No. ZC14C00219

IN THE CENTRAL FAMILY COURT

First Avenue House, 42-49 High Holborn,
London, WC1V 6NP

Friday, 2nd January, 2015

Before:

HER HONOUR JUDGE HARRIS

(In private)

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B E T W E E N :

LONDON BOROUGH OF X — Applicant

- and -

M, J, and C (through his children's guardian). — Respondents

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MISS L. TAPSON (instructed by the Local Authority) appeared on behalf of the Applicant.

MISS R. MITCHELL (instructed by Coram Children's Legal Centre) appeared on behalf of the 1st Respondent.

MISS F. WILEY (instructed by Bindmans) appeared on behalf of the 2nd Respondent.

MISS D. BAXTER (instructed by Baxter Harries) appeared on behalf of the 3rd Respondent.

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J U D G M E N T

JUDGE LAURA HARRIS:

1 I am giving judgment today in relation to a fact finding hearing that took place before me between 16 and 19 December to determine the causation, timing and, if possible, the perpetrator of injuries sustained by C, a little boy now aged seven months of age. The mother is M and the father is J. The parties were represented during the hearing as follows: the London Borough of X was represented by Miss Tapson of counsel, the mother was represented by Miss Mitchell of counsel, the father was represented by Miss Wiley of counsel and C and his guardian, Julia Green, were represented by Miss Baxter.

2 There is in the bundle a schedule of findings which is contained at p.A36 to 40. In essence, C sustained a linear fracture of the left frontal bone between 27 May and 2 June 2014 and 11 fractures of variously posterior, anterior and antero-lateral ribs together with five possible further fractures between 26 May and 24 June 2014, when he was aged between 12 days and six weeks of age. The injuries were deemed by the medical experts to be non-accidental.

3 In their responses to findings sought, the parents appeared to accept that the injuries were non-accidentally caused. However, when the two medical experts were called, there was a detailed exploration in cross-examination of a number of different possible causes for the injuries which, in the event, proved to be a productive exercise because the parents, having heard the experts give evidence in detail, then formally accepted in their own evidence that the experts' opinions and conclusions were correct. I will therefore not deal in detail with the medical evidence in the case.

4 The case then effectively turned on whether the mother or the father had caused the injuries. The paternal grandmother and the paternal step-grandfather spent time with C during the relevant time window. At an early stage in the proceedings, I took the view that they should not be considered to fall within the pool of possible perpetrators because, save for one occasion, they never cared for C alone and neither parent was suggesting, nor was there any evidence, that anything untoward happened whilst C was in their home. They both in fact made statements but no one sought to have them called to be cross-examined.

5 I read two lever arch files and was referred to relevant parts of two further files of medical and other evidence. I heard oral evidence from the following witnesses: Dr. Joanne Fairhurst, a consultant radiologist, Dr. Cartlidge, a consultant paediatrician, Barbara Robinson-Perry, the previously allocated social worker, Karen Davey, a midwife, the mother and the father. As well as medical experts concerning the injuries, I had the benefit of a psychiatric report of the mother by Dr. Seneviratne and psychological report on the father by Dr. Drennan, both of which I found very helpful in terms of what they said about the personality structures of the parents as well as in relation to the factual material which they contained.

<u>The law</u>

6 I gratefully adopt the analysis of Mr. Justice Baker in the case of *Re. S (A Minor),* [2012] EWHC 1370, and I will quote from that case.

> "1. In determining the issues at this fact finding hearing, I apply the following principles. First, the burden of proof lies with the local authority. It is the local authority that brings these proceedings and identifies the findings they invite the court to make. Therefore, the burden of proving the allegations rests with them.
>
> 2. Secondly, the standard of proof is the balance of probabilities [*Re. B*] 2008 UKHL 35. If the local authority proves on the balance of probabilities that J has sustained non-accidental injuries inflicted by one of his parents, this court will treat that fact as established and all future decisions concerning his future will be based on that finding. Equally, if the local authority fails to prove that J was injured by one of his parents, the court will disregard the allegation completely. As Lord Hoffmann observed in *Re. B,* if a legal rule requires facts to be proved (a fact in issue) the judge 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 nought and one.

3. Third, findings of fact in these cases must be based on evidence. As Lord Justice Munby, as he then was, observed in *Re A (A Child)(Fact Finding Hearing, Speculation*) [2011] EWCA Civ 12, it is an elementary position that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation.

4. Fourthly, when considering cases of suspected child abuse, the court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. As Dame Elizabeth Butler-Sloss observed in *Re T* [2004] EWCA Civ 558, 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 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.

5. Fifthly, amongst the evidence received in this case as is invariably the case in proceedings involving allegations of non-accidental head injury, is expert medical evidence from a variety of specialists. Whilst appropriate attention must be paid to the opinion of medical experts, those opinions must be considered in the context of all the other evidence. The roles of the court and the expert are distinct. It is the court that is in a position to weigh up expert evidence against the other evidence – see *A County Council v KD & L* [2005] EWHC 144. Thus, there may be cases, if the medical opinion evidence is that there is nothing diagnostic of non-accidental injury, where the judge, having considered all the evidence, reaches the conclusion that he is at variance from that reached by the medical experts."

7 I will not quote from para.6 as that is not relevant to this case.

"7. Seventh, the evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. They must have the fullest opportunity to take part in the hearing and the court is likely to place considerable weight on the evidence and the impression it forms of them – see *Re. W & Aor., (Non-Accidental Injury)* [2003] FCR 346.

8. Eighth, it is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons such as shame, misplaced loyalty, panic, fear and distress and the fact that a witness has lied about some matters does not mean that he or she has lied about everything – see *R v Lucas* [1981] QB 720."

8 The ninth observation is not relevant to this particular hearing.

"10. Finally, when seeking to identify the perpetrators of non-accidental injuries, the test of whether a particular person is in the pool of possible perpetrators is whether there is a likelihood or a real possibility that he or she was the perpetrator – see *North Yorkshire County Council v SA* [2003] 2 FLR, 849. In order to make a finding that a particular person was the perpetrator of non-accidental injury, the court must be satisfied on the balance of probabilities. It is always desirable, where possible, for the perpetrator of non-accidental injury to be identified both in the public interest and in the interest of the child although, where it is impossible for the judge to find on the balance of probabilities, for example, that parent A rather than parent B caused the injury, then neither can be excluded from the pool and the judge should not strain to do so – see *R D (Children)* [2009] 2 FLR 668, *Re B (Children)* [2010] 1 FLR 1161."

9 I carefully apply all those principles.

<u>The medical evidence</u>

10 As I have indicated, now that it is not challenged, it is possible to review it more shortly than would otherwise be the case.

The injuries

11 1. A linear fracture of the left frontal bone which ran parallel and just anterior to the coronal suture. Focal overlying soft tissue swelling was apparent on the CT of 3 June 2014.

2. Fractures of the necks of the right sixth, seventh and eighth ribs.

3. Possible fractures of the anterior ends of the right fourth, fifth and seventh ribs.

4. Fractures of the neck of the left fifth, sixth, eighth and tenth ribs.

5. Fractures of the antero-lateral aspect of the left fifth and sixth ribs.

6. Fractures of the anterior ends of the left seventh and eighth ribs.

7. Finally, Dr. Fairhurst reported equivocal thickening of the necks of the left third and fourth ribs. Therefore, the radiologists identified 11 rib fractures as well as further possible rib fractures.

