from her and the social worker and the officers next door. A added: "And my mummy". The officer said: "Well, no, your mummy is not going to hear what you are saying", and in answer to further questions told A that her mother cannot come into the control room, and continued: "So you can say anything you want here. All right?", to which A replies: "Right. That is all I have to say". The officer tries to ask further questions. She asks: "When was the last time you saw daddy?" A replied: "The last time we touched his willy in that place, I know it, and this is it". When asked where that was, she said: "Science Museum". She asked to stop and the interview ended.

80

A's mood and demeanour in this interview was very different - at times irritated, sarcastic, uninterested, talking deliberately fast and then deliberately slowly. At several points the interviewer

was asking a lot of questions, and I felt A was treating it as a game. The GOSH report suggested that the reference to party bags is a significant contextual detail. I agree that it is significant but for an entirely different reason. To me it demonstrates that the story is manifestly false. I concluded, watching this interview, that A was making much of it up as she went along. Much of the detail cannot be true, for example the party, the man with three heads. The passage where A feels that she had made a mistake is, to my mind, very revealing. She appears to be aware that she has made a genuine mistake and her anxious statement, "I can't believe I got it wrong", is followed by a glance at the camera. She clearly believes that her mother is watching or may see the video. When the officer refutes this, A says that she has nothing further to say.

THE GREAT ORMOND STREET HOSPITAL ASSESSMENT

81

In their interim report, dated 5th February, Dr. De Jong and Dr. Hodges of GOSH note that with them A seemed anxious to please and emotionally contained. GOSH felt that there were indications of an underlying anxiety which she tries to avoid or conceal from herself and others. She affected a dismissive "whatever" stance towards thinking about her father. They did not see her exhibit any sexualised behaviour. She was unwilling to discuss the allegations with the GOSH staff, although she did answer one question about the ABE interview in a serious and thoughtful manner. B was vivacious, but her mood changed dramatically. The GOSH team noticed a disinhibited physicality and fleeting moments of sexualised gestures. She referred to her vagina at one point as "Venus penis". There was much about her presentation to suggest that she had been traumatised. When asked by GOSH what was worrying her, she whispered to her mother, sufficiently loud for them to hear: "It's daddy's team". From this I infer that she believes that the GOSH doctors were part of the father's team. They observed that both children are very emotionally dependent on their mother.

82

The GOSH staff assessed the ABE interviews using "criteria-based content analysis" ("CBCA"), described in an explanatory note appended to that report. In that report they concluded that there were some aspects of A's interviews which had a logical structure but other aspects were fragmented and disjointed, such as the baby at the party, although it was pointed out that this could reflect an experience which was to them bizarre and incomprehensible. They described her account as generally consistent whilst pointing out a possible inconsistency about the condition of the penises. They expressed the opinion that there is quite a lot of detail in the account with a degree of sexual knowledge that goes well beyond normal for a girl of her age. They refer to contextual embedding, giving as an example the fact that the mother was cooking scrambled eggs, although without any comment about the implausibility of that detail. They comment on A's description of her emotional response, which they describe as congruent. On the other hand, they remark on the fact that some of the comment is so bizarre that it is difficult to comprehend. In respect of B's interview, the GOSH staff, using the same technique, identified B's anxious mood and embarrassment, and disinhibited and sexualised gestures. They detect some spontaneously offered contextual detail, such as the blood dripping on the floor.

83

As part of the CBCA, they identified the fact that false allegations may occur after an acrimonious divorce and contact dispute, but assert that there are a number of reasons against this explanation here. In particular they point out that B became symptomatic well before the allegation. That argument assumes of course that B's behaviour was attributable to abuse. In my judgment, B's symptoms could well have been caused by a number of factors, only one of which was abuse. The

GOSH team acknowledge that the assessment of sexualised behaviour is difficult because it relies mainly on the mother's report, although GOSH did themselves witness some examples in B. GOSH acknowledged that such behaviour is not diagnostic of abuse and can be seen in children from families with poor sexual boundaries or who have been exposed to inappropriate sexual material. In the report GOSH expressed the view that the process of the allegations was more typical of children who had been abused than of those who had been coached, relying on the fact that the children made their allegations "at a time when they were feeling safe and protected", i.e. on holiday. They reject the suggestion of factitious and induced illness, but acknowledge that "a more realistic possibility is that there has been some suggestibility or influence on the children's allegations" on the mother's part. They point out, however, that there are aspects of the mother's reporting that do not support the hypothesis that she coached or influenced the children, referring in particular to her account of the children's retractions saying they missed their father and wondering whether they could be making it up.

84

In oral evidence, Dr. De Jong rightly accepted that it was for the court, not her or any other expert, to ascertain the truth of the children's allegations pre-fact-finding, as this was the very purpose of the hearing. She was very clear in her evidence that she was not giving an opinion about the ultimate truth of what the children had alleged, and fully acknowledged that only the judge is in a position, after hearing and reading all the evidence, to carry out this function.

85

Dr. De Jong confirmed in answer to Miss Bazley that the mother is very relaxed, warm and caring and sensitive to the needs of the children with much affection between them. She said to Miss Bazley that the pattern of gradual disclosure apparent in this case is quite typical of allegations of sexual abuse, especially if that abuse has continued over a period of time; that a false allegation often has the characteristics of a set piece; that simply because a child makes what appears to be a bizarre allegation later on does not mean that an earlier allegation was necessarily untrue; that the mother would normally be the natural person for the child to tell first about the allegations; that the sexualised behaviour witnessed by her in B was "borderline", but appeared to be unconscious and therefore was more likely to reflect a real experience. She also stressed that one has to bear in mind that what may seem at first and from an adult perspective to be implausible may have an internal logic from the child's point of view.

86

Dr. De Jong was cross-examined at length, and, if I may say so, with very great skill, by Mr. Verdan about her assessment of the ABE interviews and in particular the use of CBCA. She said that she had not previously done a validity assessment in a sexual abuse case, and that she had been to a full day conference on statement validity analysis but had not otherwise received any formal training in it. She had read that carrying out such an assessment requires training, but she thought those comments were relating to workers who were not trained psychiatrists. Dr. De Jong said at one point in Mr. Verdan's cross-examination that clinically she and other psychiatrists had always done this type of analysis before it was called statement validity analysis or CBCA. She herself has lots of experience of assessing children who had made allegations of sexual abuse, but she has not until now used a CBCA technique. She had used it in this case because she had become convinced that it would become helpful when she heard the way in which the German psychiatrist used it when attending the day course to which she had referred earlier. She insisted that the German psychiatrists do use the technique in combination with others, and they may meet the children as part of their assessment.

87

Mr. Verdan pressed Dr. De Jong robustly but fairly on the strength and weaknesses of statement validity analysis and its application in this case. She said that she was aware of research suggesting that CBCA should not be used in court because it is not reliable. She agreed with Mr. Verdan that it is an attempt to distinguish a false from a true account, although someone doing a validity analysis does not expect to come to the truth but, rather, to identify things about the statement which may or may not be indicative of truth. She accepted that it was not enough by itself to lead to a conclusion relating to the truth of the statement. Mr. Verdan suggested a number of features which had to be considered, namely inappropriate affect, susceptibility to suggestion, leading questions, questions by a person with close emotional relationship, context, the period of time during which questions were developed before being drawn to the attention of third parties, and consistency. Dr. De Jong accepted that all these matters had to be taken into consideration. It was put to her that statement validity analysis was directed to ascertaining truth rather than falsity. She did not accept that the analysis was framed in that way. Mr. Verdan submitted that the presence of each criterion enhances the quality of the original statement. Dr. De Jong did not entirely agree. She did, however, agree that it was not aimed at distinguishing between true and false memories, but, rather, between truth and lies. She was unable to comment on research about vivid false memories cited to her by Mr. Verdan, nor about the well-known work of Professor Ceci. Dr. De Jong agreed that there was a greater risk of false memory where the child was exposed to suggestion, leading questions, reminding and emotional questions. She accepted that by these means a child can come to believe events that are not true, in some cases in a detailed way. She further agreed that such children can come across as very credible, and said that it was very difficult in those circumstances to distinguish such accounts from accurate statements.

88

In answer to question from Mr. Verdan about the present case, Dr. De Jong agreed that the evolution of the allegations should be studied very carefully, in particular the evolution of the first allegation. She agreed that these children were at a particularly vulnerable age and in an emotional state when the allegations were first made. She accepted that if a primary carer endorses and/or shows sympathy about an allegation, it reinforces the child's belief in its truth. She agreed that the conversations the children had with the mother were likely to have been emotional and also emotionally upsetting for the mother and certainly for the children. She conceded to Mr. Verdan that she could see that going to P would have provided ample opportunity for the mother to distort what the children said to her. "None of us knows what went on there".

