



Neutral Citation Number: [2024] EWHC 2008 (Fam)

Case No: LU22P00245

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 31<sup>st</sup> July 2024

**Before :**

**Mrs Justice Arbuthnot DBE**

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**Between :**

**AA**

**Applicant**

**– and –**

**ZZ**

**Respondent**

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**The Applicant was a litigant in person**

**Teertha Gupta KC** (instructed by Ison Harrison Solicitors) for the **Respondent** until 9<sup>th</sup> February 2024, **Simon Bickler KC** (instructed by Ison Harrison Solicitors) for the **Respondent** until she became a litigant in person from about 20<sup>th</sup> March 2024.

Hearing dates: 30<sup>th</sup> November – 6<sup>th</sup> December 2023, 15<sup>th</sup> December 2023, 18<sup>th</sup> December 2023, 12<sup>th</sup> January 2024, 24<sup>th</sup> January 2024, 9<sup>th</sup> February 2024, 20<sup>th</sup> February 2024, 27<sup>th</sup> March 2024, and finally on 10<sup>th</sup> May 2024.

Draft judgment sent on 15<sup>th</sup> June 2024

Final judgment handed down 3<sup>rd</sup> July 2024

Anonymised judgment published 31<sup>st</sup> July 2024

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**JUDGMENT – A PERPLEXING CASE – DO ANY  
CHILDREN EXIST?**

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

**Mrs Justice Arbuthnot:****Introduction**

1. This is an unusual case.
2. Mr AA, the Applicant, has applied for a child arrangements order in relation to what he said are his twin sons, MAZ1 and MAZ2, born on a day in February 2021. He said he is the father of the boys and Miss ZZ, the Respondent, is the mother. He wishes to have contact with them.
3. In support of the existence of the twins, the Applicant produced recordings of conversations where the Respondent and various witnesses had spoken to him about the children. He exhibited WhatsApp messages and photographs from his telephone of one child and sometimes two which he said the Respondent had sent him. He offered his telephone for forensic examination. He also produced pregnancy ultrasound scans and other documents relating to the babies.
4. The Respondent's case was that she was never pregnant and no twins were ever born. The Respondent and various witnesses gave evidence. They accepted it was their voices in the conversations recorded by the Applicant. The Respondent said that the photographs of a child or children and the ultrasound scans had been doctored by the Applicant and were not authentic.
5. The Respondent said that the Applicant knew and knows that the twins were not born and he has pursued her as a continuing act of controlling and coercive behaviour or as an act of revenge for her reporting his father to the authorities as a possible child molester. As was clear from the recordings and as she accepted, she allowed herself to join in the deception at the beginning although her case was that no one was deceived.

6. The Respondent accepted that she told the Applicant falsely at one point that she was pregnant and then that she had had a termination. This lie was to extricate herself from the relationship.
7. There were other suggestions of an earlier pregnancy, one made by a witness who said that the Respondent had told her that she had suffered a still birth with twins in 2019. The Applicant suggested the Respondent had had a miscarriage in 2019. For that supposed early pregnancy, there were therefore three possibilities, a termination, a still birth or a miscarriage. The Respondent's case was that there was no earlier pregnancy and indeed no later one.
8. Mr Gupta KC represented the Respondent until after the five day hearing ending early December 2023 and he became no longer instructed. Mr Sickler KC took up the baton. On 21<sup>st</sup> February 2024 the Respondent parted from her solicitors and Mr Sickler KC before reinstructing them for the hearing on 24<sup>th</sup> February 2024. They were no longer instructed at some point before 20<sup>th</sup> March 2024 hearing. From then on I was dealing with two litigants in person.

## **Background**

9. The Respondent's mother had died when she was very young and she was brought up within the maternal family whilst her brothers were brought up by the paternal family. The Respondent said she had had a difficult childhood and had been abused. I heard that she had self-harmed in the near past and was socially isolated. She was an obviously vulnerable witness and had special measures during the hearings, until she dispensed with them.

10. The Applicant and the Respondent met on the internet in September 2015. They started a relationship. In 2016, the Respondent was diagnosed with cancer. The relationship continued once her treatment had finished.
11. I was told the Applicant and the Respondent were from different castes. The Respondent's family was wealthy, and it is agreed that at some point her brothers came to disapprove of the couple's relationship. They considered that the Applicant was motivated by money. When the Respondent and the Applicant had an Islamic marriage in August 2019 few of the Respondent's family attended and her brothers stopped communicating with her soon afterwards.
12. The couple moved in with the Applicant's parents, but the relationship broke down shortly afterwards. The parties have given different accounts about the reasons for this, but both of them agree that at one point the heart of a goat or a sheep was found on the Applicant's parents' doorstep ("the animal heart incident") and, rightly or wrongly, the Respondent was blamed for this. Sometime later, the Respondent reported the Applicant's father to the local authority as possibly having molested a foster child several years before. This cannot have made the family relationships any easier.
13. The Respondent went to a different city in November 2019. The Applicant said that on 3<sup>rd</sup> December 2019 the Respondent miscarried twins and produced a letter from a hospital to that effect. The Respondent said the letter was a forgery whilst the Applicant said it had been provided to him by the Respondent.
14. It appeared that the parties got back together again for some months in 2020 before the Respondent left the Applicant again. The Applicant said that on a

day he identifies in February 2021 the Respondent gave birth to twin boys, MAZ1 and MAZ2.

### **The First Proceedings March 2021 to January 2022**

15. On 11<sup>th</sup> March 2021, The Applicant made his first application under the Children Act. He applied for disclosure of the children's whereabouts.
16. Between March 2021 and 12<sup>th</sup> January 2022, the case came before different levels of the Family Court ("the first proceedings"). On at least one occasion the police were ordered to conduct welfare checks on the putative children.
17. On 12<sup>th</sup> January 2022, the case came before HH Judge Gargan. The Applicant was granted leave to withdraw his application. The first recital in the order said that the Respondent accepted that she had "lied to the Applicant about the birth and existence of the children in conversations prior to the proceedings".
18. The second recital said that the Applicant remained "of the opinion that the children do exist". The third recital read as follows: "on the basis that the Applicant is unlikely to be able to sufficiently prove the existence of the children today, beyond the evidence he has provided thus far and throughout these proceedings, he seeks permission to withdraw his application".
19. The Applicant's case was that he withdrew his application because the Respondent had assured him he would be able to see the children.

### **The Second Set of Proceedings**

20. The Applicant then brought the current proceedings on 6<sup>th</sup> July 2022 (“the second proceedings”). He said that between January and July 2022, the Respondent had provided him with new proof that the children existed.
21. The Applicant and the Respondent agreed that they had met on 14<sup>th</sup> April 2022. She said it was because he had called the police and they had searched her aunt’s house. The Respondent said that at the meeting the Applicant did not mention the children but that he abused her and spoke over her. The Applicant said they spoke about him seeing the children.
22. These proceedings came to Mr Justice Newton. He retired, and in June 2023 the final hearing came in front of me. I adjourned it as it was clear I had to hear from the witnesses who had spoken about the twins in the recorded calls.
23. There is much evidence in the case. Some points towards the twins’ existence and some the other way. Alongside the parties, I have heard from the witnesses who spoke about the twins in the telephone recordings made by the Applicant, including a particularly significant witness MTT a therapist and counsellor, and the Respondent’s GP.
24. I received documentary evidence from a hospital which implied the Respondent had enquired about a termination and had had an ultrasound scan whilst the Respondent said neither of these happened. I received evidence from the Registrar of Births and Deaths and from a midwife who failed to come to Court. I have also listened to the recordings made by the Applicant and three made by the Respondent. Then there are any number of photographs and WhatsApp messages exchanged by what is said to be the parties and some of the witnesses.