Dating

12 1. The skull fracture

The presence of soft tissue swelling, according to Dr. Fairhurst, indicated that the fracture was less than 10 days old and was likely to be less than seven days old as at 2 June 2014. Therefore, the injury occurred between 27 May and 2 June. In her oral evidence, Dr. Fairhurst amended this to say that the dates could have been 28 May and 3 June, depending upon when the swelling was first visualised.

2. The fractures of the neck of the right sixth rib, the necks of the left fifth, sixth and 10th ribs, the antero-lateral left fifth and sixth rib fractures and the possible fractures of the necks of the left third and fourth ribs

According to Dr. Fairhurst, the presence of established callus on the images from 15 July 2014 indicated that they had occurred between three and six weeks from 15 July and therefore between 9 and 24 June 2014.

3. The fractures of the necks of the right seventh and eighth ribs and the neck of the left eighth rib

The presence of callus at least three weeks old on 15 July 2014 and the presence of a visible fracture line on 21 July meant that these injuries were no more than five weeks old on this date and therefore occurred between 16 and 24 June 2014.

4. The fractures of the anterior ends of the left seventh and eighth ribs and the possible fractures of the anterior ends of the right fourth, fifth and seventh ribs

These were probably at least three weeks old on 15 July and less than eight weeks old on 21 July. Therefore, they were likely to have occurred between 26 May and 24 June 2014.

Mechanisms

13 According to both medical experts, the linear skull fracture would result from a direct blow to the head or a blunt impact. According to Dr. Fairhurst, it is very uncommon to sustain a skull fracture from a fall of less than three feet and this was observed in the research to occur only in one to two per cent of cases.

14 So far as Dr. Cartlidge was concerned, he had experienced in his clinical practice skull fractures occurring from a fall on a hard surface from less than three feet. This was assuming that the head was the first part of the body to come into contact with the surface and he said that the baby's fall is usually cushioned by the bottom.

15 Dr. Fairhurst indicated that the research showed that between 30 to 50 per cent of all skull fractures in a child under two were the result of non-accidental injury.

16 So far as the rib fractures are concerned, the agreed evidence of both doctors was that a fracture to the anterior or lateral rib may result from squeezing or a direct blow or firm pressure over the fracture site. Such fractures require significant force far in excess of normal handling, even during rough play. Accidental rib fractures are very rare in infants.

Posterior rib fractures

17 These require compressive force such as would be caused by squeezing a child around the chest and they require significant force. The mechanism is one whereby the posterior ribs are levered over the spine. Such injuries have never been reported as a result of cardiopulmonary resuscitation, even by untrained individuals, and are highly indicative of non-accidental injury.

The reaction of the child

Skull fracture

18 In the case of a skull fracture where there is no brain injury, both experts agreed that the child would have cried for perhaps 10 to 15 minutes. Subsequently, there would be little outward sign of distress, although the child may have been more unsettled or grisly. It would be expected that soft tissue swelling would arise from about six hours after the injury and would be maximal between 24 to 48 hours after the injury and then be evident for up to about a week.

Rib fractures

19 It would be expected that the child would show distress for some time after the incident. It would be expected that the child would continue to show distress when his or her chest was moved for up to several days. A non-perpetrator may notice a change in the child's behaviour, although they may not attribute this to an injury. Rib fractures are generally not associated with bruising and are generally asymptomatic, so they are often not clinically apparent until x-rays are carried out.

20 Both doctors considered that the injuries must have occurred on at least two separate occasions.

21 The doctors were asked about a number of possible other explanations for the injuries, both in terms of an accident and in terms of some underlying medical cause in the child himself. In this evidence, they essentially agreed in relation to all aspects. I should say that when Dr. Cartlidge prepared his report, he did not have available to him the biochemical testing. Fortunately, that was available to him when he gave his evidence and he was able to confirm that was no vitamin D deficiency and also that all the biochemical results were within normal limits.

22 Both doctors ruled out the fall which the mother described as having occurred on 31 May. Dr. Fairhurst ruled out the fall as being from a relatively low height. Both doctors ruled out the fall because the child was said to have hit the back of his head and the skull fracture was over the frontal bone. The fall was also ruled out because it

occurred on 31 May and one would have expected swelling to be observed within 24 hours. Swelling was in fact only first observed by the father in the later part of the afternoon of 2 June. That led both doctors and in particular Dr. Cartlidge to form the view that the injury causing the skull fracture was far more likely to have occurred the day before 2 June, namely 1 June.

23 Further, the child is not described as crying or manifesting any particular distress after the fall. Other accidental causes were considered, in particular, a project which the child had in his cot and also the question of a birth injury. The former was ruled out as not being possible as causing the injuries, the latter because, amongst other factors, of the dating of the injuries.

24 A number of medical conditions were considered and ruled out. Firstly, osteogenesis imperfecta was ruled out by both doctors. There was no radiological evidence of this condition according to the treating radiologists as well as Dr. Fairhurst. There was no family history of the condition. The child had suffered no further fractures, despite being older and more mobile. Also, fractures of the ribs were not expected to be caused by OI and far more common were fractures of the long bones. Posterior rib fractures were particularly rare in the case of OI.

Vitamin D deficiency

25 As I have indicated, the biological tests conducted at various dates during the admission of C revealed no Vitamin D deficiency; nor was there any evidence of rickets and unless there is clear radiological evidence of rickets a child is not at increased risk of fracture.

Copper deficiency

26 There were no clinical features – i.e., iron deficiency and chronic malnutrition. Neither the treating radiologist nor Dr. Fairhurst found radiological evidence of osteoporosis and this is in any event a very rare condition.

Vitamin C deficiency

27 C had no symptoms of this; nor did he have generalised bone disease.

28 So far as the blood from the mouth which I will refer to is concerned, Dr. Cartlidge said that that could have been caused by a mouth ulcer seen on 2 June or alternatively by damage to the lung caused by the rib fractures, but there was no robust evidence as to which was the cause.

29 Both doctors said that any person witnessing the causal event would have realised that the child had been injured. If not present, a carer would have seen subsequent swelling from the skull fracture. As I have already said, a non-perpetrator would not have been aware that a child had sustained rib fractures; nor would health care professionals.

30 It was necessary during the course of the hearing to examine the chronology of events very carefully indeed and one could say exhaustively. I consider it to be more helpful, to put my findings into context, to review and analyse the evidence from the various individuals in a chronological way, rather than considering the evidence of each of the witnesses in turn.

The mother's early life

31 The mother was born is now 30. She is of Chinese origin, having been born in Singapore. She had a very difficult and unhappy early life because her father, who would drink to excess, would often be physically abusive to her. She understandably became very distressed in cross-examination when she was asked about metal chains being

tied round a door by her father and her father beating her. She reported to the psychiatric expert that her mother was always at work and had little time for the children.