89

Dr. De Jong said that the mother had mentioned the allegations that the paternal grandfather may have molested the children. Dr. De Jong thought that this might have been exaggerated but she also wondered if the mother was in a state of over-anxiety, misinterpreting this because she believed the father this abused the children. In other words, she could have been in a state of heightened anxiety and distorted some things. Dr. De Jong also remembered the mother referring to how she had checked an internet web site about the woman who owned the art gallery. She was suspicious that the father was having affairs with neighbours and also with mothers of other children at the school. The mother had repeated this allegation to Dr. De Jong, who sensed that she was probably distorting some of these things, and that this might be related to her state of hyper-anxiety, although Dr. De Jong had no way of evaluating this. She accepted Mr. Verdan's description of the mother as needy or very needy, "There is an emotionally needy quality to her". Earlier, in answer to Miss Bazley, she was disinclined to use the word "enmeshed" to describe the relationship between the mother and the girls. She did,

however, detect "a certain amount of anxious preoccupation in the girls and the mother about each other". She felt that the mother conveyed a high level of anxiety about the girls. Mostly she put this down to the allegations, but looking at the history she had a sense of there being a higher level of anxiety in this mother than in others.

90

Dr. De Jong said children generally now have a much greater knowledge of sexual matters from what might be called legitimate sources than in previous years. Whereas 25 years ago if a child had something about a sexual matter, a question might legitimately arise as to how he or she had learned about it, it is now much more difficult to draw such a conclusion. Even primary school children have a much broader knowledge about sexual matters. Dr. De Jong's impression is that this problem is getting worse year by year.

91

Dr. De Jong conceded that when deciding what weight should be attached to the interim report, the court needed to take into account the fact that there had not been an opportunity to observe contact between the children and the father.

92

It is significant, in my view, that Dr. De Jong said that she had not had a case like this before. She had come across bizarre allegations before but not personally had experience of allegations by children that appeared to be involved in a paedophile network or ring.

93

In conclusion, Dr. De Jong stated that if the allegations are false, she would have very real concerns about the children's emotional welfare and the mother's role and influence on these allegations. She insisted that she and her colleagues had not reached an opinion about the matter, "I need to make that clear". For this reason, she said that she would not have a problem with continuing with her work in this case if the court concluded that the allegations were not true.

THE OTHER PROFESSIONAL WITNESSES

Dr X

94

Dr X has been the family GP for over 40 years. He has come to be relied on by all of them and particularly the maternal grandmother who has suffered a debilitating stroke. His appointment diaries are full of references to the family. He speaks to or sees one or other member of the family most weeks and sometimes several times a week. He is clearly devoted to the family and, save for his involvement in this case, there is no reason to question his professional abilities. But his work in this case gives the court very great cause for alarm. Mr. Verdan and Mr. Arnot submitted that it was characterised by prejudice, naïveté, ignorance and total lack of insight. I agree. For example:

(1) he displayed a shocking ignorance about child protection procedures, indeed an indifference bordering on contempt about them;

(2) as a result he failed to identify the significance in the mother's litany of complaints about the father in May 2007, that she was alleging that A may have been, in his word, "molested" by her paternal grandfather, choosing to concentrate instead on her complaints about the father's infidelity and other misconduct;

(3) he was willing to give an opinion on sexual abuse based on limited information and total lack of experience or expertise;

(4) he had an unconditional loyalty to the mother repeatedly demonstrated during the investigations leading up to this hearing and in his evidence, that he was irredeemably under her influence, speaking more than once of a "bond of trust" between them;

(5) under that influence at times he gave evidence that was, frankly, bizarre, most obviously his suggestion that the father had deliberately attacked B's eyes because she had witnessed abuse, and also his description of B as psychotic, which Dr. De Jong said was inappropriate.

95

When a GP has reason to suspect that a child has been abused, he is professionally obliged to report that to social services. Dr X was told about the father's alleged attack on B in May 2007, although he did not arrange any examination of the child. He was also told about the incident under the blanket involving the grandfather which he interpreted as an act of molestation. Furthermore, I am satisfied that it must have been clear to him from other things the mother was saying that she had grounds to suspect the father of sexually abusing the children. He should have forthwith referred the children to social services. If the allegations were true, the children continued to have unsupervised contact with their father for over a year, allowing more opportunity for abuse. Had Dr X promptly alerted social services, that opportunity would not have arisen without a full investigation. Although there was no direct evidence, I am satisfied, having read his appointment diary, that he selected Mr. Dermody as a therapist for B because he was a colleague of Dr. Bentovim, the well-known abuse expert, because he and the mother thought it would assist in obtaining evidence that B had been abused.

96

There are two other features of Dr X's actions in this case that should be mentioned. First, though I have not had the opportunity to analyse the matter thoroughly, I was struck by the number of occasions when the children were seen and allegedly had illnesses of some sort. I am concerned that there may have been excessive medical attention sought for and/or given to these children. I am not able to make any findings about this but I would like this aspect of the case considered by professionals in the next phase of the proceedings. Secondly, lurking in Dr X's evidence I detected a dismissive contempt for social services and their practices. He certainly demonstrated little, if any, awareness of the need for professionals to work together when trying to protect and safeguard children.

97

Mr. Verdan submitted that Dr X was over-involved, non-objective, partisan, maverick, unprofessional and dangerous. I agree. The mother, acting on advice clearly, has belatedly registered the children with a NHS doctor. The father asked me to order that Dr X should have no further medical involvement with the girls on a routine or emergency basis. If it were necessary to make such an order, I would do so.

98

At the conclusion of his evidence, I felt it was only fair to put to Dr X the concerns I had formed about his conduct in this case and specifically (1) his inadequate record-keeping; (2) the fact that he was inadequately informed about child protection procedures and guidance about sexual abuse; (3) his failure to report concerns about the possibility that the children had been used, and (4) that he allowed his close relationship with the mother to cloud his professional judgment, so that his evidence was prejudiced in her favour. His answers to these points did nothing to ease my concerns. I shall give

leave to the Local Authority for this judgment to be disclosed to the General Medical Council, together with a note prepared by Miss Calnan and Miss Pinder of the concluding part of his evidence.

Dr. Bentovim

99

I have already referred to Dr. Bentovim's evidence in the field of child sexual abuse. Regrettably, I have some criticism of his work in this case. I think it extremely unfortunate that, despite his limited involvement and knowledge of the case, he was prepared to write the letter dated 28 April 2008 in which he expresses opinions on the issue of staying contact, knowing that it would be used by the mother at the court hearing thereafter. At that stage he had only met the mother and the children once for what he described in evidence as "a low key psychiatric assessment", in which, surprisingly, he took a history from the mother in front of the children. He has not seen the case papers and he has never met the father. He seemed to be saying in evidence that he did not advise the mother that the children may have been sexually abused, yet, to my eye, that is the clear implication of his letter and it was certainly the inference that the mother drew from it. Later, when he was contacted by the mother in P, whilst he properly urged her not to question the children, he was wrong, in my judgment, to leave it to her and her solicitor to contact social services. As he himself had information suggesting that the children had been seriously sexually abused, he should have forthwith brought that to the attention of social services himself. I am also unhappy that there are no (or no adequate) records of the conversation he had with Mr. Dermody about the case while B was receiving therapy or, more importantly, of the telephone conversation he and Mr. Dermody had with the mother on 30 July.

100

I stress that these criticisms are not in the same league as those made before concerning Dr X, but, nonetheless, I find that there is force in Mr. Verdan's submission that Dr. Bentovim allowed himself to be used by the mother as a source of evidence to support her emerging case that the children had been abused. I am surprised that a doctor of his experience should have allowed himself to be used in that way. I accept his evidence, however, that he did not tell the mother, nor Mr. Dermody, that he thought the children had been sexually abused.

Mr. Dermody

101

Unlike, Dr. Bentovim, Mr. Dermody was manifestly ill at ease giving evidence and somewhat suspicious of the questions, not least when Miss Bazley challenged the authenticity of some of his professional memberships. Like Dr X his notetaking was erratic and incomplete, although I bear in mind that his notes were for his own purposes and he did not anticipate that they would ever be disclosed. Having said that, I conclude that he managed to retain professional distance and independence, more successfully than some of the other professionals in this case.

102

I accept his evidence that B never made any allegation of sexual abuse in any of her sessions with him, nor did she indicate through play that she had been abused. I agree with Mr. Verdan and Mr. Arnot that, given the extent of the sexual abuse later alleged, this is somewhat surprising. I also accepted his evidence that it was the mother who, early on during B's sessions and in her own sessions with him, frequently introduced sexual abuse imagery and concerns. I further accept his professional judgment that B's behaviour as described to him and her play as demonstrated during the sessions was typical of a child whose family was going through the trauma of a marital breakdown. Mr. Dermody was clear that he never reached the stage where he thought B had been sexually

abused. He was at pains to say at several points in his evidence that he retained an open mind on that matter throughout his work with B. I accept his evidence that he never said in terms that he thought she had been abused, although he accepted that he might have fed back to the mother the conversation he had had with Dr. Bentovim in which they discussed the possibility that she had been abused and that she might disclose to the mother. He also expressed concern about B's statement that her father had told her not to discuss him in therapy.

103

Overall, however, Mr. Dermody retained an open mind on the possibility of abuse and I find that the mother over-stated his opinion on the matter, and I accept the submission that she used Mr. Dermody for her own ends. I find that Mr. Dermody was selected as a therapist because of his proximity to Dr. Bentovim, with a view to establishing that the children had been abused. The mother constantly and inappropriately pressed him on this matter. He displayed some resolve in resisting her pressure.