### **A chronology of the recent proceedings**

25. What I thought would be the final hearing was listed on 30<sup>th</sup> November 2023. The Respondent was represented by Mr Teertha Gupta KC whilst the Applicant was a litigant in person. From his questions and submissions, I observed that the Applicant was an intelligent man well able to put his case. I was grateful to Mr Gupta for his assistance, particularly in relation to the questioning of the Respondent.
26. I reserved judgment and my clerk was about to send a draft to the parties when she was informed on 11<sup>th</sup> December 2023 that the witness MTT wanted to change her evidence. On 15<sup>th</sup> December 2023 I heard once more from her. On 18<sup>th</sup> December 2023, I heard further submissions.
27. On 8<sup>th</sup> January 2024 it was submitted to the Court that on 29<sup>th</sup> December 2023 a person claiming to be the Respondent's midwife, a Miss Midwife, had contacted the private hospital where the twins were said to have been born, asking questions about the case. She was contacted by the Respondent's solicitors by email and submitted a statement. I adjourned to hear evidence from her and issued a witness summons. She did not respond and she could not be traced.
28. On 8<sup>th</sup> February 2024 the Portland Hospital provided a statement saying they did not know of a Miss Midwife. Further they said that one of the email addresses she had said she used with the healthcare domain address had never been issued. Human Resources said that Miss Midwife never worked for the private healthcare company that owned the Portland Hospital and other private hospitals.



29. In about the same time period, further evidence was obtained: the General Register Office (for England and Wales) sent an email dated 13<sup>th</sup> February 2024 in response to a Court order. The email confirmed that they had checked various permutations of the family names and first names of AA and ZZ as well as MAZ1 and MAZ2. There were no traces of any of these names.
30. The Registrar also stated that a search of the England and Wales birth entries had been undertaken for any children born to ZZ between 1<sup>st</sup> October 2020 and 31<sup>st</sup> March 2021. There was no trace found of any new born registered with the family names of ZZ or AA.
31. In the meanwhile according to the Applicant, between December 2023 and February 2024, the Respondent sent him lengthy WhatsApp exchanges, many abusive, where she was said to be speaking about the twins. When he responded he asked repeatedly to see them. I consider them below.
32. Other evidence provided by the Portland Hospital seemed to suggest that from December 2023 to February 2024 the Respondent was contacting them trying to find out if her records at the hospital would be safe from disclosure. For the hearing on 20<sup>th</sup> February 2024, the Portland Hospital provided evidence of the contact the Respondent had with them. That had to be investigated as the Respondent was suggesting that some of the contact had not been made by her.
33. The next date was a directions hearing on 27<sup>th</sup> March 2024. By then, there was another twist: MTT had provided a statement to the Respondent's solicitors saying that the Respondent and a young child aged about three, had called around to her address on 11<sup>th</sup> February 2024. She said the child called the Respondent "mummy".

34. I adjourned to 10<sup>th</sup> May 2024 when I heard evidence from MTT about the visit of what she said was the Respondent and her child. I heard too from the Respondent who denied going to MTT's address.
35. On that date, with a sense that if I did not draw a halt, the case would never reach a conclusion, I heard final submissions from the Applicant and Respondent.

### **Legal principles and how they apply**

36. The parties are now litigants in person, so I will set these out in a little more detail than would ordinarily be necessary.
37. The Applicant wants contact with the twins he says were born on a day in February 2021. The Respondent says they do not exist. Before I can consider contact, I have to decide whether the children, or a child, exist.
38. The burden lies on the Applicant to prove the children, or child, exist. The standard of proof is the simple balance of probabilities. Findings of fact must be based upon evidence, including inferences that can properly be drawn from the evidence, and not on suspicion or speculation.
39. I must take into account all of the evidence and consider each piece of evidence in the context of all the other evidence.
40. I have heard evidence from a number of witnesses and there is documentary evidence too. I do not refer to all the evidence below, just the evidence and submissions I consider are the most significant. I have considered how the parties' evidence fits in with all the other evidence.

41. One of the parties has given lying accounts in two sets of proceedings for nearly four years. There is no room for saying that one of the parties has given a mistaken impression about the existence or otherwise of these children.
42. Some of the evidence in this case which on the face of it suggests that the twins exist is based on what has been said by the Respondent to be a lying account given by her and one of her witnesses and a possibly misleading impression given by three of the other four witnesses she called.
43. The most recent evidence given by one of these witnesses, MTT, that the Respondent and her child came to see her is disputed by the Respondent. One of the two of them is lying: it cannot be a question of a mistake having been made.
44. Four of the Respondent's witnesses have explained why they said what they did in the recorded conversations. The Respondent alleges that the Applicant has known for some time that the twins did not exist and that he is lying when he said he did not. The Applicant denies lying at any point.
45. The guidance given in *R v Lucas* [1982] QB 720 and *R v Middleton* [2000] TLR 293 is that a conclusion that a person is lying or telling the truth about point (a) does not mean that he is lying about or telling the truth about point (b).
46. As to the application of the *Lucas* direction in family proceedings, the Court of Appeal has been explicit that the Court must go beyond reminding itself of the principle and Lord Justice McFarlane (as he then was) has set out in *Re H -C (Children)* [2016] EWCA Civ 139 and in particular at paragraph 100 onwards the way in which the Court must properly apply the principles in *Lucas*.

47. In *Wakefield Metropolitan District Council v R & Others* [2019] EWHC 3581 (Fam) at [109], Mrs Justice Lieven summarised the approach to be taken as first determining that there has been a deliberate lie, then considering why that person lied. The Court should guard itself from assuming that just because a party lied about one thing they would have been lying about another.
48. The lies direction has particular relevance to this case where there are admitted lies told by the Respondent and one of her witnesses and her case is that the Applicant has lied and is lying when he says he believes the twins were born. The Applicant's case is that the Respondent has lied throughout and gave birth to the children he wants to see.
49. The Court's assessment of witnesses is always important. It is essential that a Court forms a clear assessment of their credibility and reliability. In this case this has been a difficult exercise. I bear in mind particularly that the Respondent has clearly found the proceedings nearly overwhelming at times. I am also conscious that arguably some of the most significant evidence has come to light when the parties were both unrepresented.
50. I am also conscious of the particular vulnerability of the Respondent. There may have been more evidence I could have attempted to obtain but I was becoming concerned about the effect these long drawn out proceedings were having on both parties, but particularly the Respondent, and I was not convinced that any further evidence would lead to clarity.

### **Witness Evidence and Discussion**

51. Over the course of two years in a number of recorded conversations and exhibited messages it is agreed that the Respondent had said the following to the Applicant, that:

- a. She was pregnant
- b. She had seen the midwife
- c. The scans she provided on two different occasions from two hospitals, three months apart, showed she was pregnant with twins (she had provided the scans)
- d. She had stretch marks (and sent a photograph of these)
- e. She was in labour for three days before she gave birth
- f. The boys were named MAZ2 and MAZ1
- g. The boys weighed 5lbs and 5.4lbs
- h. One boy was in an incubator with a heart problem
- i. She was breast feeding with the aid of a pump
- j. She was too tired for the Applicant to see the children
- k. She was going to register their birth in his absence
- l. They were circumcised,
- m. He was going to see them,
- n. The health visitor was going to come around,
- o. They looked like him
- p. One or both were going to live with her brother.

52. Despite what she said in the calls, the Respondent's case is that these were not truthful comments but ones orchestrated and controlled by the Applicant.