The father's early life

32 The father was born is now aged 26. He has the misfortune of having haemophilia A. He was brought up in Dorset, largely by his mother, A, as a single parent, his father having left when he was three. His younger sister, L, has severe developmental delay and needs specialist care. His mother understandably struggled to meet the needs of the two children and L went to live with the maternal grandmother. The father's relationship with his mother was quite difficult. She was responsible for administering his injections every other day, which he says caused friction between them. The father has a close relationship with his paternal grandparents and, when his mother and stepfather found his behaviour very challenging in his teenage years, he went to live with them when he left school. He says however that the birth of C and the events of C's early life have in fact brought him and his mother closer together.

The mother's adult history and the parents' relationship before the birth of C

33 The mother has a history of turbulent and unstable personal relationships. She was married in Singapore at the age of 24 to a man whom she met when she was aged 17. In 2011, she discovered that her husband had been unfaithful to her and had fathered a child by someone else. Indeed, he had previously been unfaithful to her. The mother had also suffered an ectopic pregnancy prior to her marriage. She separated from her husband in September or October 2011. She moved to London in February 2012, where she had secured a job with bank as an analyst. She met a man called X online. He had issues about drink and the use of cocaine. She reported that, following a serious accident, he suffered depression and was diagnosed as a schizophrenic.

34 In October 2012, he threatened to kill himself and the mother with a gun which he put to her head. She did not report this incident to the authorities. This episode had a significant effect on the mother's own mental health. She developed paranoid feelings and recurrent nightmares and saw a private psychiatrist in November 2012. She visited X again in February 2013 and found him with another woman. She was subjected to violence from him. She ended the relationship then, but her mental health deteriorated and in February 2013 she was admitted to a private hospital for four weeks. She was diagnosed with depression, anxiety and post-traumatic stress disorder. She underwent cognitive behavioural therapy and was started on antidepressants, Citalopram. She was able there to address several of her problems, her relationship problems, being bullied at work, including some sexual harassment, her lack of support in the UK and general bottling up of emotions.

35 She continued after her discharge to attend as a day patient. It was during this period that she met the father, who was then living in Dorset, through a dating website at the beginning of March 2013. I note that on 16 March 2013 the father got into a fight with a man in a nightclub in Dorset for which he was subsequently cautioned for assault on 27 June 2013.

36 The parents moved in together into the mother's flat in South London on 29 June 2013. This was the father's most serious relationship to date and the first when he had lived with his partner. The mother divorced her husband in April 2013 and restarted work in late May or June 2013.

37 The relationship between the mother and the father ran into difficulties virtually from the beginning of their cohabitation. The father says that the mother would overreact to relatively trivial things and suffer from mood swings and could go from throwing him out of the flat to being apologetic within minutes. The mother does not fundamentally dispute this characterisation. The mother was cross- examined about not taking her medication regularly, which she did not accept.

38 In July 2013, the mother took an overdose of her antidepressant tablets when the father spoke of leaving her, although he puts the timing of this event as later. The mother says she took only 10 tablets because all she wanted

to do was sleep. The father had difficulties in rousing her and called an ambulance which took her to hospital, where she was medically treated. According to the father, the mother has made threats to do this again if he left her.

39 Towards the end of August, the mother discovered she was pregnant. This was an unplanned pregnancy. She did not believe she could get pregnant again after her ectopic pregnancy. Both mother and father were shocked and for the father, understandably, pregnancy was simply not on the agenda, for him to have a child so early in the relationship, given his age, the difficulties in the relationship and where he was not financially stable.

40 The mother however wanted to continue with the pregnancy and stopped taking her antidepressants in September 2013, without medical advice. Difficulties came to a head within a very short time. The father, in my view, was out of his depth and I am satisfied felt trapped not only because of the pregnancy but also because of the mother's behaviour. In short, he had got in above his head.

41 The mother recognises that she has a major issue with actual or perceived abandonment. She had discussed this at the private hospital in terms of her own father abandoning her, then her husband, then the man, X. The mother told me that she would tend to push a person away in order to pre-empt being left.

42 In August 2013 - in fact, the day after she discovered she was pregnant - following an argument when the mother told the father to get out of the flat, the father packed his bags to leave. The mother's close female friend from the private hospital had just left the UK to return to her home country. The mother took a knife and refused to release the father's bags to him. She was described in the various reports as threatening him not to come near her. In her oral evidence for the first time the mother said that she was holding a knife to herself, threatening to harm herself.

43 The father says that she was threatening him with the knife and indeed coming towards him. He said this was particularly frightening, given his haemophilia. He says that he escaped with his bags through the door and ran down the stairs.

44 This, on either parent's account, was a clear example of the mother losing control when threatened with abandonment. The parents nevertheless continued to live together. The relationship did not however improve. The mother's insecurity led her to fear that the father was being unfaithful and she resented the fact that he had not got a job and she was supporting him.

45 On 12 October 2013, the father came home late. The mother says that he had been drinking. He says she provoked him by suggesting that he was like his own father, who had abandoned the family, and he slapped her three to four times on her face. The police were called and the father accepted a caution for assault. The father says that around this time the mother had the first scan and this resulted in the pregnancy becoming more real for him. He says he resolved to support the mother and make a commitment to the relationship.

46 Problems however continued. In November 2013, the mother self harmed by cutting her wrists with keys. In January 2014, the father locked the mother out of the house after an argument. She was of course pregnant. She was not adequately dressed and was banging on the door to be let back in. In the end, she took an old standard lamp from the garden and attempted to smash the glass in the door to get back in. I note in her first written statement she said that she attempted to break the door handle but subsequently she said it was the glass. The father called the police.

47 There was another incident described by the father when the mother abruptly left the home and he called the police who found her and returned her home. He then felt it was safe to leave, but the mother followed him along the platform at the train station, grabbing at him. Eventually, she returned home and he promised to return later.

48 In February 2014, the mother was referred to the MAPPIM team by her obstetrician due to her past history of severe depression. The mother told her doctor that her mental health deteriorated after she came off the

Citalopram. She described fluctuating mood and getting irritable and aggressive over trivial things, which is exactly how the father described her in oral evidence. The mother also said that she would act impulsively at times.

49 There was evidence, the psychiatrist found, of emotional dysregulation. There was felt to be an underlying personality component and that she was at high risk of postnatal depression. The psychiatrist therefore made a referral to social care on 27 March 2014.

50 The father welcomed the support that this process would give to the mother. The mother, on the other hand, no doubt partly for cultural reasons, found the referral intrusive, particularly as she was very tired in the last stages of her pregnancy.

The birth of C and subsequent events

51 Into this unpropitious environment, C was born in May 2014. His entry into the world was also traumatic. The mother had an emergency Caesarean operation and C stopped breathing and needed resuscitation. The mother and C were discharged home on 3 days later. The mother's own mother had arrived from Singapore on 12 May and stayed until 20 May. The mother plainly found the support of her mother very helpful and the father felt that she had benefited from it too.

52 The mother and the father did not attend the first child protection conference on 20 May. The mother said she had told the student social worker who was carrying out a core assessment in advance that she could not attend as her mother was leaving that day, but nevertheless the conference was not rescheduled.

53 Barbara Robinson-Perry was not sure that they were told about the grandmother actually leaving that day, although she accepted that there was a request to reschedule. It seems unfortunate that they could not reschedule and I do not attach any blame to the mother in those circumstances. C was nevertheless made subject to a child protection plan under the category of neglect.