Dr. Smith

104

Dr. Smith carried out a psychiatric assessment of the mother as described above. On any view, it was a superficial assessment of limited value to these proceedings. In fact, on one view, it could be said to have damaged the investigation because it appeared to give the mother a completely clean bill of health when, as other evidence has manifestly demonstrated, she has seriously distorted thinking on the issue of sexual abuse. If any psychiatric assessment was going to be carried out, it should have been on the basis of a thorough understanding of issues based on a reading of the papers, full disclosure of the mother's medical history and coupled with a psychological assessment.

Professor Roberts

105

I can deal with Professor Roberts' evidence equally shortly. He and his colleague were instructed during the course of the police investigation specifically to look at the possibility that this was a case of factitious or induced illness. As described above, they dismissed this theory. In their report they understandably made other comments and, not surprisingly, he was called to give evidence. He conceded, however, that his report was not designed to be an expert report but, rather, to assist the police in their investigation. On hearing this, I commented that I would be unlikely to rely on what Professor Roberts said without corroboration from another expert.

MD

106

As Mr. Verdan and Mr. Arnot observed, MD's contribution to this case has been principally via the disclosure of the notes of his fortnightly sessions with the mother after the allegations were made. In his oral evidence he was clearly and understandably discomfited at times because of concerns about a breach of his confidential quasi-therapeutic relationship with the mother. I express no view about whether the disclosure of the records of their sessions was such a breach. The decision to order disclosure was made at an earlier stage in the proceedings. As it happens, the notes shed considerable light on the mother's thinking about the allegations and other matters. What emerges is a picture of a woman with a range of vulnerabilities dating back to her youth, and a fixation that her children have been abused by a man she described to MD as "a monster". It was clear from MD's notes and later confirmed by evidence (see below) that her thinking on these matters was manifestly distorted. In my judgment, notwithstanding MD's view to the contrary, this goes far beyond the

traumatic effects which might be expected of a mother who has suddenly discovered that her children had been abused.

G

107

Having listened at length to G's evidence, I agree with Mr. Verdan's and Mr. Arnot's description of her as a well-meaning but somewhat naïve social worker who was sympathetic to and unchallenging of the mother. Her experience of sexual abuse allegations was very limited. This was her first serious sexual abuse case. She never met the father or even spoke to him, so her assessment was therefore inevitably limited and lacking in balance. In her defence, it can be said that she was heavily influenced by her understanding and interpretation of the paediatric evidence from The Haven and by the fact that she had neither seen or read the mother's police interviews.

I

108

G's successor as the family social worker, I, was much more experienced and demonstrated a far greater degree of balance throughout her work with the family. I agree with Mr. Verdan's description of her as an impressive social worker practitioner who gave thoughtful and considered evidence. She voiced concern from her work with the girls, notably a shift in the way the girls spoke about their father over the course of her involvement with them, their views become more negative, which she attributed to the mother's influence. She was concerned that the mother wished to throw away anything belonging to the father and effectively "airbrush" him out of the children's lives, and about the mother speaking in front of the children about inappropriate subjects. Although I am anxious to avoid the word "enmeshment" to describe the relationship between the mother and the girls (because it is apparently a word with a specific psychological meaning which is as yet not established by any professional evidence), there was plenty of evidence from I that she saw signs of an abnormally close relationship between them. That picture was amply confirmed subsequently by the mother's own evidence.

The police officers

109

I shall deal briefly with the evidence of the police officers taken together and comments made about them in final submissions. The police initially took the allegations very seriously, particularly after the physical examination. From the outset, however, they had some concerns about the mother's attitude and manner, and these increased as the investigation continued. DS Smith said that she had not had people report allegations of this sort in the same matter-of-fact way, either before this investigation or since. Her concerns were that more information was coming from the mother than from the children. She was also concerned about the number of calls and emails she was receiving from the mother - more than she has ever experienced in other cases - and that the mother was persisting in questioning the children. Miss Bazley and Miss Stone assert that the police had formed an early negative view of the mother, as evidenced by the comment at The Haven attributable, in all probability, to one of the police officers, that the mother was possessive and/or obsessive about the children. I do not regard that as inappropriately negative. It would be an entirely reasonable judgment to make from watching her first police interview and, in any event, has been amply justified throughout this hearing. Next it is said that they were unjustified in suspecting that the mother might cause physical harm to the children follows the J incident and the decision not to prosecute the father. In the light that of incident, it would, in my judgment, have been negligent of the police not to have considered that risk.

Looking at the case overall, there is nothing, I think, to suggest that the children were ever or would be at risk of physical harm, but I do not criticise the police for considering that possibility at various stages in the proceedings. I think the use of the word "grooming" to describe the mother's relationship with G was inaccurate, but, in view of my finding as to that social worker's limitations, I can understand the police concerns about her failure to challenge the mother.

110

Miss Bazley and Miss Stone are on stronger ground in their criticism of the police for failing to interview the maternal grandfather and other witnesses although, in my judgment, that failure has not materially affected the outcome of this hearing.

Criticism is also made of what is said to be a failure to pursue assiduously the names given by the girls for the men who abused them. DS Smith, however, described how police researchers had conducted a widespread search of the internet and other records trying to find out if any of the names and addresses given by the children were known to the police nationally or internationally as having a connection with paedophilia. No such connections were found.

111

I am, however, concerned about the absence of any evidence of a plan for the interviews of the children and that there was no discussion about A being allowed to take the journal into the interview. I am also alarmed by the failure of the police to disclose substantial numbers of documents in their possession until halfway through this hearing, and I shall return to this point at the end of the judgment. Overall, however, I reject the submission on behalf of the mother that the police investigation and decision making was flawed.

THE MOTHER'S EVIDENCE

112

The mother is a woman of great charm but also manifest vulnerability, who appeared extremely anxious sitting with her solicitor during the proceedings. However, it was notable in her evidence that she rarely became distressed, even when describing in detail allegations of horrific abuse of her children, although the process of giving evidence plainly put her under stress at times, and on one day she became unwell and was unable to continue. Throughout her evidence she spoke in a manner that was both theatrical and immature, at times child-like. She referred to how her road accident had delayed her adolescence, and on a number of occasions during her evidence she reminded me of an adolescent in the way she answered the question. Much of her evidence was thoroughly unconvincing.

113

One aspect that was convincing, however, was her strong antipathy to the father. She said that: "he had to be punished, has to be punished". In answer to Mr. Verdan, she said of course she wanted him out of the children's lives. She agreed that she described the father as cruel, dangerous, a sinner and wolf-like, "like in Little Red Riding Hood". She said that her discovery of what she called the father's duplicitous lifestyle had freed her from her naïveté. She had not told him about Dr. R's comment because it was in the back of her mind that he could have abused the children. She reiterated the interpretation provided by Dr X earlier in the case of the father's alleged attack on B's eyes, saying: "Why is he attacking her eyes? She was seeing something that he does not want her to talk about. Since the allegations it made sense why her eyes were being attacked". She was clearly obsessed with the notion that he was being unfaithful in ways that brought humiliation upon her. She recounted with some indignation stories that she had allegedly heard about the father's inappropriate behaviour with

"other mummies" at school. She said that she had been asked: "Aren't you jealous of your husband? All the mummies are in love with him".

She said that she believed the father was turning the children against her and that they were being cold and distant towards her because of his manipulation. She described how she had put a chair against the basement door to stop the father getting in, fearing that he would enter the house and attack her. She said that she had done this to reassure the children. When I pointed out that putting a chair against the door might reinforce their concern that he might come in, she said that she saw the point of my observation but still thought it reassured them. She also thought it suspicious that the father suddenly bought the children underwear shortly before the allegations were made. She said that it was a cunning act to appear normal.

114

When answering questions in chief about what had happened in P, she said that the children told her in a mixture of English and another language, mainly English. She said that the girls do not seem traumatised when they were telling her about what had happened. She talked of feeling that "we were inside this vortex, it was so intense", and later that there had been an energy between her and the children.

When Mr. Verdan put to her several similarities between the Peter Pan story and the children's allegations, she professed that she had not noticed them before. She said that the Peter Pan story had been a catalyst. She was half expecting the disclosure. She had not, however, used it as a way of getting them to say something. Later, to Miss Harding, she said that they had brought the book back from holiday, that this was the first time it had been removed from P and the reason for bringing it was that they were still reading it "and because it was poignant". She said that when talking to the children about the allegations she became a child with them: "They were excited. They wanted to tell, so I listened. It was all done in a playful way, not a heavy way. I went into play mode. It was like a game. I synchronized with them. I am good at switching. I go into kid mode". She confirmed that the day after the first allegations, B had said that it had all been lies and she had responded: "Yes, it was very good of you what you said". She had done this because she said: "It was not lies. I understand these children very well". The mother said in chief that she remembered Dr. Bentovim saying that she should ask as few questions as possible but, "I could not help it. I wanted to know what had happened to these little girls". Later in cross-examination, she said: "Of course I asked the children questions. What mother would not when it has been going on for years and years? It is my duty to protect them". Although she had been advised not to question them, she added: "There are different ways of questioning. You have to see it in the context of what the children are saying". When asked about the journal, she said it was for the children to draw pictures and record details because they were giving so much detail, particularly about other people involved. She accepted that she suggested to A that she should write an accurate journal so that she could remember when she was older, "so that you can remember what he did to you". She described how B was saying that daddy was going to come in the window, and how she had told her not to worry because he could not fly. She confirmed that once back in London she thought the house was being watched by men sitting in cars. She thought that it was possible that the men who she saw outside the house with their car engines running had something to do with the case. She said that she had made a connection with the Madeleine McCann and Josef Fritzl cases.