53. There were also recordings of lengthy conversations not just with the Respondent but with others who at the least went along with the suggestion that the twins had been born, or confirmed, to one extent or another, that the children existed. In the various conversations the Applicant had recorded with the witnesses, he had explained to them his concerns that he was being kept from his children.
54. The witnesses called by the Respondent confirmed that the recordings were genuine, it was their voices that I could hear and the calls were made on the dates set out by the Applicant.
55. I heard evidence from: MTT, a psychotherapist and counsellor; MSS, a friend of the Respondent's; AFF, a solicitor and family friend of the Respondent's; MZH, a lady in her later years, who was known as "auntie" to the parties; and finally from NAO, a lawyer, who had a peripheral role in the case. MTT had to be re-called twice.
56. The Respondent's witnesses gave me the impression that they were intelligent, educated, reasonably honest, ordinary people which made it all the more difficult for me to work out why it was they had allowed themselves to become embroiled in what was according to the Respondent a charade.
57. I concluded that two of the witnesses were trying to help the Applicant and the Respondent's relationship, one was trying to help the Respondent and the final one, (NAO), had little idea why he had been asked to do what he did when his wife was more involved than he was.

58. I have set out below a fairly full summary of what each witness said to try and show, to the extent that I can in a written document, how genuine and compelling the conversations sounded to anyone listening to the recordings.

### MSS

59. MSS was an old family friend of the Respondent's and was one of two witnesses who had been present at a significant meeting between the parties on 1<sup>st</sup> December 2020 at a mosque. The meeting lasted about ten minutes before the parties became overwhelmed. MSS said that the Respondent was not pregnant in December 2020 and had never had children.
60. MSS's evidence in Court was the opposite of the impression she had given in the recordings of telephone calls between her and the Applicant where he asked her about seeing the twins. The discussions sounded authentic.
61. The first call recorded by the Applicant was on 9<sup>th</sup> September 2021. The recording started with the Applicant saying "go for it". MSS said she was calling about the situation in relation to the children.
62. During the extensive discussion MSS said "I will be 100% honest with you" and told the Applicant that the children were with the Respondent's brother. Later she said the Applicant had a right to be a part of their lives. MSS did not question it when the Applicant referred to the Respondent's earlier pregnancy.
63. MSS spoke about the problem between the parties starting when the Respondent moved into the Applicant's family home. The Applicant explained that his father had been hospitalised for a week after having a stroke because of the allegation that the Respondent had made about him.

64. MSS said she was not going to take sides and that both of them had been in the wrong. She said that the Respondent might leave the country and take the children with her; that he should never have gone to Court; that the reason the children were with the Respondent's brother was that she did not want to put the children through what she had gone through. When asked she was not able to say where the children were born.
65. There were written WhatsApp messages exchanged between the Applicant and MSS. These were dated 22<sup>nd</sup> September 2021, and appeared to be a continuation of the conversation about the children and their whereabouts.
66. The next recording was made on 21<sup>st</sup> October 2021. In the call, MSS said that police had come to tell her to keep out of the situation and change her number. She said that the police had told the Respondent not to contact the Applicant. MSS said it was a case where children were involved.
67. MSS did not reply to the Applicant's questions about where the children were or to the suggestion that she knew where they were. There was then a lengthy conversation where she asked him if he wanted to be married to the Respondent and the Applicant did not answer. At one point, MSS said "I need to convince her to let you see the kids".
68. The next call was on 24<sup>th</sup> January 2022, which was shortly after the first proceedings had concluded. The Applicant said he wanted to speak about the children. MSS's part of the conversation was largely inaudible but what could be heard was that she said the Respondent was not at all well and had been upset by the Court proceedings.



69. For over four months MSS had implicitly or explicitly accepted the existence of, the children. In evidence to this Court, her explanation was that she had agreed to participate in the telephone conversations with the Applicant about the children because the Respondent had asked her to do so. It was something she very much regretted doing.
70. MSS said the Applicant was involved in planning the calls. He would speak to her beforehand and outline what she was to say in the recorded call and started one of the conversations with “go for it” which she said indicated he was the ringmaster (my words not hers). It was a strange explanation although I heard “go for it” on one of the calls.

AFF

71. My sense of having stumbled into an alternative reality continued when I heard from AFF. A solicitor, his family were long-standing friends of the Respondent’s family going back to their grandparents’ time. He knew the Respondent’s brothers well and met them at family events.
72. He had become involved in conversations with the Applicant. There were two recordings of the Applicant speaking to the witness, one of a conversation that took place on 20<sup>th</sup> April 2022 and the other on 22<sup>nd</sup> June 2022.
73. In the first, the Applicant repeatedly mentioned the children, saying to AFF that the Respondent had been hiding “my children” for 14 months. AFF never questioned their existence although he said he would rather not get involved. AFF seemed to be more concerned in finding out whether the Applicant wanted to continue with the parties’ marriage. AFF in evidence said he had not been

aware of any children and was shocked when the Applicant mentioned them in the first call

74. Between the first and second conversations, AFF said that he had got in touch with the Respondent who had told him there were no children. At about the same time, the Applicant sent him the Court bundle. This was disputed by the Applicant but it was clear from the recording of 22<sup>nd</sup> June 2022 that AFF had read parts of it.
75. Between the two conversations too, AFF had got in touch with the Respondent's brother, B, who said he was unaware of any children and warned AFF that the Applicant was playing a game. AFF told B he needed to speak to his sister or the Applicant.
76. In the recorded conversation of the 22<sup>nd</sup> June 2022 call, AFF told the Applicant that he had persuaded B to speak to him. At one point, the Applicant asked "where are the children", AFF's response was "with her I believe". The Applicant said that he had not held the twins in 16 or 17 months. AFF was concerned that the police and the Courts had become involved instead of the community elders.
77. AFF said in evidence that having read the transcripts of some of the calls and the messages in the bundle, by the second call he had become convinced that the children existed.
78. He had further conversations with the Applicant and the Respondent when he was trying to mediate. In cross examination AFF was asked why it was that in one call it appeared he was accepting that the Respondent had submitted a

forged GP's letter about the twins. He explained that he had merely agreed with the Applicant who had said that it was forged and that the Respondent had been wrong to submit it. He did not know about the GP's letter. He had said the children were with the Respondent because after he had read the bundle that is where he believed they must be.

79. The Applicant's case was that the children or one of them may have been given to one of the Respondent's brothers. It was perhaps AFF's most significant evidence therefore, which I accepted was true, that he had seen the Respondent's brothers at family events in the past years and although they had children, the youngest was aged about six. He had not seen any children of the sort of age the twins would have been. Furthermore, although it was hearsay evidence, he said he had spoken to one of the Respondent's brothers and he was unaware of any children.

#### MZH

80. The compelling nature of the conversations continued in the recorded calls between the Applicant, the Respondent (one call only) and MZH. MZH was a good friend of the Respondent's and she was known by both parties as "auntie". She explained that her aim in engaging with the couple was to support their marriage.
81. MZH's oral evidence confirmed her written statement that she had never seen any children and had no direct knowledge of them. It was surprising therefore to hear the recordings of the three conversations she had had with the Applicant where there were extensive discussions about the children and she gave the impression that she had seen them and even celebrated their birthday.

82. On 4<sup>th</sup> September 2022, in a call between the Applicant, the Respondent and MZH about the problems in the couple's marriage, the Applicant told MZH that the Respondent needed to let him see his children. MZH said, "why not..." and "they're your children", followed shortly after by "where she goes in this world she go [sic] but the child belongs to you", then "of course you have to meet them but you also need to meet the mother as well..." later "God has gifted you with beautiful kids".
83. The Applicant then told MZH that the Respondent had said there were no children, MZH responded that the Respondent's main concern was that they must "live like a family, like husband and wife". MZH said "they are beautiful twin boys", then "everybody knows kids are yours" and "your children are getting older and unfortunately without a father, it's very bad...". She told the Applicant not to talk "about only children, talk about your wife as well", she said "next week you will see your children".
84. In the same call she said that she was cross with the Respondent as the Applicant seemed very decent, "I think he's innocent". By the end of the call there seemed to be an agreement that the Applicant would meet the children the following week. At no point did the Respondent deny the children's existence.
85. Five months later, on 19<sup>th</sup> February 2023, there were two further calls. This time the calls were between the Applicant and MZH only. The children were mentioned on 38 occasions in just one of those conversations.
86. MZH said "why will you not see them, Son". Then "it was his/her [inaudible] birthday just now...I bought him a big new car, for that beautiful kid.....why have you not seen the kids, what is the reason behind that?".