54 The father says that the mother's mental wellbeing deteriorated after her own mother left. She refused his request to tell her mother that she needed her there. The mother said she did not want to upset her mother and she had also kept from her all the bad things that had happened to her since she had been in England. The father was unable to explain the extent of the mother's previous difficulties because of the grandmother's limited English. The mother said in evidence that, given her age, it was up to her to stand on her own two feet.

55 According to the mother, the father was working long days, five to six days a week as the family needed the money. The mother's maternity pay obviously was going to reduce and he would leave at 6.30 in the morning. The father on the other hand said he worked up to seven days a week at two separate jobs leaving at 5.30 during weekdays to open the restaurant where he worked. There was no other support for the mother.

56 The mother said that she was responsible for the great majority of C's care, including night feeds every two hours. The father gave a graphic account of those early days in C's life in his evidence. He described the relationship as one where he was walking on egg shells. He said as soon as he diffused one row another one started. He said he was the positive one and the mediator. He said the mother would overreact to the smallest of things. She was a perfectionist and could not abide not reaching the highest standards. He said she would tend to panic and want answers to any issues concerning the baby.

57 The father said in his oral evidence that during this period the mother would regularly phone him at work and say that she could not cope and that she was on the verge of a breakdown. The mother on the other hand said she would phone the father when she was really tired in order to get some support. On one occasion, the father said that she said she could not cope. She was on the bed. She felt like she was having a breakdown and he could hear the baby crying in the background. The mother denied this.

58 These phone calls were not referred to in the father's written evidence and the mother, through her counsel, suggested that the father was embroidering his account. I will need to return to this issue in my assessment of the parents' evidence. On one occasion, the father was in the garden when he heard the mother screaming. He came in. C was in his cot crying. The mother was across the room by the changing mat and confirmed that she had screamed. He said that she told him that she felt it was all too much and the father took over. He took over the care of C and after five minutes had calmed him down and he took his feed. She said that she was screaming because she accidentally poured hot water on her hands.

59 The mother accepted that she would tend to panic if anything went wrong. I note that at H55, during her police interview, she said: "I am quite a panicking mother by nature. I always ask doctors lots of questions to make sure C is okay."

60 The mother says that she felt largely unsupported by the father. As well as looking after a baby who was being demand fed, she would be responsible for all the cleaning, cooking and the laundry. The father never once took over a night feed. On top of all this, she had an infection in her Caesarean wound and needed three separate courses of antibiotics as well as painkillers. Her account of her struggles after C's birth contrast sharply with the rosier account she gave Dr. Seneviratne, when she denied being anxious or depressed and said that she was enjoying getting to know her baby and that the father was being supportive. The reference is at E75.

61 The father says the mother was very much in charge of the baby. He accepts that he did little of the care but says he was working long hours. However, when asked what he did wrong in cross-examination, he conceded that he was lazy. The father also was very preoccupied about his own sleep. He said that he had had difficulties in the past in sleeping so that he would sleep alone with an ear bud in his ear. He said he had to have his mobile phone out of the room as even the sound of a text coming in would wake him up as well as his clock.

62 Even taking into account father's work commitments, I find the father failed to provide adequate support for the mother. For example, could he not have taken over the night feeds at least once or twice to give the mother a break, particularly as he could see the stress that she was suffering from? The father accepted under cross-examination that he could and should have done more to protect C, given his concerns that the mother was not coping. He said that he phoned Barbara Robinson-Perry but did not get through. He also said he phoned John Sundar, her successor as social worker, once and left a voice message because he was worried about the mother's mental state and how she would present at contact, but this was after C was in foster care. He also accepted that he did not assert himself enough at meetings with social workers.

63 There were a number of professionals visiting the home during this period: midwives, health visitors, a social worker and family support worker. The mother is punctilious in recording events and she recorded the various dates in her statements. There were no concerns noted about baby C. On Sunday 25 May, according to the mother, the father noted a small amount of fresh blood come out of C's mouth when feeding. There was a pink stain on the bib which looked like blood, but it was very light. She says that she kept the bib to show the midwife the next day. The midwife's notes have no entry for that day.

64 Karen Davey told me that if a midwife weighed the baby, she would record the weight in the baby's red book. Otherwise, the red book was for the health visitor to fill in. However, the red book did show that the baby was weighed that day, 26 May, and there was no corresponding entry from the health visitor. Therefore, I find the baby was seen. According to the mother, the midwife said not to worry and if it happened again and was fresh blood they were to take the baby to A&E.

65 The father said that the mother in fact spoke on the phone to the out of hours midwife, but he could not recall if this was on the first or the second time that blood was seen from the mouth.

66 On Saturday 31 May, in her first statement, the mother described how at 8am she was standing up from the bed with C in her arms, when she felt a sharp pain across her stomach and her arms turning to jelly. She lost hold of C and he fell onto a wooden floor and landed almost flat on his back. In the hospital notes at I46, she said however that she had pain in her arms and her arms went numb. The baby dropped on the floor, landed on his back and hit the back of his head.

67 In oral evidence, she said that the baby was dropped and landed on his back but his head was the first thing which hit the floor. Therefore, there appeared to be some variations in the account. However, in each account, the mother said that whilst C looked surprised he did not cry. Another odd feature is that, when she presented the child at hospital a few days later, she said that she was alone at home. While she said that she was alone in the sense that the father was sleeping in another room and the hospital could have misunderstood, in his police interview, the father also said that he was at work. The reference is H46. He said in oral evidence that this was a mistake as he could not remember, which seems very odd.

68 On the face of it, it seems to me to be a considerable coincidence that each parent recorded on separate occasions that the mother was alone. The father also said that the mother's initial account to him was that she said she had fallen asleep with C. The mother was very upset by this incident. She said she rang the community midwife, but no one answered until 9am. She said she spoke to someone who gave advice to monitor the situation carefully and that if C began crying inconsolably she should take him to hospital. The father confirmed this account.

69 This was the second time that the mother as a panicky mother failed to take the child to the hospital or the GP. The mother says she watched C like a hawk and he was fine. Karen Davey said that was no note of a phone call in the midwife's notes kept in the office. She said, "Most of the time, we would record a call on paper in our own notes." She said it depended on who picked up the message, the midwife for the clinical team. She said however that she would have expected her colleagues to advise the parent to attend A&E if a baby was dropped on the head.

70 I should say I am not satisfied that a comprehensive note of all contacts is made as there should have been a note of the visit of 26 May. However, it does seem surprisingly that the midwife did not advise seeking medical attention if she was told that the baby hit himself on his head. Having said that, the mother reports that the baby did not cry. There are therefore a number of oddities surrounding this whole incident. However, what is plain is that the incident, however it occurred, could not have caused the skull fracture which was to the front of the head.

71 On Sunday 1 June, the mother says this was the second occasion where blood was observed coming from C's mouth. She says that she knew the midwife was coming the next day and, as the GP was shut and C seemed well, she decided to wait until the midwife attended the next day.

72 I have already said that the father in his statement said that she phoned the midwife, but he was unclear whether this was the first of the second time. This was therefore the third episode where one might think an overly worried mother would have sought medical advice, not least because on her own accounts the midwife said that if this recurred she should present the child for medical advice. Also, it might in her mind, one would have thought, be connected to the head injury the day before.