115

She accepted that she had told the girls in October that she was going to see the police again, and did ask them if there were any other people they wanted her to mention. The children had then made

allegations implicating women in the abuse, from which she said she understood and believed that V and U had been involved in sex parties and abused the children; that the father had made one of the girls perform oral sex on V on 7 July, and that V had been present at the party when the baby had been abused. It was notable that the women named were two of the women with whom she suspected the father was having an affair. She said that the children had said: "He's got a girlfriend for each night of the week". This sounded to me more like a phrase that an adult would use. She accepted that it had crossed her mind that the father was having an affair with V, and that she had done an internet search on the name V and found a link with paedophiles in Turkey. She accepted, however, that V's surname was common in Turkey. Her explanation for the mistaken identity of U as the father's girlfriend and a perpetrator of abuse was that it was possibly a red herring planted to make her look foolish. She described how the children had told her about the father buying four items of clothing for a girlfriend. When it was put to her that he had only bought a vest top with them, she said that they must have embellished the story. Asked to explain why the children made an untrue allegation against W, the mother said that she thought they were describing a real experience and ascribing it to the wrong person.

116

On many occasions in evidence when asked to account for how the children had made allegations that she had by that stage in the proceedings accepted were untrue, the mother referred to how "their little minds had gone into overdrive". This was a phrase she used over and over again and was unable to explain to my satisfaction what exactly she meant. She swore that she had not put the ideas in the children's minds. Instead, she had been trying to put things in perspective for them. When I suggested that some of the allegations - for example, the apple incident - might have been some incident blown out of all proportion, the mother said that B had been really distressed. She accepted that the allegations had become more and more extreme. She said that she did not know from where the children had got the idea of the father stealing children from outside London and putting them in the paedophile ring. She suggested that perhaps they had heard about Madeleine McCann and children being abducted and they had themselves been "threatened being taken away from mummy". She said that the children may have watched TV and seen in reports about the McCann case mention of the name Morat. She was asked about some of the more fantastical allegations, for example that one of the abused babies had a broken leg and another had no leg and that the babies and the children themselves had been forced to wear metal knickers. She made a gesture with her hand to indicate that she was unsure if it was true or not. She acknowledged that she saw certain sexual connotation in things, for example, when the father bought the children a light sabre or a chocolate in the shape of asparagus. After the allegations, all of a sudden she had become aware that the world was a dangerous and grown-up place. "It was happening in my house under my nose. They are all over the world. It is out of control". She insisted that she thought the father had abused O, the dog, even when she was reminded by Mr. Verdan that the dog had a prostate problem. She was asked about the children's allegations about putting their arms up men's bottoms and seeing their father and other men do it. She stated that some men have a tattoo on their arm to indicate how far they are able to insert it up someone's bottom. She expressed the view that this was common knowledge. A glance around the startled faces in court indicated that this was not true. To me this graphically demonstrated the mother's obsessive and anxious belief about perverted and abusive sexual activity. The coincidence with the children's alleged statements was striking.

117

She was asked about how she had recorded the children and described how she had done it using her mobile phone in a way that the children would not have realised. I was struck by the very theatrical

manner in which she described this. She said in evidence that she had only recorded them in P and had not done so since returning. She was then referred to the minutes of a case conference on 18 November 2008 at which it is reported that she said in the presence of eight professionals that she had recorded the last few disclosures and was doing it because she finds it difficult to believe what they are saying and would like them to be interviewed again. She has therefore given manifestly inconsistent accounts about the recording of the children.

118

As is clear from comments made and recorded in the papers, the mother believes in astrology. She confirmed this in oral evidence: "I do not believe the Newtonian theory that there is space between the planets". When asked about this in evidence, she said that B was a Virgo, and A on the cusp between Virgo and Libra, and that at the time of the allegations Saturn, which is a heavy intense planet, was moving out of their star signs, that it was like a burden being lifted and she wondered if the planetary movements led to a lightening for them. She was asked to explain what she had said to the children about attending the court hearing. She said that, in order to explain why she was leaving every day wearing smart clothes, she had told them that she was doing a study course and working in an office. When the children asked why, she said: "'You never stop learning', and that was enough for them". She insisted to Mr. Verdan that she was engaged in learning something at this hearing, so that it was not a lie. One of the children clearly suspected something and asked if she would be seeing daddy. She had secretly crossed her fingers, presumably to excuse a lie, and said no. She added that this was not untrue because she did not have to look at the father in court. Later, when asked about the lies the children had told, for example about her not having a boyfriend and having another baby, she dismissed this as "quite normal for children to make up stories", and said that this was their way of protecting her. She said that they had learnt the idea of embellishing from years of having been sworn to secrecy by the father. At one point in cross-examination, the mother explained that she thought that the actual experience of abuse was not horrendous for the children, "but I think what is horrendous were the threats and being sworn to secrecy".

119

In chief, she denied that she had set out to instill a false story in the children's minds. She denied that she was deliberately coaching the children to frustrate contact. She denied that she had any financial motive. When questioned by Mr. Verdan, she said that her conscience was clear. She said that making the allegations had been liberating for the children. She acknowledged that the litigation had cost a lot of money and involved a large amount of police and social services' time and effort. She said again that she believed the children, and she said that she was quite capable of keeping her own feelings to herself when with the children. She said that she was their mother and she knew instinctively what helps and what does not. She recounted how she had seen the film "Good Will Hunting", and referred to the scene in which a therapist, played by Robin Williams, repeatedly says to an abused victim, played by Matt Damon, "It is not your fault, it is not your fault", whereupon the victim sobs on his shoulder. She described how she had re-enacted this with B one day in the bathroom.

120

I have not had the benefit of a psychological assessment of the mother, so any finding I make about her personality is based on my impressions as a layman but, having observed her in the witness box over many hours, I am in a position to form some general conclusions about her, as all judges do when assessing witnesses. I agree with Mr. Verdan that there is evidence of a long-standing, very fragile, weak and vulnerable personality, demonstrated, inter alia, by her historic poor self-image, her description of a delayed adolescence, her child-like and immature manner, her history of depression,

alcohol use and binge drinking, her obsessive, jealous and paranoid interest in the father's female friends and her frequent need for reassurance and approval from and dependence on professionals in these proceedings.

121

I record, however, that the mother said that she would respect the judgment, whatever its conclusion, even if I find that the father has not abused the children, and that she will continue to work with professionals.

THE ALLEGATIONS OF A PAEDOPHILE RING

122

I turn next to consider what might be called the more extreme allegations that A and B were introduced by their father into a paedophile ring. The allegations made in the interview and the further allegations repeated by the mother in the following weeks were amongst the most extreme that this court has heard. The allegations became more and more bizarre and extreme as the investigation progressed. They included that the children had been abused by a group of people, initially nine men identified by first names, some of which were names of friends of the father, such as T, but others which were fanciful and, to my mind, child-like. Over the ensuing months that list expanded to include other men, some of whom were identified by surnames, and women. The numbers steadily increased until they reached fifty to eighty which, to my mind, is manifestly incredible. In the course of this expansion of the story, further friends or acquaintances of the father became implicated. Two of the women named were people with whom the mother suspected the father of having affairs. The activities alleged also became more and more extreme, including abuse of a baby, and fantastical, including abuse by a man with three heads. Ultimately, according to the mother, the abusive extended to witnessing gross and extreme activity between the children and groups of men, including the insertion of fists into bottoms up to the elbow.

123

There are some features of the allegations which, if one just steps back and considers the matter from a commonsense perspective, make many of them highly unlikely and, frankly, incredible:

(1) A gives a list of nine names said to be the men who abused her as part of a paedophile ring. She later repeats this list in the same order. At one stage it was suggested that repetition adds authenticity to the account. To my mind, the opposite is true. The repetition of the list looked and sounded to me like a rehearsed process.

(2) In any event, it is inherently improbable that a group of paedophiles would give names, even false ones, to the girls they were abusing, or the children would be able to remember them.

(3) The description of the nine men and the drawings of them in the journal have an obviously fictitious appearance. They are like characters in a story written by a child or derived by a child from another story she has read. Some of the names are obviously fictitious. One of them, Marat, is said to be similar to the name of a man who was at one stage a suspect in the Madeleine McCann enquiry.

(4) The account of the father putting an apple in his bottom and putting it back into the fruit bowl for the mother to eat is hardly the act of a secretive paedophile bent on persisting in the abuse of his children.

(5) The mother was drawn into the narrative in a way which is wholly inconsistent with real abuse. She is the focus of insults and verbal abuse from the nine men.

(6) As the allegations have become more and more extreme, the identification of the alleged perpetrators evolves. At first they are nine men known only by single names, which bear all the hallmarks of child-like fantasy. Later, some of men acquire surnames with no explanation as to how the children have come to recall these details. Then women become included in the list. Next, real people are identified as part of the ring: V, U, W. Strikingly, these are people in respect of whom the mother has a separate grievance either because she believes - wrongly and irrationally, as I find - that the father was having affairs with women or, in the case of W, because he had told her that he was going to give a supporting statement on behalf of the father in these proceedings. His inclusion in the history - whilst no doubt distressing for him, as it was for the others involved in this way - casts a revealing light on what happened in this case. To my mind, it is beyond coincidence that his identification as a possible perpetrator came only a few weeks after he told the mother that he was going to give evidence. I conclude that after learning of his intention, the mother questioned and led the children into making an allegation against him either because she wished to discredit him, knowing it was untrue, or because she was perplexed why he would volunteer to give a reference, and jumped to the conclusion that he was a member of the ring.