87. When later the Applicant said that he suspected that one of the twins was with the Respondent's brother, she said "there is [sic] 2". Confusingly, MZH said "they are with [the Respondent] right now I have been to their birthday recently" and then agreed that both children were with the Respondent. MZH said she wanted to resolve the issue so that he could "try to meet your children".
88. The final conversation is recorded later the same day. In this one MZH agrees that the Respondent had a miscarriage but said "she had two". The rest of the conversation was about the twins.
89. Significantly in the second conversation on 19<sup>th</sup> February 2023, MZH said "I know, I know that already" to the Applicant's suggestion that the Respondent had given money to a doctor to remove any reference to the children in her medical records. MZH asked the Applicant what he thought "about the letter she took from doctors that she had no child, she was not pregnant".
90. Finally, MZH said "do you know children are very beautiful... very cute...". She goes on to say that it does not matter whether "he" is cared for by one brother or another, no one else can be his real father.
91. In her evidence to the Court, MZH accepted these conversations were genuine recordings. She was unable to say why she had spoken about the twins or a child as if she had met them. She said however that the reference to a birthday party, may have been to one her grandson had had the day before the conversation.
92. MZH's final position in relation to the children was not clear: in Court she said she had not seen them but she did not appear to discount their existence. She

struck me as a rather eccentric, elderly well-wisher and busybody who wanted the best for the parties as a couple. Her eccentricity was perhaps shown by her description of the witness box as a “beautiful box”. She struck me as rather confused and I could give little weight to her evidence.

### NAO

93. I heard from NAO who had sent photographs and a short video of a newly born baby to the Applicant. He explained that the Respondent had sent the photographs and video to his wife and he had sent them on. One of the photographs showed a newborn baby in a hospital cot with the Respondent’s details above the cot. He said that his understanding was that the babies were born in a hospital in a different city or Cheshire. His wife might have been a more useful witness but she was not called.

### The Respondent’s General Practitioner

94. The Respondent’s GP gave evidence. Her evidence was significant as the Applicant’s case was that the Respondent must have paid to have her medical records altered to remove any reference to a miscarriage, pregnancy or birth.
95. The GP explained that the records had not been altered and if ever they had to be sent to Court, for example, they were redacted. I found it unlikely that parts of the GP’s records had been expunged by someone paid on behalf of the Respondent. Although it appeared that two witnesses confirmed that had happened, AFF clarified that that was not what he intended to mean and I could not take as accurate much of the evidence given by the confused MZH.

96. The GP was clear in her evidence about any pregnancy. She had the records in front of her. She ran through each face-to-face consultation during the supposed pregnancy (there were not many of these) and afterwards and there was no mention of pregnancy or of babies. The surgery was in touch with the Respondent about once a week, usually by telephone.
97. Significantly in my view, the GP said the Respondent had been seen by doctors in Accident and Emergency on 9<sup>th</sup> and 11<sup>th</sup> November 2020. The GP provided the letters confirming these visits.
98. On 9<sup>th</sup> November 2020 the Respondent would have been about six months pregnant with twins if she was pregnant. This was shortly before the meeting in the mosque on 1<sup>st</sup> December 2020. There was no mention of pregnancy in the A & E letter sent to the GP but it showed the Respondent had swollen calves, shortness of breath, palpitations and weight loss of 2.5 stone in three weeks. The diagnosis was of a pulmonary embolism.
99. On 11<sup>th</sup> November 2020, she was back in A & E with chest pain. She still had the earlier complaints including the swollen calves and the weight loss.
100. Had she been pregnant when she visited A & E ( although I cannot exclude that in a black free flowing abaya the Respondent's shape would have been hidden), I might have expected that this would have been picked up by the hospital. I would have thought too that a pregnant woman who had lost 2 and a half stone in three weeks would have raised her concerns about the effect of this on the pregnancy. The hospital letters to the GP did not mention pregnancy.

101. The GP explained that there were no records at the surgery that the Respondent had been pregnant. If she had been, there would have been records of antenatal appointments, and then after the birth, of vaccinations or check-ups.
102. It was also confirmed that there was no mention in the notes that the Respondent had had cancer treatment for over two years, although she told me that she had.
103. The GP said that although she had never had a patient give birth privately, she would have expected the information that a baby or babies had been born to be provided to the surgery. The information about any children born in a private hospital so far as I could tell from her evidence would have had to come from the patient herself.

#### Conclusions about the witnesses

104. I had to consider why it was if the twins did not exist that the witnesses above in various ways gave the impression that they did. They explained why. MSS said she told lies because the Respondent asked her to but also that the Applicant was involved in the planning of the calls which was why one started with the words "go for it". If MSS was right, the Applicant had known all along the twins did not exist.
105. In AFF's case, he went along with the conversation believing at one point, having read the bundle, that the children existed and had to be with the Respondent. In MZH's case she was trying to mediate between the couple and wanted the marriage to work.
106. The witnesses' accounts of the twins in the recordings were so convincing that they have affected my view of their reliability. I could not give great weight to



their evidence denying the children existed. MZH, however, who was the only witness who had given the impression in the recordings that she had seen the twins, was so confused that I could not find that she had seen them.

107. I put in the balance too the evidence from AFF who knew the Respondent's brothers and socialised with them but had never seen toddlers of the age the twins would be, if they existed, although he had met or at least seen the brothers' children at family parties etc. I accepted that that evidence was probably true.

### The Applicant

108. The Applicant gave evidence in early December 2023. He explained he believed the twins had been born and were alive. He suspected one of the boys (if not both) had been given to one or other of the maternal uncles.
109. He relied on the pregnancy scans from St Mary's Hospital dated 21<sup>st</sup> August 2020 and scans from the private Portland Hospital dated 18<sup>th</sup> November 2020 which he had provided for the first proceedings. Both scans showed the Respondent's details plus two foetuses called baby A and baby B. He relied on the many photographs of a baby which he said had been sent to him by the Respondent and, of course, the recorded telephone calls and messages.
110. The Applicant said all he wanted was to see his children. He had not been abusive to the Respondent. He said it was clear from all the evidence he had provided including the conversation recordings, that the Respondent and her friends knew that the twins existed.
111. Furthermore, he relied on the evidence of MTT who saw that the Respondent was pregnant on 1<sup>st</sup> December 2020 (see below). He also had seen the

pregnancy bump on that date. He relied on the further evidence MTT gave when she said she had seen the Respondent with a child once in July 2022 and once on 11<sup>th</sup> February 2024.

112. The Applicant seemed credible and honest and to be a man who believed that the children had been born and that the Respondent was keeping him from them.

### The Respondent

113. The Respondent gave evidence twice, first during the main hearing when she was represented by Mr Gupta KC and once when she was responding on 10<sup>th</sup> May 2024 to MTT's new evidence.

114. In her first evidence, she said that when she married she thought the Applicant was more supportive of her than her own family but after the wedding she saw a different side to him. He became unpleasant. He was sometimes nice when she was away from him and then she would return and feel suffocated.