73 In the event, Dr. Cartlidge says that on 2 June, after the admission to hospital, a doctor saw an ulcer on the left side of C's soft palate. This must have been transient as it was not seen the next day, but it could have been a cause of the blood.

74 On 2 June, the social worker, Barbara Robinson-Perry, attended the home in the morning. Although C was on a child protection plan, the mother did not mention the fall or the blood from the mouth to her as she thought these were medical issues for the midwife who was coming later that day. Karen Davey, the midwife, attended later that day. She told me that she did not remember much beyond her short note of the incident. In her note at I537, she said that the mother told her that she had dropped the baby by accident and that the baby was not hurt. She

advised her to take the baby to the GP but, as the mother was going to St. Thomas's Hospital anyway to review her wound, she said that the mother should take the baby to A&E for paediatric review. There was no reference in her note to blood in the mouth and she said that she would have recorded this had she been told.

75 Karen Davey removed C's clothing and inspected the baby and did not notice anything of concern. The mother showed me on her laptop a picture that she had taken at 1.30pm that day which showed no signs of swelling. Later on that day, the father did note swelling on the side of C's head and the parents decided to take a taxi to hospital instead of going by public transport. According to the mother, in the cab, the father said that the swelling must have happened when the midwife saw C earlier as the bump appeared after she examined him. The mother said that she was probably the one to say to the doctor that a lump developed after the midwife pressed on C's head. Miss Davey told me that she had not pressed on the child's head as she was not medically qualified and she would not palpate the child's skull.

76 The mother also told the doctor on admission about the two episodes of fresh blood from the mouth. Swelling to the left frontal temporal region was noted. A skull x-ray on 2 June revealed no fracture. Mother and baby were admitted to hospital. On 3 June, a CT scan revealed a linear fracture of the left frontal bone. A skeletal fracture revealed no other bony injuries. An MRI scan revealed no injuries to the brain.

77 The doctors accepted the mother's account of the fall as a possible explanation for the fracture although, as Dr. Cartlidge pointed out, the position of impact from the fall did not fit with the injuries and he would have been unlikely to have accepted the explanation.

78 C was discharged from hospital on 9 June. The parents were told that he would need a further chest x-ray on 1 July to ensure that no further fractures were visible. The mother reports a conversation with the father just after C was discharged. The father recalls the conversation but not the timing. The mother says that the father broke down and said he had something to tell her. He said that he had smacked C on the head to stop him crying. He said he was frightened if he could not stop C crying that the mother would be angry with him. He demonstrated on her arm what felt to her like not a very hard slap. This is the first of what I will describe as three half admissions by the father. The father says he did not break down but, because the mother kept on and on castigating herself about the skull fracture and he was worried about what she might do to herself, he said he lost his cool with C when the mother was outside smoking and tapped him on the head, where the lump came up.

79 The mother says she did not report this to professionals as she was terrified of losing her son. She did however telephone the father's mother, A. The father also confirmed the account to his mother over the phone. A says the mother told her when she arrived in London to collect them on 10 June, not on the phone. She spoke to the father who confirmed it, but she had her doubts about the truth of what he was saying. The father later told her that he had not done this but only said it to make the mother feel less guilty. This is his account within the proceedings too.

80 There then began a further period of turbulence and the parents were continually on the move with C between London and Dorset. The paternal grandmother and her partner wanted the parents and C to move to Dorset so that they could support them. The mother was resistant to this, not least because her visa depended on her job and she could not find another job with the bank in Dorset. The father appeared to vacillate between wanting to move and wanting to stay in London.

81 As this period coincides with the likely occurrence of rib fractures, it repays reviewing in detail. When C was discharged from hospital, it was decided that the mother and C should go down to Dorset for support from the paternal grandmother. However, whilst waiting for police checks to come through, A answered her phone on 10 June and heard an argument between the parents. She was so concerned that she travelled to London and collected the mother and C, who stayed with her and her husband until 15 June. She expressed no concerns about the mother's care or C's presentation during this period.

82 On their return, there were visits by the social worker and the midwife. The father says the mother's behaviour deteriorated again. He felt that she was overreacting and behaving unpredictably and he therefore arranged some days off work. On 25 June, A arrived in London to attend a core group meeting and she was then to take father, mother and C back to Dorset. While she was there, the father was manhandled by a neighbour who had been giving the family a lot of trouble by smoking cannabis outside their flat. He was also very confrontational when challenged. According to the mother, the father had a bad panic attack. The incident was reported to the social worker and then, on her advice, to the police. The parents went down to Dorset on the evening of 25 June.

83 On 26 June, the parents took C to the doctor in Dorset as he had constipation. The father then returned to London. On 28 June, the mother and A took C to hospital as he was crying and clenching his fists and the GP was shut. The doctor there examined him and agreed that it was constipation. On 29 June, the mother and C returned to London.

84 In her chronology of events, the mother refers to the father having a panic attack on the night of 29 June and the father describes having one and trying to suppress it. He said, whilst he had had them before, they were rare occurrences. The parents had returned to London in order to register C's birth on 30 June and this they did. They went to KFC for a meal between 5 and 6pm. The father, according to the mother, had the worst panic attack yet. The father's written statement says he began to feel very unwell on 30 June but, by the time they came out of the restaurant, he had calmed down and by the end of the day was perfectly fine.

85 The father described having had panic attacks when he was a student, but he had not had any for a very long time. In oral evidence, the father described being upset by an altercation between a customer and an elderly cleaner at KFC and then by being asked by strangers for cigarettes in the street. The mother says that the father was clear that he wanted to go to Dorset there and then and that he wanted her to accompany him.

86 The father said, first of all, that he was not aware of the hospital appointment the next day, but later in his evidence said that he did know about of it. He said that he was not insistent on the mother accompanying him and he would have gone on his own anyway.

87 The mother then phoned to cancel the hospital appointment for the next day. The father described her going off on her own in the park to make the call and he did not hear what she was saying. The mother says that she was subsequently offered a further appointment 29 July, which she said was too far ahead, so an appointment was arranged for 15 July. The parents then returned to the flat to pack some clothes and travel to Dorset.

88 In his interview with the psychologist, Dr. Drennan, the father said that he did not remember the panic attack described by the mother. The father said he did not say that and what he had in fact said to Dr. Drennan was that the panic attack was not as bad as the mother had made out.

89 Significantly, at C92, A's statement says that the parents were travelling down to Dorset because the neighbour had another go at the father. Barbara Robinson-Perry also gave evidence that the explanation the mother gave her for cancelling the appointment at the hospital was an incident with the neighbour. She was not told anything about panic attacks. This was also the account that the mother gave to Dr. Seneviratne at E75.

90 The parents had plainly had an argument when they arrived and the father was described by his mother as shouting at and being upset with the mother. As I have said, discussions were ongoing throughout this period about the parents moving to Dorset, instigated by the grandmother and step-grandfather.