124

To my mind, all these allegations of a paedophile ring are untrue. I do not believe that these children were victims of such a ring. The allegations made to that effect in the ABE interviews are wholly implausible, and the gradually more extreme allegations that the mother alleges were made afterwards are manifestly incredible. The fact that they were made is, however, extremely worrying.

125

My findings on these points are reinforced by the evidence of five witnesses called on behalf of the father: T, H and Y (all of whom lived with the father for a few months), U, a neighbour of the parents, whom the mother wrongfully accused of having an affair with the father, and W. Each has been identified, with varying degrees of confidence, as a possible perpetrator of abuse. Each was manifestly a respectable and truthful witness, and I, without hesitation, exonerate all of them of any suggestion that they were involved in abusing children. In final submissions Miss Bazley did not seek to persuade me otherwise, save in the case of T, who it was suggested had been defensive when giving his evidence. I reject that submission. To my mind he was responding with appropriate vehemence to a false and grossly defamatory accusation. During the evidence of those witnesses who had lived in the same flat as the father, photos of the bathrooms were produced, which demonstrated that the sexual activity described by A involving 10 men could not possibly have taken place there.

THE J INCIDENT

126

On 2 December 2008 the mother went out for the evening leaving the children with a babysitter, J who had worked with the maternal family with four years as a cleaner for the grandparents and latterly an occasional child minder for the mother. According to a statement which J gave to the police a few days later, nothing of any significance happened during that evening. She and the children watched a film in the mother's bed, then the children went to sleep. J phoned her boyfriend in Brazil. At one point B awoke crying with a nightmare and J settled her back to sleep. The mother returned at about 11.30. The following morning, according to the mother, B pointed to a chair in the corner and said that J had been on the phone to the father the previous evening; that she had also spoken to the father who had said: "Mummy is an idiot. I am going to kill you, A, mummy and her parents". The mother had asked A if this had happened, but she had denied it. Over the next few days, however, the mother continued to ponder anxiously about what B had said. B was upset and unwell. By Friday the mother was worried:

what if he has threatened to go to the Home Office about J's immigration status unless she let him see the children? She remembered that the father had been in contact with J some time earlier, and also that a lot of people had said that they had seen him in the local area recently. So the mother decided to tackle A about the matter again. She said "in a light way, 'What was it like speaking to daddy the other night?' A replied, 'I was scared'."

127

Hearing this and after speaking to the maternal grandfather, the mother decided to call the police but she was unable to get through to the Child Protection Unit, so she called 999. On the Saturday afternoon, uniformed police visited the home. The mother repeated what the children had allegedly said and told the police that she thought J might be trying to set up meetings between the father and the children. The police report continues: "The children were spoken to very briefly but would not/ could not provide any details of the phone call. They seemed nervous, withdrawn and apprehensive at the prospect of speaking with uniformed officers". Understandably, the police took this new allegation very seriously. Later that afternoon, according to the police records, the mother telephoned again and gave further details. One of the children had apparently told her that she had overheard J and the father discussing the kidnap of the children. DI Jeffries then spoke to J over the telephone, who told her that the only calls she had received that evening had been from her boyfriend in Brazil. No telephone caller had spoken to the children. J was asked to come in for an interview by the police the following day. She duly attended at the police station and provided the account recited above. Meanwhile, the mother telephoned the police on two further occasions during the afternoon. On the first she said that the children had now disclosed to her that the father had visited the house on the Tuesday and had been let in by J. The children had overheard the father and J discussing marriage, kidnapping the children and threats to kill the mother and her parents. Twenty minutes later the mother phoned back again. She said that the children had said that the father had actually sexually abused both of them on the Tuesday evening. On leaving the police station J went to the mother's home and, finding her out, went on to the grandparents' home where she found the mother and the children. The mother told J that she felt let down by her and did not want her at the family home any more. The children were hiding behind the curtain, and on hearing J crying they came out and told the mother that everything was lies. The only true thing in their account about what had happened was that they had heard their father on the phone saying that he wanted to see them.

128

When they heard about the children's retraction, the police and social services were understandably alarmed. It is fair to say, as demonstrated above in my recital of the chronology, that this incident changed the direction of the whole investigation. I accept the analysis put forward by Mr. Verdan and Mr. Arnot about this incident in their closing submissions. This J incident demonstrates that the children have the ability to give a detailed and wholly false account which the mother was all too willing to accept. It demonstrates how the mother repeatedly questioned the children and in particular how she refused to accept a denial by A that she had spoken to her father, and had asked A a question based on a wholly false premise, which A then adopted. The incident also demonstrates a rapid escalation of allegations into a bizarre and wholly implausible fantasy which the mother was not only willing to accept without question but also pass on to professionals. A key feature of the fantasy was the allegation that the father was having a relationship with another woman, in this case J. Thus, the allegations reflected the mother's own anxieties and insecurities rather than the children's.

129

Subsequently, the mother has accepted that most of the allegations about this incident are untrue. In evidence she said at one point that she did not know if any of it was true, although I think she persists in believing that J and the children did indeed speak to the father that evening. The mother has effectively banished J from the family as a result of this incident. The mother's theory, in evidence, was that something - perhaps hearing the voice of the father, either in a live phone call or on a message, or another man on the phone - had somehow triggered deep memories in the children. I reject that theory. Mr. Verdan submitted that "This incident is deeply revealing. It encapsulates what this case is all about. It shows in one instance all aspects of the mother's modus operandi". I agree. A crucial feature of this incident is the way in which, on the mother's own account, she did not accept what A said but instead asked her a question posited on a false memory. It is also salutary to think what might have happened if J had not visited the grandparents' house that Sunday. If the children had not heard their mother admonishing her, it is probable that they would never have retracted their allegations and the truth about the J incident would never have been revealed.

THE FATHER'S EVIDENCE

130

I turn to consider the father's evidence. He came across in the witness box as a proud and at times arrogant man. He was clearly uncomfortable during Miss Bazley's tenacious and effective cross-examination about his behaviour during and after the breakdown of the marriage. I felt that he was on occasions less than frank in his evidence about some of those matters. I find that he was aggressive and verbally abusive towards the mother, and on isolated instances violent towards her. I find that he did headbutt her on the back of the head on one occasion, and that on another occasion he pushed her down roughly into a chair, and later held her by the wrists forcing him to punch his forehead. In all of these incidents the father in evidence substantially accepted the allegation but in each instance tended to play down what had happened. With regard to the incident in May 2007, I accept the father's evidence that he did not pick B up by the head deliberately, but I find that he did overreact in a way that upset the children. I reject the allegation that he assaulted her eyes, deliberately or accidentally, and I find that the mother has exaggerated this incident on many subsequent occasions. Nonetheless, the picture emerges from the evidence of a man capable of losing his temper and reacting aggressively. That is a matter that will need to be looked at in future assessments. I do not say for one moment that it should prevent him having contact with his children or even caring for them, if that is in their interests, but it does need to be assessed and addressed, in my opinion.

131

I accept the submission made by Miss Bazley and Miss Stone and find that both parents are responsible for the children being exposed to the hostility between them. The father did eventually accept in evidence that he had used offensive language to the mother, and I find that the children overheard this. I find that the father has on occasions had an inadequate regard for his children's welfare by exposing them to his temper towards the mother.

132

The father has lied about his activities with a prostitute in Thailand. He was less than frank to the mother about it in 2007, and he lied about it to the police and in his statement to the court. On the other hand, he did not have to mention it at all to the mother in 2007, and he could have stuck to his story in the witness box that it did not involve full intercourse. Instead, he chose to make a full admission in his evidence in chief. He deserves some credit for this, for his eventual honesty, but I am concerned that he should have lied about the matter for so long. I have therefore asked myself whether his repeated lies about this matter indicate that he may have lied about other matters, more

serious matters. I remind myself, however, of the decision in the Lucas case, and conclude that his lies about the prostitute and his lack of frankness about his behaviour towards the mother do not indicate a general dishonesty or a particular dishonesty about the allegations of sexual abuse.

133

I found the way in which the father spoke about the children in evidence in chief to be moving and sincere, in particular the way in which he described how he had missed them. It was, however, clear from his evidence that he harbours great bitterness towards the mother about what he says has happened in this case. He is firmly convinced that she does not believe that he abused the children.

FURTHER DISCUSSION

134

It would be impossible in this judgment to refer to every point made by counsel in their long and detailed submissions. I have, however, read and digested them and have all of them in mind. Many of them have already been alluded to above.

135

Mr. Verdan and Mr. Arnot's final submissions started: "Rarely has oral evidence shone such light on a case. Rarely has the position been so clear by the case's conclusion. It is now very clear that (a) these children have not been sexually abused; (b) that they have not been sexually abused by their father; (c) that these allegations have been generated by the mother". They submitted that there were two explanations for what had happened. Their first, and preferred, submission is that "It is likely that the mother generated these allegations deliberately and maliciously knowing that the father had not sexually abused the children and wanting at least to prevent him having staying contact and at worst to exclude him from the children's lives". Alternatively, they said that "If the court accepts that the mother believed the children had been sexually abused, this belief was not objectively reasonable but, rather, was as a result of the mother's extremely distorted thinking".