115. She left the Applicant on 9<sup>th</sup> November 2019 when she was thrown out of his family home and stayed in a hotel in the North for several months. Things got worse for her when her father died in February 2020 but when she could show that she had inherited from him, the Applicant took her back.

116. The Respondent had made three telephone recordings of her own where the Applicant was very abusive towards her after she had called him.

117. In the first call the Applicant was abusive about the Respondent's brothers and said he "will get equal with every one of you". The Respondent said he had got equal but he said he would find them. The Respondent was distraught. In the

other two calls he was extremely abusive and called her names such as “fucking bitch” and “you mental bitch” whilst she was telling him he was ruining her life. I noted she did not swear back at him. Although undated they were clearly at a time when their relationship had ended. There was no mention of the twins or children in these calls.

118. I accepted too, that the Applicant had threatened to damage the Respondent’s mother’s grave. The Respondent’s description was vivid and her distress very real and her account was confirmed by at least one other witness. I find that the Applicant had been abusive to the Respondent, but the extent of the abuse was hard to determine. It seemed to me to be an enmeshed relationship with the Respondent continually returning to the Applicant in the hope that he would change. It would appear he manipulated and took advantage of her isolation and lack of family.
119. The Respondent said she had been the victim of the Applicant’s controlling and coercive behaviour. She explained she had told lies about a pregnancy to find a way out of the relationship. She was not feeling safe and thought with pregnancy as an excuse there would be no way back. She said she was upset when the Applicant said he wanted her to have a termination, so she left in June 2020. It did not make entire sense to me but that is what she told me.
120. In terms of the Applicant’s recordings, the Respondent said he orchestrated them and used to pause the recordings and tell her what to say about the twins. She used to go along with whatever he said because that is what he told her to do. She felt controlled by, and was frightened of, the Applicant. When she refused to take his call or blocked his number, he called the police and they

would come to carry out a welfare check. Once eleven police officers had come to her business looking for the children.

121. The Respondent said she had never been pregnant and the medical documentation including the hospital miscarriage letter of 3<sup>rd</sup> December 2019 had not been provided by her. She said the Respondent would have known that she had not been pregnant from November 2020 when she had told him she had had a termination. The Respondent's evidence about not being pregnant was contradicted by the recent evidence from the Portland hospital which I set out below.
122. The Respondent said she had got her friends involved because her brother would not speak to the Applicant. The Applicant said that the Respondent was controlled by her brothers. Not having heard from either of the Respondent's brothers it was difficult to establish what relationship they had with their sister.
123. The Respondent said she had not sent the messages, and the multiple photographs of a baby and toddler were of her nephew N1 sent by her to the Applicant in 2018. He had manipulated the images and forged their captions to appear as if they had been sent more recently. This was denied by the Applicant.
124. The Respondent did not call her brothers to give evidence. In her statement of 9<sup>th</sup> December 2022, she said that N1 and his parents had moved to Dubai. This contradicted the evidence of AFF who looked surprised when he was asked if one of the brothers had moved abroad. I preferred the evidence of AFF to the Respondent's on this point.

125. The Respondent said the Applicant had taken the first proceedings to locate her. Although he had said that she had to protect his self-respect and tell the Courts that the children existed, she had told him she would not lie to the Court.
126. The Respondent said the Applicant brought the second proceedings to be malicious and to cut her off from her support network. If he found out she was in touch with someone he would want to speak to them. The Applicant was doing this to be controlling. He wanted to be thought of as the victim. The Applicant's case was that all he wanted was to see their children.
127. The Respondent said that she had started the lies about the pregnancy to end the relationship, he went along with them but as time went by he started lying and she went along with his pretence that she was pregnant in January 2021.
128. In cross examination the Respondent explained that she had not sent the scans, and that the newborn photographs in the hospital had come from the Applicant.
129. The Respondent explained her biggest fear was from the threats the Applicant had made to desecrate her mother's grave. He had said that he hoped her mother would rot in hell and also suggested that perhaps her mother had never died.
130. I noted that MSS had said she had heard the Applicant threaten the Respondent in a similar way. I have also heard the Respondent's recordings of the Applicant's abuse. Despite the many lies the Respondent accepted telling (the pregnancy, then her willing involvement in what she said were the Applicant's lies), I found her account of the threats credible.
131. This was a case where I had to be very careful when considering demeanour . On the face of it, both parties appeared to be credible and honest.

132. From what I observed and heard, however, I considered the Respondent was clearly traumatised by the threats she said were being made. When she said they had led her to sit by her mother's grave all day frequently crying for hours at a time, often in the pouring rain, I believed her. It was piteous.
133. At one hearing on 9<sup>th</sup> February 2024 the Respondent was due to attend remotely as was her solicitor. The Applicant was attending in person. Unexpectedly the Respondent arrived at Court. She was very upset. She told me that she had been told in an anonymous call that if she did not come to Court her mother's grave would be desecrated. She came with all speed and had sent a friend to her mother's grave to ensure it was not damaged.
134. When she had arrived at Court, she refused the offer of special measures in particular a screen. When I suggested to her that she ought to go straightaway to her mother's grave (which I believed was in the North), she turned to the Applicant and asked him what he wanted her to do. He did not answer. Despite the lengthy and highly contentious proceedings she was relying on him.
135. She was represented remotely by her solicitor who was still instructed at that point. The short hearing was able to continue in her absence. It is hard to see who other than the Applicant would want her to come to Court. It was an abusive approach to the Respondent.
136. In my judgment, this was evidence of a woman who was under her ex-partner's control although it did not necessarily indicate that the twins did not exist. It did show that her account of their relationship was likely to be true. It made her account that the Applicant had orchestrated the recorded conversations and had manipulated her into having them more likely.

137. Another observation I made spread over the many hearings that were needed to conclude the case was about the sort of person the Applicant was. This was relevant to the Respondent's evidence that he was controlling and coercive. I have explained above what happened in the 9<sup>th</sup> February 2024 hearing. There was other evidence too.
138. During the 10<sup>th</sup> May 2024 hearing at a time when the Respondent did not have a representative, whether it was because the Applicant was concerned and frustrated by the proceedings or because that was the way he was used to treating the Respondent, he tried to interrupt, he did not want to wait to put his side of the story.
139. The Respondent explained that during the two sets of proceedings brought by the Applicant, she had had her medical records checked, she had had to move homes, and the way she had been treated through it all showed what "the Applicant has been able to do to me and what he is capable of". The Respondent said he used the system against her but if he told her to do the same again, she would, because she was still afraid of him.
140. The Respondent gave a convoluted explanation in evidence in relation to the photographs of one or two newborn babies in a hospital cot. These were dated on a day in February 2021 and on one there was a label fixed above the cot which appeared to show the Respondent's name and date of birth.
141. The Respondent said that the Applicant had sent her these to send them on to NAO's wife who was asked to send them on to her husband who would then send them back to the Applicant. According to the Respondent, the photographs started with the Applicant and ended with him but went through the hands of

herself, NAO's wife, the witness NAO and back to the Applicant. I considered this was an unlikely account.

142. One of the questions for the Court was why it was that the Respondent, with the support of her witnesses, had created the story of the pregnancy in the first place, if that was what she had done. The witness MTT who was a psychotherapist and counsellor, said it was "not uncommon" for a woman to say she was pregnant to give herself the confidence to leave an abusive relationship on the basis that she was doing it for the baby.
143. MTT described it as counterintuitive. I agreed it was. MTT said she had had two other clients who had done the same, one who had been pregnant and one not. It might be a question of empowerment but she said she was unable to explain it further. Although it may seem that the links to the abuser would be tightened by a pregnancy, the person abused believed it would cut the links.