91 The parents then returned to London the very next day in the evening of 1 July as their dog had not been fed. C stayed with the paternal grandmother. The mother says that the father was too scared and unwell to travel alone. They returned to Dorset the next day, 2 July. On 3 July, they again returned to London with C. The father said that after staying one night with the paternal grandmother, with the dog and the three of them the parents decided that they needed their own space. According to the mother's chronology, the father had another panic attack.

92 After their return to London on 3 July, C was again seen by a number of professionals. On 15 July, the parents attended hospital for the rearranged chest x-ray. Dr. Kingdom, the neo-natologist, saw the parents and no concerns were reported. I am unclear why this was as the x-rays showed rib fractures. 17 July was the only day the father said that he cared for C alone for a number of hours.

93 On 18 July, the parents were called back because the x-rays showed healing rib fractures. On this day when the mother was feeding the baby, a nurse pulled back the curtain and said the mother could not be with C unsupervised. The mother then tried to leave the hospital and was described as being physically and verbally aggressive. Having strapped C into his buggy, when a nurse prevented her from leaving, she attempted to push past using the pram to get past and thereby assaulting two nurses and a security guard who had been called. The father described the buggy as rocking as the mother was still trying to push it into the lift and C being awake during the incident and looking startled.

94 Whilst the situation was an extremely difficult one, this is a clear example in my judgment of the mother's lack of impulse control. The mother subsequently apologised for her behaviour. At I149 in the medical records, the mother is reported as saying that she would be contacting her mental health team as she felt maybe her medication needed to be changed as she did not feel that her behaviour was under control. A security guard was present on the ward thereafter and the mother had to sign an agreement regulating her behaviour.

95 On 22 July, there was a meeting at the hospital with two nurses, the safeguarding midwife and Barbara Robinson-Perry, together with the parents, to discuss whether C could be voluntarily accommodated. There is a note of the meeting in the medical records at I152. According to Barbara Robinson-Perry, the mother was extremely upset, stating that she loved the baby and would not harm him. The father became a bit agitated, questioning whether the others were accusing the mother of harming the baby and also repeating that she loved the child and would not harm him. The father left the meeting in frustration and, when he was brought back by a nurse, he said he felt the mother had not caused any harm to C as she was very careful how she handled him. He said he was not as confident in handling C and could have put him down roughly as he is more impatient than the mother. He asked, if he admitted the injuries, would that mean that the mother could keep the baby as she should not have been punished and separated from the baby. The mother was threatening that she would commit suicide if separated from the baby. The note ended:

> "Dad appeared more focused on the consequence of removal of the baby from M and the effect that this would have on her mental stability as opposed to necessarily considering the harm which had come to C and that safety plans needed to be implemented."

96 In oral evidence, Barbara Robinson-Perry said her impression when the father said this was that he was protecting the mother and he did not want the local authority to separate mother and baby. The father described how upsetting he found it to listen to nurses blaming the mother who "has always been a wholly devoted and caring mother." The reference is C77, para.43. At C77 in his written evidence, he said this:

> "I did leave the room to go and have a cigarette as it was all getting too much. A nurse followed me out to speak to me to try to explain things to me, but there was an emergency and the nurse had to rush off. I did also tell the social workers that M was a caring and a confident mother and to demonstrate the extent of the faith I had in her handling of C I said something like 'if anyone had mishandled C, it must have been me.' I did not say that I had been rough with C as I have not been. I did not make this comment thinking that I had in fact mishandled C in such a way that he could have been so seriously injured. To be clear, I did not purposely or accidentally do anything to hurt C. Nor did I see M or anyone else do so. Even though I felt M needed more support as she was tired and stressed, so is every new mother and it always seemed like any anger and frustration melted away when she was looking after C. She was always patient and loving towards him. I was completely shocked that C had further fractures and I find it very difficult to believe that M or anyone else would have hurt him."

97 Para.44:

> "As soon as the doctors told us that C had further fractures, I was racking my brain, trying to think of anything out of the ordinary that had happened. Most of the time, C seemed fine. Otherwise, I would have done something to take him to the doctor's."

98 He then goes on. Therefore, the actual participants in this meeting did not necessarily seem convinced that the father was attempting to admit guilt. The mother also said she has never seen the father handle the baby roughly. In relation to father's actions, 1) in not making his concerns known to social care, 2) in instructing his solicitors to tone down his concerns in his statements and, 3) in appearing to be trying to take blame, his oral evidence was very instructive. He said that he did not want to make things worse for M. In relation to the false admissions, he said, despite how she was, he knew M loved the baby and he was really upset that C was going to be taken away from her. Even if he did not believe she had harmed the baby at that point, he was putting her needs before the child's given his concern that she could not cope. If however he believed she had harmed the child, this would amount to an abject failure to protect the child. He conceded in cross-examination: "I did not do enough. I was worried about M's reaction."

99 In relation to not reporting the substitution of the aunt for the grandmother in the viability assessment in Singapore, he said: "I never wanted M to mess up her chances of having C." He also said: "If I messed up her chance of having C, she would go ballistic." At the end of his evidence, he said: "I would like to believe, with the support of her mother, she could cope."

100 By the time of the father's second statement dated 18 September, the parents were living separately, although the father said that the relationship still continued. He referred to the mother continually calling him when he wanted to end the relationship and saying that he would be held responsible for what happened. On one occasion, he said she actually threatened to kill herself.

101 In contrast, when the mother saw the psychiatrist on 19 September, she found the mother's mental state to be relatively stable and her recurrent depressive disorder as being in remission. She found the mother to have features of emotional instability associated with feeling easily abandoned, but was not suffering from a personality disorder. The mother, it appears, did not tell her about the state of her relationship with the father or that they were not living together.

102 The father saw Dr. Drennan, the consultant clinical psychologist, on 1 November. He assessed the father as suffering from panic disorder, panic attacks being a manifestation of underlying generalised anxiety disorder, which was of long-standing and pervasive. At para.2.2, E155, Dr. Drennan said this: he considered that the relationship with the mother was not viable as both had similar conflicts over abandonment, dependency and ambivalence. Neither could reliably meet the other's emotional and dependency needs. The father's haemophilia would also have had an impact on his emotional development and made him more emotionally vulnerable. The doctor suggested that the father's overt cooperativeness could mask strong, rebellious feelings that occasionally broke through his front of propriety. He would be inclined to adopt the inferior role and abdicate responsibility to a stronger partner.

103 The father spoke of being in an intimate relationship with the mother at the time of the assessment. Yet, only two weeks later, he was telling her of his feelings for another woman.

104 The mother sought permission to file a further statement dated 9 December, for which I gave leave. She spoke of a conversation on 17 September when the father had been with his lawyer, finalising his statement. She said the father broke down and said he had squeezed and hugged C very tightly to try and stop him crying on several occasions when the mother was not around. The father also referred to his fear of prison, especially given that he

had haemophilia, and he spoke of different countries he could escape to if he was found to have caused the injuries. However, he also said that what he had done in terms of squeezing and hugging could not have caused the injuries. He asked if the mother could take the blame for him as she would be treated more compassionately because of her mental health problems.

105 The mother still maintained that she had never seen anything in the father's handling of C which would give her cause for concern. However, in oral evidence, she said that there had been many occasions when C was crying when the father was caring for him and that the father would get really stressed when he could not calm him down and would call for her. Later on in her oral evidence, she backed off a bit and said that, as soon as C was crying, the father would call for her.