136

Miss Bazley and Miss Stone point out that a large volume of material which would normally be covered by absolute privilege has found its way into these proceedings. They express concern that there is a real inequality of position in this regard between the mother and the father, and that the mother's innermost thoughts and anxieties at times of great stress have been examined and analysed. There is no similar material from the father. Consequently, they say there is a real danger of unfairness to the mother, particularly in attaching weight to matters which she was canvassing as possibilities. The court is asked not to over-interpret what the mother said in connection with the father, in particular to her solicitors. I bear all those points in mind. I have of course plenty of experience of how clients communicate with solicitors. I am able to distinguish between the canvassing of mere possibilities and the expression of fixed views. In my judgment, much of what this mother was saying to her solicitor and MD fell into the latter category.

137

On the allegations Miss Bazley and Miss Stone make the following submissions. Firstly, they rightly assert that just because certain allegations cannot be true, that does not necessarily mean that all allegations are therefore also untrue. This is undoubtedly correct, but the greater the degree of the untruth, the greater the likelihood that all the allegations are untrue. In this case it is manifestly obvious that the vast majority of the allegations are fantasy. In my judgment, whilst that does not necessarily mean that everything is untrue, it does make it more likely.

Secondly, they adopt their client's professed position that there is no way that the children would have had the knowledge that they did express in the interviews unless they had experienced these matters first hand. This is, at first, a strong submission and, on viewing the ABE interviews alone, one might find it hard to imagine how the children could possibly have acquired the knowledge about these matters without direct experience. But I am satisfied that much of what the children have said is untrue, including allegations about matters that one might have thought would be outside the experience of children, even in these days where sexual matters are spoken of with greater freedom and licence - for example, the descriptions of group sex and the account of fists being inserted into bottoms. In those circumstances, it is, in my view, less hard to accept that everything the children said was or could have been as a result of things said to them by their mother. The court is aware of research by Professor Ceci and others that has demonstrated that children can come to believe and describe things that are untrue, even things that they say have happened to them directly. The aspects of their accounts that have given me greatest concern have been their comments of direct physical experiences, including a description of ejaculation, the taste of semen and descriptions of male masturbation. I have spent much time wondering whether children can really have given such details without direct experience. In the end, I have concluded that, given my findings that other allegations apparently based on experience were manifestly untrue, it is not impossible that even the vivid accounts of such physical experiences provided by A in her first interview, could have been instilled by coaching or leading questions.

Thirdly, the mother's counsel point to the undoubted fact that the mother has expressed doubt about the allegations from time to time which, it is submitted, does not fit with a mother who has deliberately set out to concoct a false account and coach the children to repeat that account. Whilst urging me to disregard Professor Roberts' evidence on the main issue on which he was instructed, Miss Bazley and Miss Stone remind me of his comment that: "Expressing doubt is saying 'I might have got this wrong'. If somebody is going out of their way to mislead, to draw attention to possible doubt is potentially problematic. That kind of behaviour is far more consistent with coming to believe that something is not true". Miss Bazley and Miss Stone have provided a detailed and helpful analysis of the occasions when the mother has expressed such doubt, appended as schedule 1 to their final submissions. In my judgment, however, such expressions of doubt do not rule out the possibility of coaching. I accept that a fanatical mother hell-bent on framing the father might not be expected to express doubts, although a subtle and conniving mother might use such tactics. But if this is a case of a mother who gradually came to believe the children had been abused, such expressions of doubt would not be surprising. In any event, the striking feature of the mother's thinking is not the occasional expressions of doubt but, rather, her insistence that the children are telling the truth even about matters which are patently false.

Fourthly, they rightly submit that a range of professionals at various times believed the allegations and told her that they believed them. Some of those professionals, including Dr. Bentovim and G, advised mother that she should ensure that the children felt believed. This evidence is fully analysed in schedule 2 appended to their final submissions. They submit that this advice needs to be borne in mind when considering the allegations of coaching. I agree that a number of professionals said at various times that they believed the allegations, but those expressions of belief need to be seen in the context, first, of the physical examinations at The Haven, which undoubtedly coloured the views of the professionals for some time; secondly, the apparent plausibility, taken at face value, of the detailed

allegations in the ABE interviews, and, thirdly, the mother's wish and need for the children to be believed.

141

Fifth, Miss Bazley and Miss Stone point out that the children's allegations were not only made to the mother, and in particular they rely on the content of the ABE interviews. They accept that A was prompted in some respects by the journal taken to the first interview, but point out that the allegations went beyond the contents of the journal, and list examples at para.4.1(vii) of their submissions. They point out that B did not have any journal with her during her interview. They rightly describe her as seeming reluctant to talk, which does not, it is submitted, fit with a child who has been coached. They submit that B in interview normally used language appropriate for her age when describing the alleged abuse, and counsel caution about attaching significance to the use of adult language by girls with precocious linguistic skills. They submit that the fact that truth and lies was not dealt with in A's first interview, whilst clearly in breach of the guidelines, does not automatically mean that the entire contents of the interview should be wholly ignored. The guidelines are just that, guidelines - they are not requirements. A, they say, is clearly of sufficient intellect to understand the difference between truth and lies, as demonstrated in her second interview, and would understand that she was talking to the police in circumstances where it was important that she did in fact tell the truth.

142

In my judgment, however, limited weight can be attached to the ABE interviews in this case. I have already outlined my views on the difficulties with B's interview. A's first interview was also unsatisfactory because it is substantially about the contents of the journal which I find the mother had helped prepare and deliberately provided to her as a prompt so that she could "remember what he did to you". There was no rapport building, no explanation of the ground rules for the interview and no discussion of truth and lies. A number of important leading questions were asked. A's manner was theatrical, and to me the account seemed rehearsed. As for her second interview, I have already mentioned that she was, to my mind, making most of it up as she went along, and was manifestly uncomfortable and evasive and clearly under the impression that her mother would be watching. I take into account all the points made by Dr. De Jong about the ABE interviews to which I have referred. For the reasons I have set out above, I am firmly of the view that it is the court, not any expert, that is in the best position to assess the interviews in the context of all the evidence, which only the court sees and hears.

143

Miss Bazley and Miss Stone urge the court not to attach any significant weight to the accounts of the children having a tendency to lie or embellish other matters. They submit that a distinction needs to be drawn between telling lies and embellishing stories about sexual experiences. Furthermore, they point out that the evidence of the girls having this tendency largely dates from the period after the allegations were made. I disagree with this observation. It seems to me that the regular reports of the children's tendency to lie and embellish, which I conclude is beyond what might normally be expected of children of this age, indicate that they have learned that it is acceptable to tell falsehoods and exaggerate, and that speaking in such a fashion is a way of gaining adult attention, which other reports suggest is something that these children seek. This is behaviour they have learned from somewhere. In my judgment, it is significant evidence in support of the father's case that they were coached to make the allegations. In the circumstances, it is not surprising that it becomes more

noticeable later on in the history, since their awareness of the effect of the lying and embellishing is likely to have grown as their increasingly incredible allegations have been accepted as truth.

FINAL CONCLUSIONS

144

There is, in my view, a clear pattern that emerges from much of the evidence about the allegations. A minor incident or fact becomes steadily blown up out of all proportion, partly as a result of things the children say but also and, in my judgment, crucially in the mother's mind. The most revealing example is the J incident but there are a number of others:

(1) During the marriage, the father was in the habit of taking O the family dog, with him when he went on a run. O started passing blood in his urine, and the mother complained that this has been caused by his excessive exercise. Subsequently it transpired that O had a serious internal condition from which I was told (although there is no evidence about it) he later died. After the first allegations, the mother, believing the father to be involved in bestiality, alleged that O had returned home from a run bleeding from the penis and later from the anus, and that these symptoms were attributable to acts of abuse perpetrated by the father. There was no evidence to support this suggestion.

(2) I find the mother's account of finding the father aroused in the shower while A was in the room has been expanded in a similar way. In my judgment, if this incident occurred at all, it was of no significance. I find that A did not witness anything and was not harmed and the father was not aroused by the child's presence. Subsequently, however, the mother has added details to her account so that it has the appearance of an act of abuse or grooming, either deliberately knowing that these details are untrue or because she has developed a genuine but false and distorted belief in their truth.

(3) The incident when A became uncomfortable when sitting on her paternal grandfather's lap falls into the same category. On any sensible view it is wholly improbable that the grandfather would have molested his granddaughter in the presence of his own wife, the mother and the father. A's account of feeling something sticking into her back whilst sitting with him under the blanket is consistent with several explanations. The suggestion that it was his penis was theoretically possible but manifestly extremely improbable, yet from quite an early stage it was the interpretation that the mother put on it. Her description of it was in terms that led Dr X to record in her - not A's - medical notes on 19 April 2007, "Worried about his father molesting A".

(4) I also found that the mother has inflated the incident when B hit the father in the groin, ultimately adopting the fanciful suggestion put forward by Dr X be that the father had deliberately targeted her eyes as a warning not to repeat what she had seen. The mother may not be the source of this suggestion, but the fact that she adopted it without demur demonstrates the difficulty about her thinking in this case.