### MTT

144. Of the witnesses, I have left MTT the psychotherapist and counsellor until last. She was a significant witness who gave evidence three times. On two occasions she was the reason I was unable to conclude the proceedings.
145. The Applicant had recorded a number of telephone conversations which took place between the parties and the witness. MTT also had seen the parties together on three occasions. Importantly she said she had seen the Respondent with a child on two occasions, once as recently as 11<sup>th</sup> February 2024.
146. On 17<sup>th</sup> September 2020, before the supposed birth of the children or child, in a 20 minute telephone conversation, MTT listened as the Applicant spoke about



his family, the animal heart incident, the Respondent's earlier miscarriage, her present pregnancy and her meeting with a midwife. He said that the Respondent's brother had told him he would not see the twins.

147. The Applicant told the witness that he was going to try and get custody of the children. He complained about the Respondent's mental state and said that she was manipulating him. The Applicant said that the Respondent's complaint about his father molesting a foster child was false and to prevent his family having custody of the twins if she went to Court. MTT said she wanted to support the couple.
148. The next call that the Applicant recorded took place on 25<sup>th</sup> February 2021, shortly after the supposed birth of the twins. This time the Respondent was on the call with the Applicant and MTT.
149. The Applicant said he wanted to hold his children; he did not know where they were; the Respondent was not being 'straight' with him; he was not a threat to her or the children; he wanted to be able to speak to the Respondent directly to know how the children were; the Respondent's brothers had created the issues; finally, the Respondent had not even sent him a photograph of the children when they were born, it came via the witness NAO.
150. He said that his friends and family all knew he had two children. The Applicant said that when he said he wanted to be at the birth to support her, the Respondent had sworn at him and she wouldn't let him. For most of the call it was the Applicant who dominated the conversation.

151. The Applicant in his evidence said the babies could be heard crying in the background at the beginning of the recording. Having listened to that part of the recording repeatedly, I could not hear clearly babies' crying but an unidentifiable screech.
152. On 4<sup>th</sup> March 2021, there was another recorded call between the three of them. The Applicant said he had spoken to the Respondent and wanted to be present at the registration of the birth. The Respondent said if she did the registration without him he could add his name later. She said she had spoken to the registrar and it was not a big issue.
153. The Applicant said he and his parents wanted to see the twins. He was happy not to come to her home but it had been four weeks and although her friends and family had seen the twins he had not.
154. I have listened to these recorded conversations, they were lengthy and they sounded like a genuine discussion between separated parents, facilitated by MTT. There was a natural flow and tone and there was nothing that I could identify which led me to believe they were made up or were part of an act put on by the parties.
155. When she gave evidence on 1<sup>st</sup> December 2023, MTT had explained that although she had spoken of the children in the calls, she had never seen them but she had no reason to doubt what the parties' were telling her.
156. In reply to questions from Mr Gupta KC for the Respondent, she had accepted his criticism that she had blurred professional boundaries in her approach to the Respondent. MTT explained that the Respondent had needed comfort from a

sister-mother figure and she had become over involved. The Respondent had attached herself to her because she was so vulnerable.

157. MTT complained that what she called the couple counselling sessions should not have been recorded by the Applicant without her permission. Of course she was right, but MTT had not made any notes of these on the grounds of confidentiality. I was dependent therefore on the Applicant's recordings to know what had been said and by whom.

#### MTT's meetings with the Applicant and Respondent

158. MTT said she had met the parties in November 2019, on 1<sup>st</sup> December 2020 at a meeting in a mosque in the North and on 8th July 2021. Finally she said in evidence on 10<sup>th</sup> May 2024, that she had met the Respondent and a child on 11<sup>th</sup> February 2024.
159. If the Respondent had been pregnant with twins who were born in February 2021, the meeting in the mosque on 1<sup>st</sup> December 2020 would have taken place when she would have been obviously pregnant at six or seven months gestation.
160. As well as MTT, there were others present: the Imam, the Respondent's uncle and aunt and MSS. Other than the parties, MTT and MSS were the only witnesses called who spoke of the meeting.
161. MTT gave evidence about the meeting on two occasions. In her evidence on 1<sup>st</sup> December 2023, she said she could not remember whether the Respondent looked pregnant in the mosque as she was wearing an abaya. She accepted however, that the Respondent may have told her she was. MTT's replies seemed credible and honest.

162. MTT sent then an email and a note to the Respondent's solicitors on 8<sup>th</sup> December 2023. In her email, MTT said that she had been thinking things over and it had been "playing" on her mind. She had looked through her correspondence and had come across a statement in letter form dated 24<sup>th</sup> September 2021 which she had sent to earlier solicitors representing the Respondent. This had not been provided to the Court nor to those then instructed by the Respondent.
163. In her note of 8<sup>th</sup> December 2023, MTT said that the statement of September 2021 and the Applicant's questions of her on 1<sup>st</sup> December 2023, had jogged her memory. She remembered now that the Respondent had been pregnant at the meeting on 1<sup>st</sup> December 2020.
164. MTT also remembered that the Respondent had left the meeting of 8<sup>th</sup> July 2021 upset so MTT went out to the car to check on her. In the car MTT saw an "older lady" in a hijab sitting in the back tending to a baby in a car seat. MTT did not resist from this evidence when she was cross examined. When questioned by the Applicant, MTT remembered a discussion about children's clothing on 8<sup>th</sup> July 2021 and saw bags that the Applicant said he gave to the Respondent then. At one point, I was struck by how easily MTT agreed to the Applicant's suggestions.
165. MTT said she took her oath on the Quran seriously and she was very fearful about giving inaccurate evidence, this was why she was correcting what she had said at an earlier hearing. She said she did not want to give further evidence.
166. In the letter dated 24<sup>th</sup> September 2021 MTT had said the following: "Even through her [the Respondent's] pregnancy with the twins in 2019, she was

alone, he [the Applicant] didn't make an effort to ensure she was safe and sheltered. She supported herself throughout, staying at a hotel" in the North. MTT goes on to say: "It was during this time that she attempted suicide and was cutting herself. She subsequently lost the twins and they were delivered still born". This information must have come from one of the parties yet it contradicted their evidence. The Respondent denied she had ever been pregnant whilst the Applicant said an earlier pregnancy had resulted in a miscarriage.

167. I noted that in MTT's statement of 24th September 2021, when the twins would have been seven months old, there was no mention of them. The only mention of twins were those that were said to have been still born in 2019.
168. When MTT's was re-called to give evidence on 15<sup>th</sup> December 2023 she repeated what she had said in her note of 8<sup>th</sup> December 2023. The Respondent was pregnant at the meeting on 1<sup>st</sup> December 2020. She had not remembered it before because she was suffering from "brain fog" after the death of her father and because of the menopause.
169. The Applicant's questions to her when she had given evidence on the earlier occasion had jogged her memory. Since then she had really focused on the events of 1<sup>st</sup> December 2020. Although she did not remember the Respondent saying she was pregnant, she remembered what she looked like.
170. When challenged by Mr Gupta, MTT said she had been pregnant four times and recognised a pregnant woman when she saw one. During the meeting in the mosque, she was sitting to the side of the Respondent and noticed she had a prominent bump. Also one of her legs was slightly more swollen than the other. Her gait was "hobbly", her hands and feet were swollen, it looked as if she had

preeclampsia. She explained the Respondent's pregnancy was a memory recently recovered using a technique taught to her by her doctor son.