106 On 14 November, the father told the mother that he had found someone else, a lady called Y, and that he had cheated on the mother. Nevertheless, he subsequently asked the mother if he could continue to live in her flat to enable him to see C. To this the mother agreed.

107 On 19 November, an extremely unpleasant row took place between the parents which apparently lasted for between two to three hours. The mother alleged that the father had assaulted her and phoned the police. The father was arrested and is currently on bail. The mother revealed in her statement how the father had also recently admitted to her that he had mistreated the family dog.

108 The father was permitted to make a statement in response. He said that the reference to hugging and squeezing C was not one but a number of conversations when both parents were racking their brains as to how the injuries could have been caused. He said that he questioned whether holding C too tightly could have caused the injuries but concluded it could not. He said the mother was also questioning herself as to whether anything she had done could have caused the injuries. The father admitted however that he did talk to the mother about his fear of prison and he asked the mother whether she would take the rap if he was found responsible, but he said the mother said similar things to him. He reiterated that the mother was always around whilst he cared for C. He denied mistreating the dog.

109 The father said that he told the mother that his feelings had developed for Y on 14 November. On 16 November, she told him that she was pregnant and indeed the mother has subsequently confirmed that this is the case by an email sent by her solicitors in December.

110 On 19 November, the mother was trying to convince the father that she was having a miscarriage. The mother had deleted his numbers on his mobile phone. As I have said, there was an extremely unpleasant scene, but he has denied assaulting her. She accepted that she did bite him at one point. She said: "When put in a very stressful situation, I lose it." She denied that she was very stressed after the baby was born. She said she was mainly tired and exhausted.

111 The rival accounts of exactly what happened on 19 November were not tested in cross-examination, which I consider was appropriate. The father says that the mother followed him persistently when he was released from the police station, following his arrest for this assault. He said she has repeatedly sought to make contact with him and that she has made her recent statement to get back at him.

My findings

112 I accept entirely the evidence of the two medical experts whose evidence effectively chimed on all issues. This evidence of course is now accepted on behalf of the parents. I also accept the evidence of Barbara Robinson-Perry and that of A in her written statement. She was not challenged in relation to that statement. Where the evidence of the professionals or A differs from that of the parents, I prefer their evidence to that of the parents. I am quite satisfied that neither parent has told me the whole truth.

113 I therefore find them both not to be reliable and truthful witnesses. The mother, in fairness, has acknowledged a great deal about what has been said about her behaviour and difficulties. When it comes to the description of their relationship and the mother's behaviour, I prefer the father's account of their relationship and the different incidents which occurred between them to the mother's.

114 I find both parents in their different ways to be vulnerable and needy individuals. The father, as his counsel recognised, is also immature and I find somewhat self absorbed. A recent example of his immaturity is demonstrated by his asking to move back into the mother's flat when he told her he had formed feelings for another woman. That was an accident waiting to happen. It is also a feature of his relative immaturity that when he does run into difficulties his first reaction is to contact or return to his mother. The coming together of these parents resulted sadly in a relationship which was, to use Miss Tapson's word, "toxic." To bring a new baby into this mix was likely to end in tears. As I have said, I am quite satisfied that neither has told me the whole story. I gave both of them an opportunity to tell me at different stages in their evidence if they had anything more to tell me and both declined. Both, I am satisfied, know more about what happened to C than they have chosen to admit. It follows that I find there has been collusion between the two of them.

115 This is particularly clear in the case of the mother as she was always there when the father cared for C, save for limited periods of time when she was, for example, out in the garden or at the shops. According to the father, there was no occasion when he cared for C on his own for a number of hours other than on 17 July and this was in any event outside the time window for the injuries. Despite loving C, both have put their own interests before his needs.

116 I accept that the father has tried hard to meet his responsibilities as he saw them to his new family in the face of extreme difficulties. However, whilst being painfully aware of the stress the mother was experiencing, as I have already found, he did not act to relieve her of some of the responsibilities of caring for a new baby.

117 Both of these parents, as we all do, carry hallmarks of their early years. The mother's own emotional ability is likely to find its origins in her extremely difficult childhood, when she was subjected to serious physical and hence emotional abuse at the hands of her father.

118 It is also a feature of this case that, despite the toxic nature of their relationship, both plainly still have mixed emotions about it. The mother admitted in evidence that she still loved the father. She is still committed to helping him financially. She has recently sent threatening messages on Facebook to Y. The father has also continued to be extremely protective of the mother and I accept that he told his solicitors to tone down the picture he presented of her in his written evidence. Although he has now revealed more of the truth, in my judgment, in his oral evidence, in my view, he would still ideally want her to care for C as he sees her fundamentally as a devoted and caring mother, which is at odds with his saying that she must have harmed C. Her attitude towards him too is inconsistent with believing him to be culpable in harming C.

119 Both have had the inconsistencies and/or implausibilities in their respective accounts brought out by skilful cross-examination. Both have sought to protect the other in various ways. For example, the mother not disclosing what the father said about slapping or squeezing C to professionals and only revealing the father's alleged admission of squeezing very recently, the father, by toning down his account of the mother's difficulties. As I have said, neither has been entirely truthful and on different factual issues I sometimes prefer her account and sometimes his. As I have already said, I find his description of the mother's behaviour and the various incidents which took place between them to be cogent and compelling, not least because he has sought to play this down in the past, because the mother has conceded the accuracy of a great deal of what he says and because what he describes is consistent with the other available evidence.

120 I find that the mother has not been taking her medication as regularly as she should and this has no doubt contributed to her behaviour as well as to this new pregnancy which has occurred in even less auspicious circumstances than the first. She may even have deliberately not taken the contraceptive pill to get pregnant.

121 I find that drink is more of an issue for the father than he is able to acknowledge. I do not accept the mother's account of the father mistreating the dog. I find that this is evidence of increasing desperation on her part, as the time of the hearing approached, and I find that this demonstrates a manipulative side of the mother's nature. I find it likely that she conceived of this allegation after she completed the police domestic violence questionnaire, after the incident of November 2014 which, as she noted, includes a question about cruelty to animals.

122 I make no finding on the strange allegation by the father that the mother's aunt pretended to be the maternal grandmother during the initial telephone viability assessment because the maternal grandmother had not yet been told about the injuries. I have not heard all the available evidence about this, for example, from the social worker conducting the assessment, from the maternal grandmother herself, from the aunt or A, whom the father says was told about this. This is an issue that will have to be investigated as part of the ongoing assessments.

123 I found the father's half-admissions to be both strange and concerning. At the time he told the mother that he had hit the child to cause the skull fracture, the doctors were not even suggesting that the injury was as the result of a deliberate blow. Therefore, why was he describing such an event? Why did he not say, for example, that he had dropped C? It is also difficult to understand how it would have reassured the mother to hear him say that he had hit the child. On the other hand, his mother was unconvinced by his account and he later disavowed the account.

124 When he made a similar admission at the meeting at hospital on 22 July, Barbara Robinson-Perry formed the same impression, that he was protecting the mother. Then there was the third occasion as described by the mother on 17 September. Whilst the father says that this was in fact an amalgam of lots of different discussions, again, this statement could be construed as a possible further half-admission. It is a very odd thing to say if he knew his actions could not have harmed C. On the other hand, if he had always handled C normally, it is difficult to conceive why he would refer to hugging and squeezing him very tightly.