145

To my mind there is considerable evidence that the mother's own attitude to the allegations and to sexual matters generally was seriously distorted:

(1) Her attitude towards the allegations made by the children was strange. She repeatedly said that she thought in some respects the children had got pleasure from the experiences they were describing.

(2) She saw sexual abuse everywhere, and expressed to MD the view that the whole world might get destroyed by ever-increasing abuse fuelled by the internet.

- (3) She held the perverse and unsubstantiated belief about the father abusing O, the dog.
- (4) She gave an account to MD of how a long-standing employee in the father's restaurant had been suspected of inappropriate behaviour with a boy and had later told her of a visit to a gay club in which he had seen two children tethered on leads. She said that this was the first time she had realised that there was this kind of world out there.
- (5) She later told MD that she had done some research on the internet and discovered that the father was involved in fund raising for a well-known children's charity which appeared to be linked to various child pornography web sites.
- (6) After the decision not to proceed with any prosecution against the father, she suggested to MD that there were paedophiles in the CPS.
- (7) I find it curious that during the physical examination at The Haven the mother was reported to have prompted A to have made a noise with her vagina.
- (8) She talked to the police and others of B falling in love with men of the father's age rather than with people of her own age.
- (9) She described how the children had touched other children's genitals, and called the children promiscuous.
- (10) She asked A whether she liked what the father had done.

146

This clear pattern of maladjusted thinking on the part of the mother provides an important clue when deciding what has happened in this case. The mother kept questioning where the children's extreme knowledge came from. The more the mother's evidence continued, the more it was clear their knowledge came from the mother herself.

147

Thus, I find that when the mother took the children to see Dr. R in N, that doctor may well have made some comment which put the idea in the mother's mind, but whatever she said was not of any significance to Dr. R herself, otherwise she would have recorded it in her notes. In her second police interview on 27 October the mother described how, after Dr. R had mentioned it, "Everything started making sense". Whatever it was that she said gradually became inflated in the mother's mind and exaggerated in the light of other events. The alternative explanation is that Dr. R said nothing at all about it and the mother has deliberately fabricated it. On balance, however, that seems a less likely explanation to me.

148

As stated above, the origins of the allegations can be traced to the email dated 2 November 2007 sent by the mother to her solicitor. There one sees a clear implication that the father has abused the children and would introduce the children to other abusers. It arose in the context of a difficult marital breakdown and disagreements about contact arrangements. In December 2007 the mother heard from a friend that her children had been abused over many years without her noticing it. According to the mother's evidence, she was struck by the failure to notice it, and at that point wondered whether thinking similar had happened to B. I find that this was a factor in her choice of therapist. I reject the submission made on her behalf that she played no part in the choice of therapist. Although there is no direct evidence, I infer that when she and Dr X discussed the referral

to a therapist, the issue of possible sexual abuse was expressly mentioned. Dr X has noted Dr. Bentovim's name in his appointment book on 9 January 2008, alongside that of Mr. Dermody, either because he was looking for a therapist who would have experience in sexual abuse cases or because he was anticipating that sexual abuse might be revealed in therapy and thought it prudent to choose Dr. Bentovim's colleague. Early on in the sessions with Mr. Dermody the mother raised her concerns that something sexual had happened to B, and, although there was nothing in the therapy to support it, persistently mentioned it to such an extent that Mr. Dermody reminded himself not to be over-influenced by the mother's concerns. When the father asked through solicitors for overnight staying contact, the mother was advised by her solicitors that the court was likely to accede to his request unless there were detailed allegations or evidence of abuse. After that, the mother's criticisms of the father's behaviour intensified. I find that the mother exaggerated significantly A's vaginal discharge, believing that it was or might be evidence of sexual abuse. The mother consulted Dr X about the discharge, but I am unable to reach any conclusion from his confusing evidence as to whether he observed it or, if he did, how serious it was. In due course he referred her to Professor Richardson. Although the referral was for A only, the mother took B as well with a view to ascertaining whether there was any physical evidence of abuse of her as well. The Professor examined both children but makes no reference to the possibility of abuse in his diagnosis. He offered to conduct a follow-up examination but the mother did not take the offer up. Instead she persisted in expressing her concerns to Mr. Dermody, who suggested that the girls be seen by Dr. Bentovim who, largely on the basis of the mother's account of B's behaviour, intimated that there was a possibility that B had been sexually abused, and provided a letter just in time for the conciliation hearing on 30 April. Considering the evidence as a whole, I find that by this stage the mother had already started to question and talk to the children about the father and sexual matters. That is the explanation for the comment which B began to make and the drawings she made in therapy (now mislaid). When it was suggested to the mother in June that she could apply for supervised contact because of the child's alleged comment about the father's hot sticky willy, she said that she would rather wait, in my view because by this stage she wanted to get further evidence, stronger evidence. As she told the police in her first interview, she was expecting a disclosure and, as she said to Dr. Bentovim in an email on 21 August, she did not want to take action until she had it because she had been warned that if she made allegations before any disclosures, the father might be found innocent and she would never be able to make allegations again. I think it likely that she had already formed a plan to talk to the children at length about the subject on the forthcoming holiday in P. Leading up to the holiday, I find that the mother repeatedly discussed the father with the children in a disparaging way leading them to think ill of him. I find that it was she who introduced the idea of sexual abuse to them, just as she had introduced it into her conversations with Mr. Dermody.

149

This process continued in P, although at a much more intense level. I reject the theory that the children felt safe in P and therefore able to speak freely. I find that P provided the perfect setting for the mother to be able to over-question and influence the children so as to make false allegations. I accept Mr. Verdan's and Mr. Arnot's submission that she was looking for evidence so as to make allegations of sexual abuse knowing that such allegations would lead to the father's contact stopping immediately, and that she engineered a situation whereby the children were in her sole care for a prolonged period of time and led them to make false allegations. I reject her evidence that the children suddenly made the disclosure on the nineteenth evening of the holiday. I conclude that she must have talked to them about this matter many times during the holiday. It was not a case of the children choosing to disclose abuse when they felt safe. Rather, it was the mother taking advantage of the opportunity to question when she had the children mostly to herself. I find that the mother

repeatedly questioned the children, introducing all the ideas of sexual abuse they subsequently repeated to the father and others. It is impossible to know exactly how she did this, but I am entirely satisfied that that is what happened. Perhaps she used the Peter Pan book to introduce some of the ideas. As Mr. Verdan and Mr. Arnot have demonstrated, there are some clear echoes of that story in the children's account of abuse, although it would be unwise to search too strenuously for parallels. I find that the mother obsessively questioned the children because she had become convinced they had become abused and that, having started, she was unable to stop, even when clearly advised by Dr. Bentovim and others to do so. I acknowledge the point made by Dr. Bentovim that it is very difficult for a mother in those circumstances not to ask questions, but I am satisfied that in this case the level, intensity, frequency and persistence of the mother's questions far exceeded what would be reasonably expected in such circumstances. The questions were often leading, and based on the assumption that abuse had occurred. Whenever the children said that it was untrue, the mother ignored their comments and pursued it on the same basis. She believed the allegation, and not the denials: see, for example, her second email to Mr. Dermody of 30 July 2008 and her trick question to A over the J incident. She became convinced that there were networks of paedophiles everywhere and, by questioning the children, got them to say more and more outlandish things that to everybody else, or nearly everybody else, were manifestly implausible. The visit to the butcher's shop or the restaurant in France or standing outside the scary house with the children were, in my judgment, not designed to exorcise their fears but rather to reinforce their false memories. She perceived her role as protector for the children, the lioness, and saw the three of them as a team that was in this together. Ultimately, she came to see herself as a therapist, even re-enacting the scene from the film "Good Will Hunting".

150

Miss Bazley and Miss Stone submit that the mother's suspicions were justified in all the circumstances, namely Dr. R' comment, B touching herself, A's behaviour, the father's alleged interest in pornography, and his visit to the Thai prostitute and his allegedly close relationship with mothers (or "mummies", as this mother persistently called them) at the school. In my judgment, however, these factors were no ground for any suspicion whatsoever. It was all in the mother's mind.

151

Mr. Verdan submits that the children's allegations are unreliable and that the court cannot find they are allegations based on experience. It has become increasingly obvious that this was true in respect of the vast majority of the allegations, but the question remains whether any part of the story is true. At the heart of the story is a vivid account which, when first encountered, has features which one might expect could only be based on an actual experience. In the end, however, I have decisively rejected the submission that there is a core of truth. In view of my clear finding that the mother, through repeated questioning and coaching, led the children to make false allegations of a paedophile ring, I conclude, applying the appropriate standard of proof, that all the allegations against the father are untrue.