171. MTT ended her evidence of 15<sup>th</sup> December 2023 by saying she hoped the best for the parties. She said "men have rights to children. [AA] has a right to see his kids". It was obvious that she believed the twins existed.
172. MTT next gave evidence on 10<sup>th</sup> May 2024 after she had provided a statement where she claimed that the Respondent had come to her home on 11<sup>th</sup> February 2024 with a child aged about three, who had called the Respondent "mummy". She said that the Respondent spent an hour at the address.
173. When asked the witness did not remember much about the child, other than the child had his or her hair in a bun. He or she played with a toy whilst the Respondent spoke to her. The Respondent told her she was upset that MTT had told the Court on 15<sup>th</sup> December 2023 that she had looked pregnant on 1<sup>st</sup> December 2020.
174. When cross examined by the Respondent who was now a litigant-in-person, MTT stuck to her account that she had come round to see her. MTT denied being put up to giving this evidence or that it was fabricated. As before this witness seemed honest and credible and yet again she said she was hoping that the parties would mend their relationship.
175. On 10<sup>th</sup> May 2024, the Respondent gave evidence too about the alleged visit to MTT on 11<sup>th</sup> February 2024. She denied going to MTT's address and said she did not even know where she lived.

176. The Applicant in submissions drew to my attention that the Respondent had never sworn on the Quran when she gave her evidence in December and on 10<sup>th</sup> May 2024. I considered that in the absence of her having been offered the facilities to wash before doing so, I could not draw any particular conclusion from her failure to swear on the Holy Book.
177. It did seem to be odd, that whereas throughout the proceedings, the Respondent's case had been that the children had never been born, she would go to MTT's address with a child to upbraid her for giving evidence saying she was pregnant on 1<sup>st</sup> December 2020. On the other hand, there had been a number of oddities about this case.
178. MTT seemed credible and honest to me and appeared to me to find it important that she was taking the oath on the Quran. She had had a mother-daughter relationship with the Respondent and came over as very sympathetic towards her. She disapproved of the Applicant who she thought was abusive. It did not seem to me that this further evidence had been provided at the behest of the Applicant.
179. MTT had come back to Court on 10<sup>th</sup> May 2024 because of her strong religious beliefs. She felt that had she left the evidence as it had been when she gave evidence on an earlier occasion, this would have troubled her conscience and been misleading. I had to consider, however, her evidence as just one strand, all be it a very important strand, amongst the rest of the evidence which had been placed before me.

### **Other evidence - discussion**

180. I have not summarised the mass of documentary evidence provided by the Applicant. He continued to provide evidence right the way through the proceedings much of which he said had been sent to him by the Respondent. She denied this and said he was forging the WhatsApp messages and photographs said to be from her.
181. The photographs ostensibly of the twins were mostly said by the Applicant to have been taken from statuses displayed on the Respondent's WhatsApp and Instagram accounts. They were for the most part of one baby or toddler and rarely two. I would have expected a proud mother of twins to send any number of photographs of the children together because that is what parents of twins do.
182. The only times two babies were shown together in photographs were as follows. Ones dated 6<sup>th</sup> February 2022 and 2<sup>nd</sup> July 2022 showed two babies or toddlers oddly with their faces hidden. The caption to the latter photograph said, "My soldiers when they grow up they will read what was said to me and about me then they will decide". Another one dated 30<sup>th</sup> March 2022 showed two toddlers with their back to the camera with a written note saying MAZ1 was such a good big brother. Finally, there was a photograph with two toddlers at a distance in a bath captioned "Afternoon bath time" said to have been sent on 16<sup>th</sup> August 2022. This was the only one that showed the children's faces.
183. The photographs all came from a telephone number which the Applicant called "[ZZ's] new number". There was evidence that the Respondent changed her telephone number on more than one occasion.
184. On 25<sup>th</sup> March 2022, there were photographs including one showing three separate photographs of children with an older photograph of a child in the



middle of the three. The caption said “All 3 monkeys resemble each other thank god 2 of them are not moody”. The Respondent explained that the photograph showed two separate images of her nephew, N1, either side of the Applicant.

185. On occasions a toddler was shown with the Respondent. A photograph said to be dated 28<sup>th</sup> August 2022 was captioned: “little Babba is feeling under the weather today, so we going to cuddle watch cartoons and Sesame Street, eat lots of ice cream, then watch papa sing on the phone”. One said to have been sent on 21<sup>st</sup> September 2022, showed a toddler in an adult’s arms but there was an emoji hiding the face of the adult. It was not clear why the adult’s face was obscured.
186. I bear in mind that the Respondent’s evidence throughout was that these photographs were of her nephew N1 and had been sent by her to the Applicant at an earlier time in their relationship. As I have said above, I found it odd that there were so few photographs of two children together and also by the fact that in two of the photographs of twins the faces were hidden for no obvious reason.
187. The Applicant said that the Respondent was continuing to WhatsApp him between December 2023 and February 2024. He produced these messages which showed he had not responded initially before getting involved in exchanges about the children.

#### Forgeries?

188. Not only were the extensive recordings of conversations about the twins faked or as a result of misunderstanding (according to the witnesses who gave

evidence) but the Respondent suggested there were a number of forged documents in the case.

189. There were two ultrasound scans of twins named Baby A and Baby B said to have been carried out in August and November 2020 and the photograph of the newborn in the cot on a day in February 2021. These documents had the Respondent's name within them. Her case was that these were forged.
190. The scans were produced by the Applicant in the first proceedings. He said he had been sent them by the Respondent. Only one of the scans was investigated, the one ostensibly taken in November 2020 in the Portland Hospital.
191. The question of forgery arises in another part of the evidence. Various witnesses denied sending some of the written WhatsApp messages provided by the Applicant. They accepted it was their voices in the recordings but either did not recollect or strongly denied they had sent some of the messages he had exhibited.
192. MTT said some of the messages would not have been the sort she would send. She gave as an example the one where she had told the Respondent that the Applicant had gone on holiday with a woman. Judging from her surprise when referred to the messages, I accepted her evidence that she had not sent them.
193. MSS also strongly denied sending the messages, as did AFF who said that the Applicant sent him messages but when he responded it was normally by telephone. It was too much of a coincidence that none of the three witnesses recognised those written WhatsApp messages.

194. The Applicant's argument was why would he bother to forge the WhatsApp messages when he had the recordings, but it seemed to me that it would be easier to create WhatsApp messages on your own than the, admittedly persuasive, recordings. With the latter you have to persuade others to join in the conversations.
195. I had no expert evidence on the point and I cannot speculate how it was done but it seemed to me that the messages were probably forged to add detail to the evidence obtained in the recordings.
196. There was also another possibly forged document. It was a hospital letter which had a flag emoji blocking out part of the top. The Applicant relied on it to show that the Respondent had had a miscarriage on 3<sup>rd</sup> December 2019. I reminded myself that the earlier pregnancy was described by MTT as a stillbirth.
197. The Applicant said the Respondent had provided the letter to him by WhatsApp whilst she said she had never been pregnant let alone had a miscarriage and had not provided it.
198. What was not covered by the flag emoji was the end of ZZ's name and the end of a patient number "984". This letter was said to come from EPU Ward 62 at Manchester University Hospital.
199. The letter set out in technical medical language that the Respondent had had a miscarriage. It had a very small part of the second page showing. The second page looked as if it was signed by a Consultant Dr Rosemary (her family name could not be seen).

200. The letter set out that ZZ was admitted at 22.50 on 2<sup>nd</sup> December 2019 to the early pregnancy unit with severe cramping and bleeding. It said she was 17 weeks pregnant with monozygotic twins. It said preterm labour was provoked to expel the “joint twins”. The letter went on to say that they had tried to determine the cause of the miscarriage and that there was an autopsy and laboratory tests of the placenta. The letter said that “midwifery notes” had highlighted ZZ had been suffering overwhelming stress etc. It ended with saying that there was no family support around her and she had been referred to a psychological support unit.
201. I had written evidence from two Consultants whose first names were Rosemary and who worked at the hospital concerned. Neither identified the document as one that they had signed. Dr Rosemary Morton was a Consultant in Emergency Medicine at Manchester University NHS Foundation Trust. She said that although the full name of the Trust and the patient’s identifiers were blacked out, the letter was on headed NHS notepaper and that EPU stood for the Early Pregnancy Unit at St Mary’s Hospital.
202. Dr Rosemary Howell was a Consultant Obstetrician and Gynaecologist at St Mary’s Hospital, Manchester University NHS Foundation Trust. She was not the author of the letter and it was not written in a style she used. Significantly, she had found no records of the Respondent in the Manchester University NHS Foundation Trust electronic medical record system.
203. I noted two details that might have indicated a forgery. The letter referred to midwifery notes. It seemed to me there was little doubt had the Respondent

come under the care of the midwives, that there would have been notes to that effect in her GP's records. There were none.