125 The failure of the mother to seek medical advice for the two bleeds from the mouth and the head injury is also inconsistent with the mother's self-admitted tendency to worry and panic. I have grave doubts whether she did in fact telephone the midwife on 31 May because it is likely in my view that the advice proffered would have been to take the child to hospital if the mother reported a fall onto the head.

126 Similarly, I consider the mother failed to inform Miss Davey of the two bleeds from the mouth as I am satisfied Miss Davey would have recorded them as being of significance. I note however the mother did advise the hospital of them. I also regard it as strange that both the father and the mother have reported the mother being alone when C was dropped and this raises the possibility that the father was covering for the mother and something more sinister occurred.

127 However, the question then arises as to why they did not say that C hit the front of his head when he fell.

<u>The missed appointment on 1 July</u>

128 As I have described earlier, there are a number of internal inconsistencies in the parents' accounts, between their accounts and between their accounts and that of A and their accounts and that of Barbara Robinson-Perry. In particular, according to A and Barbara Robinson-Perry, the mother said that the neighbour problem was the reason for the missed appointment and nothing about the KFC incident. The mother accepted in cross-examination that she told Barbara Robinson-Perry that the reason for going to Dorset was the neighbour. She also said that the father was not coping very well. She said however that she told A on the phone that the father was having a panic attack.

129 The account in any event does not make sense. Why go back to the flat and then leave the dog, even if A was not keen on having the dog at her home, when they knew they would have to return the next day to feed him? However, the mother makes the points, 1) that she was repeatedly presenting C to doctors around this period and,

2) if she was avoiding the appointment, why make a new appointment on 15 July rather than the later date of 29 July, which was offered? I note however that I only have her word for the date initially offered for the subsequent appointment.

130 I consider that it is no coincidence that the father started having repeated panic attacks around this crucial period and that they cannot all be explained by the neighbour issue. Secondly, I find on the balance of probabilities that the parents were worried about the x-ray on 1 July and that they engineered a situation whereby they avoided the appointment. These findings do not assist in determining the perpetrator but signified to me that, whoever was the perpetrator, the other was colluding with him or her to protect him or her and because they were both terrified of the mother losing the child.

The factors which support the mother being the perpetrator

131 1. The evidence I have heard leads me to conclude that the mother is seriously emotionally unstable. I consider that if Dr. Seneviratne had heard the evidence I have heard she would not have been so sanguine about the mother's mental health. In particular, the mother's behaviours demonstrate poor impulse control, overreaction to minor events, extreme reaction to abandonment, physical aggression and frustration if she falls short of her own impossibly high standards. To her credit, she has self-acknowledged much of these behaviours. All these characteristics could predispose a carer to suffer a momentary loss of control and assault a baby.

132 2. The mother's circumstances following the birth of the child, in my view, provided the backdrop for these particular characteristics to be played out. She was insufficiently supported by the father in the care of C, had no other support network, was in a conflicted and dysfunctional relationship with the father, was fearful of being left by him and was suffering pain from an infected wound from the Caesarean sufficient to require hospital admission.

133 3. The mother was the main carer of C. She was with C for the vast majority of the time and hence had far greater opportunity to inflict the injuries, as well as far greater potential for losing control of her emotions.

134 4. Despite being a mother who worried and panicked, the mother did not present the child for medical attention when he had blood coming from his mouth twice, having on the first occasion been told to seek medical attention if it happened again, and after the child fell from her arms and hit his head.

135 5. There are numerous inconsistencies in the mother's account of events, for example, of 30 June 2014.

Factors against the mother inflicting the injuries

136 1. The mother, I find, was a caring and committed mother who was desperate to provide high quality care for C.

137 2. The father never saw anything in her care of the child to give him concern and indeed described her care to professionals in glowing terms.

138 3. The professionals who were observing C throughout this period never had any concern about the mother's care of the child or C's presentation.

139 4. The mother never denied access to professionals and was repeatedly presenting the child for medical advice/attention, for example when she was in Dorset in late June.

140 5. The mother has to a considerable extent accepted her difficulties.

The factors which support the father being the perpetrator

141 1. The strange half-admissions on at least three separate occasions.

142 2. The father has two cautions for assault.

143 3. The father is preoccupied, I find, with his sleep and highly susceptible to disruptions of it.

144 4. The father drinks more than he is prepared to acknowledge.

145 5. The father's personality profile is unusual. He suffers a conflict between maintaining a pro-social facade and wanting to vent his oppositional needs and anger. Alcohol too is a disinhibitor allowing him to give way to his underlying impulses without feeling responsible. This was Dr. Drennan's view at E159.

146 6. The father was, on his own account, less patient and adept at caring for the child than the mother.

147 7. The inconsistencies in his accounts.

148 8. The father chose to give a prepared statement to the police and otherwise gave a no comment interview. However, I do not attach undue weight to this as he said he was acting on his solicitor's advice.

<u>The factors against the father being the perpetrator</u>

149 1. He had relatively limited periods of caring for the child and hence less potential for a build up of frustration and loss of control.

150 2. He is less emotionally labile and unstable than the mother.

151 3. He seems devoted to the child.

152 As Miss Tapson said in her closing submissions on behalf of the local authority, at the end of the mother's evidence, it seemed very likely that she was the perpetrator. However, after hearing the father, the pendulum then swung the other way. At the end of all the evidence, the local authority was in no better position than it was at the outset to submit one or other of the parents was the perpetrator and the guardian supported that position.

153. With considerable regret, I find I am unable on the evidence to determine who was the perpetrator and both parents therefore remain in the pool of possible perpetrators. I find it inevitable that, if the mother was not the perpetrator, she failed to protect C as, given her constant proximity to the child and the fact that the father was never alone with the child other than for limited periods, she would in my judgment have known if he had physically injured the child, even if she did not witness the incident or the immediate aftermath or been aware of the nature of the injuries caused. I note that the child slept in her room at all times. The mother also failed to report the father's "admissions" for fear of losing the child.

154. Because of his absences at work, the father would not necessarily know that C had been injured but I find that there was a clear failure to protect C if he did not cause the injuries by failing to make professionals aware of the real and justified concerns he held about the mother's mental state out of misplaced loyalty, protectiveness of her as well as fear for repercussions for himself and the mother's likely reaction. Further, he withheld the full picture from the court until the eleventh hour. The father's attempt to alert social care about his concerns were wholly inadequate and appear to be mainly after C was accommodated in any event.

155. Further, the father's attempts to take the blame for the injuries were misguided at the least if he did not believe at the time he made them that she had harmed the child. If he did believe that she had harmed the child when he made them, they amounted to gross failure to protect.

156. Those therefore are my findings. In relation to the schedule of findings, it is clear from all my findings in this judgment that all the findings sought in this case are made out. I find all the matters relied upon – findings 1 to 29 in the schedule of findings - to be made out. It follows of course that the threshold conditions for the making of a statutory order are made out.

157. I will rise for a short time and I would imagine the parties will want to consider what directions need to be given to make this case ready for a final welfare hearing.