152

The question remains whether this mother knowingly and deliberately concocted a wholly false accusation against the father to ensure that he was permanently removed from the children's lives or, alternatively, whether she came, through a process of distorted thinking, to believe wrongly that the children had been abused, and set about proving it. I have reached the firm conclusion that the latter is the true explanation. I take into account all the points made by Mr. Verdan and Mr. Arnot in their submissions about the genuineness or otherwise of the mother's belief, in particular the points made at paragraph 220 of their final submissions. If a mother had decided to frame the father, it is, in my

view, inherently improbable that she would have concocted such a grotesque story. She would have done just enough to ensure that he was removed from the children's lives forever and no more. What has happened here is both less culpable but, in another sense, far more worrying. This mother genuinely believes that her children have been abused. With single-minded determination, she has set about proving it. She has enlisted the unwitting help of a string of professionals with whom she has, as Miss Bazley and Miss Stone rightly emphasise, fully cooperated. She has embarked upon a process of repeatedly questioning the children, introducing, through leading questions and false premises, a wholly fictitious account. But so distorted was her thinking about sexual matters that the account she introduced to the children was equally distorted and grotesque. Ultimately, it is the bizarre and extreme features of the children's account that marks it out as being untrue, but at the same time it is those features that demonstrate that this is a case where a mother has genuinely but erroneously believed that her children were abused, rather than knowingly and deliberately fabricated a false account.

153

It is, as I say, less culpable because it is based on a delusion rather than malice, but it is far more worrying for I perceive that the children's thinking is far more distorted and will take far more help to readjust. Indeed, at this point it is difficult to see how the damage can ever be totally repaired.

154

I accept that the children have suffered emotional harm as a result of the bitterness and ill feeling between their parents. In the overall assessment however, that is significantly less concerning than the extreme emotional harm they have suffered as a result of being led into making false allegations of serious and bizarre sexual abuse against their father and others.

155

I therefore find that the allegations of sexual abuse are untrue, that the mother led the children to make false allegations through a process of coaching and questioning because she had, and still has, a distorted and unreasonable belief that he has abused them. In consequence, the children have suffered very significant emotional harm through being led to say, and perhaps believe, a wholly false story about their father; introduced to a wholly inappropriate knowledge of all sorts of sexual matters; subjected to intrusive physical examination; police questioning and over 18 months of involvement of professionals, and of course separated from their loving father for a period of nearly two years.

LESSONS TO BE LEARNED

156

This long hearing has identified a number of matters about care proceedings and the wider system of child protection, from which important lessons can be drawn.

157

First, applying the motes and beams principle, the family courts generally, and this court in particular, need to work even harder to improve the management of cases. This hearing has taken over 30 court days, spread over eight weeks. On many of the days the court sat late. For a variety of unavoidable reasons, the mother's evidence, which was obviously a crucial part of the case, was spread over the best part of two weeks, which caused difficulties for the witness, those cross-examining her and the court trying to evaluate the evidence. This judgment has been prepared over the Easter vacation. The resources of the family justice system are limited. The courts generally, and this court in particular, will have to be stricter about time limits for evidence and exert greater rigour in managing the proceedings. As a matter of practice, in a case of this complexity, the trial judge should be allocated at

an early stage. It is unhelpful if the case is moved to a different judge at a relatively late stage, since that increases the amount of judicial reading time required and leads to difficulties if the ultimate trial judge disagrees with procedural decisions made earlier by one of his brethren.

158

Secondly, the case has demonstrated yet again the need for very great care in the instruction of experts. None of the parties' representatives focused on the scope of the GOSH interim report. Once Ryder J. had ruled that no independent veracity expert was required, nobody anticipated that there would be any expert evidence analysing the ABE interviews at the hearing. A brief check of the programme of work outlined by Dr. De Jong would, however, have reminded the representatives that the GOSH team was proposing to carry out statement validity analysis as part of that programme. Dr. De Jong asked more than once for clarification about the terms of her instructions for the interim report and, in the absence of such clarification, understandably decided to proceed with the programme as outlined previously. That left the court faced with the difficult decision about whether or not to admit the analysis, which I resolved in the earlier judgment. There is, I perceive, a particular danger when the terms and basis of an assessment evolve over time, as happened in this case. In those circumstances, the lead solicitor needs to be even more vigilant than usual that there is full agreement about the instructions of an expert on the part of the parties and a full understanding of what is required on the part of the expert.

159

Thirdly, the deficiencies in the police disclosure in this case were alarming. It was only during the evidence of the fourth and last police witness, DI Jeffries, who was the senior officer who gave evidence, that it became apparent that a large amount of material had not been disclosed. The Inspector's evidence was immediately adjourned and she went back to the police station to retrieve it. This must not happen again and better procedures need to be put in place to ensure that it does not. As a start, I accept the helpful suggestions put forward by the Inspector, namely that one named officer should always be identified to deal with disclosure, and that there should always be a meeting with that officer and the lead solicitor, usually the Local Authority's solicitor, to ensure that disclosure has taken place as ordered. But I suspect that a more fundamental change is required. This is not the first time that this court has been struck by what appears to be a cavalier attitude towards disclosure on the part of police. If a family court orders disclosure, that order must be obeyed. All the disclosure orders contain a liberty to apply clause, and if the police have an objection on grounds of public interest immunity or otherwise, they must apply to the judge to amend the order. This is a matter which should be reviewed urgently by the Family Justice Council.

160

Fourthly, I have already made severe criticism about the professional conduct of Dr X. It may be that this is an isolated case but I am concerned that there may be a risk that private general practitioners with whom children are registered may not have the necessary experience or knowledge about child protection. No child should be registered with a GP unless he has received the requisite training in child protection and is familiar with the relevant professional guidance and local procedures. I direct that this judgment and in particular this passage be drawn to the attention of the Department of Health and the Department for Children, Schools and Families (or their successors if there are departmental reforms after the general election) to ensure that proper consideration is given to this issue.

161

Fifthly, lessons emerge from the evidence about the clinical examination:

- (1) Examining a pre-pubertal child who, it is suspected, has been sexually abused is a specialist task and should, if possible, be conducted by doctors who have relevant experience.
- (2) The examination should, wherever possible, be recorded on DVD. Such recordings are likely to be of very great assistance to experts and courts evaluating the evidence, although very great care needs to be exercised about the management and disclosure of these intimate images. Without the DVD evidence, the outcome of this hearing might have been very different.
- (3) The clinicians conducting the examination should inspect the DVD recording before completing their written record of the examination. They should note what the DVD demonstrates and in particular whether it conforms or contradicts what they saw with the naked eye. The standard form booklet should be amended to include a section where the DVD observations can be recorded in writing.
- (4) The written record should also include a note of the anatomical configuration of the hymen.
- (5) The clinicians should always expressly record what they see in the two positions, supine and knee-chest.
- (6) Whenever a clinical examination leads a clinician to form the opinion that there is a transection in the posterior half of the hymen, consideration should be given to conduct a further examination using the technique of floating the hymen.
- (7) Finally, as Professor Heger points out, some clarification may be needed of the "key messages" from the research summarised on p.37 of the Royal College's guidance. She contends that the third bullet point under the heading "Hymenal Transections" should be amended to read "hymenal transections in the posterior position have not been described in a study of 175 pre-pubertal girls selected for non-abuse" (emphasis added).

162

Sixthly, this case has, to my mind, demonstrated that veracity or validity assessments have a limited role to play in family proceedings. They are, so far as I am aware, unused in criminal proceedings in this country, and I see strong arguments for imposing restrictions on their use in family cases as well. As recognised by those who have devised criterion-based content analysis, and as acknowledged by Dr. De Jong in evidence, statement validity analysis is not designed to be used in a forensic context. There is a risk that its alleged scientific formulation will give it an over-elevated status. Furthermore, there is a danger that some courts, faced with these difficult decisions, will subconsciously defer to the apparent expert. That danger has been recognised in a number of cases in which the courts have emphasised the discrete roles of the expert and the court. In the case of the veracity expert, the danger is particularly acute. The ultimate judge of veracity, i.e. where the truth lies, is the judge and the judge alone. He cannot delegate that decision to any expert. I acknowledge that a child psychiatrist such as Dr. De Jong may be able to point out some features of a child's account that add or detract from authenticity, as she has done in this case. But, in my experience, many of these features should be obvious to judges in any event. No expert, however experienced and however well briefed about the case, will be in a position to say where the truth lies. Only the judge sees and hears all the evidence.

163

Finally, despite my earlier criticisms of the parties' representatives with regard to the instruction of the Great Ormond Street team, this case has demonstrated to my mind yet again the invaluable role

played by the forensic process in determining the truth. As Charles J. observed in *Re R* [2002] 1 FLR 755, at the fact-finding stage that process is essentially adversarial, in the sense that one or more of the parties asserts and seeks to prove certain facts which, if found, form the basis for of the ultimate decision about the orders that are needed for the child's welfare. In this case, it was the essentially adversarial process that allowed, for example, a proper analysis of the paediatric evidence leading to the rejection of the original diagnosis; the exposure of the role of Dr X; the forensic limitations of criterion-based content analysis; the mother's role in the generation of the children's allegations, and her distorted thinking. On the other side, the cross-examination of the father enabled the court to reach conclusions about his behaviour during and after the marriage and the truth of the allegations against him. None of these things, and much else, would have been possible but for the forensic process. In this case, the principal parties were fortunate that their cases were in the hands of Mr. Verdan and Miss Bazley, two of the leading advocates practising in the family law field. The complexities of this case required skilful advocacy of the highest order. Fortunately, they were on hand to provide it. I cannot see how these difficult cases could be resolved fairly by any other process. Another review of family justice is currently under way. I hope that those who are conducting it take heed of the example of this case when considering whether any reforms are needed.