204. I also doubted that the NHS would have conducted an autopsy or placenta tests after a miscarriage. Furthermore, if this were a genuine letter it would have been sent to the Respondent's GP as the other letters were when the Respondent went to an A and E, on, for example, 9<sup>th</sup> November 2020.
205. On the one hand I could not see, if it was genuine and had come from the Respondent, why she would have had to black out the patient identifier details, on the other, it was hard to see why the Applicant would have created the letter. The only reason I could envisage is that he had referred in the recorded conversations to the Respondent having had a miscarriage. Was it merely to back up what he had said? Overall, it seemed to me likely that the letter about the miscarriage was a forged document.

### The Portland Hospital

206. Significant documentary evidence with some recordings of calls arguably undermining the Respondent's account came from the Portland Hospital (part of HCA International Ltd which owns a group of private hospitals).
207. In October 2022 the Portland Hospital checked their system for any information held in three names the Respondent used, all were variations on her name, ZZ. There were no medical records held under those names but what they could say was that ZZ with the same date of birth in 1984 had registered with an obstetrician at Portland Hospital on an unknown date but did not attend the appointment. The specialist's name was given although I noted that she

specialised in gynaecology as well as obstetrics. The telephone number for the patient was given as a mobile ending 499.

208. There were two other appointments booked in the name of ZZ. She did not attend an out-patient appointment with a Consultant plastic surgeon at the London Shard facility in June 2018 or a dermatology appointment in another Hospital which was part of the HCA group in January 2019.
209. On 18th December 2023, I made a further order sending the Portland Hospital the ultrasound scan said to have been made there ostensibly showing the Respondent and twin foetuses. They were to provide all information relating to the scans and details of any medical appointments connected to the embryos. The two names ZZ used were sent along with the same date of birth in 1984.
210. In response, the Portland sent a document called an incident timeline. It had hyperlinks to recorded conversations that the Respondent had had with the hospital. It included emails sent by someone claiming to be her.
211. The hospital said that there was no record of either MAZ1 and MAZ2 born on a day in February 2021, and there was only one delivery on that date at the Portland Hospital and it was of a single baby whose mother was not the Respondent.
212. The hospital said the ultrasound scan of twin foetuses was not an internal hospital ultrasound and said that some Consultants bring their own US ultrasound machines in when they use their facilities. HCA International Ltd said the Respondent was not their patient. They differentiated between their

patients and a patient of an independent Consultant who used their consulting rooms.

213. The manager did say however that he would not have expected an independent Consultant to have the ultrasound image marked up with the name Portland Hospital. I concluded there was insufficient evidence about the image, however, to say that it was forged.
214. The timeline set out that on 7<sup>th</sup> December 2023, a person saying she was the Respondent called the Portland Hospital. No recording was exhibited. No contemporaneous note was made but a file note of the conversations two members of staff had with the caller was made on 16<sup>th</sup> February 2024 by PH1, the Health Information Management Lead (“HIML”).
215. The evidence from the Portland should be seen in the context that the Respondent says the only contact she had with the hospital was on 7<sup>th</sup> December 2023 when she spoke to a call handler about her situation in the Family Court and discussed how her medical records had been shared with the Applicant, leaving her feeling violated. The Respondent said she then had no contact with the Portland until her GP contacted her on 22<sup>nd</sup> December 2023 saying that the hospital had made a safeguarding enquiry with the surgery.
216. The first part of the Portland Hospital file note of 16<sup>th</sup> February 2024 of conversations they say they had with the Respondent was hearsay. It purported to set out what the person claiming to be the Respondent had told the medical records officer (“MRO”) who had answered the call on 7<sup>th</sup> December 2023.

217. According to the file note, the caller told the MRO that she gave birth at the Portland Hospital and wanted confirmation its health records had been deleted because that is what her midwife had promised would happen.
218. The MRO passed the telephone to PH1 the HIML who wrote up a note of the conversation on 16<sup>th</sup> February 2024. The caller told PH that at the time she had asked for her records to be erased and not be shared with the NHS and wanted this confirmed. She said she was estranged from her partner.
219. PH1 asked the caller for her full name, address and date of birth. The caller changed her details a few times so she was given an email address at the records department and asked to email her details so they could find her in the system.
220. On 7<sup>th</sup> December 2023, at 11.18am an email was sent to PH1 at the records department from an iCloud address made up of the Respondent's names. The writer thanked PH1 for speaking to her earlier. The email said "As I mentioned on the phone I just want to clarify that you don't have any information on your records regarding my pregnancy". The email seemed to be a written continuation of the conversations with PH1 and another which were not recorded but which must be the ones set out above.
221. It went on to read that between September 2020 and February 2021, "I did pacifically [sic] request that no records be kept and I refused to have anything shared with my NHS GP. My private midwife also reassured me that no records will be recorded".
222. The writer set out the four names which should be checked, these were permutations of the family names of ZZ and AA, all with the same date of birth



- in 1984. The writer gave three iCloud email addresses she used at the time. They were variations on her name. They said they had changed their “number several times since the birth of the child I don’t recall which number I had”.
223. The writer went on to say “I was suffering domestic abuse during the pregnancy and I was trying to conceal this for my safety. I believe you have received a request for information from my solicitor before any information is given I would appreciate if it is shared with me first”. It was signed “Warm Regards, [ZZ]”.
224. I received a statement dated 22<sup>nd</sup> March 2024 from the Respondent dealing with the evidence provided by the hospital. In it she agreed she spoke to the Portland on 7<sup>th</sup> December 2023, and says it was about the records they may have had on file for her. That admission appears to connect her to the conversation that took place with PH1, the HIML. In her statement however, the Respondent does not say that she had a conversation on that date about having been pregnant or that she sent an email later the same day referring back to the call she had made earlier where yet again she speaks about pregnancy and giving birth.
225. In its timeline, the Portland does not mention that there was any other call that day from someone purporting to be the Respondent. On the face of it, it would appear that the call the Respondent admits making on 7<sup>th</sup> December 2023 is the call that the Portland made a note of (although that note was made two months later).
226. On 8<sup>th</sup> December 2023 at 1021, PH1, the HIML, emailed the writer of the emails said to be ZZ to ask her to email back her address “at the time”. The reply came

back at 1344 the same day. The address given was a house number in a street with a northern postcode.

227. There is a file record (not a recording) of a conversation said to have taken place on 18<sup>th</sup> December 2023, when PH1 called the person using the number ending 2188. The time of the conversation is not given. This again was written up on 16<sup>th</sup> February 2024.
228. In the conversation the person is said to have told PH1 that she gave birth to twin boys MAZ1 and MAZ2 on a day in February 2021 at the Portland at around 3am. She said that she had been given reassurances by her midwife that her data had been deleted. She asked to meet PH1.
229. I bear in mind that the Respondent said this was not her. If it was not her, it must be somebody, probably a woman, impersonating her. Confusingly, the person said to be the Respondent was speaking on 7<sup>th</sup> December 2023 about giving birth to a child, by 18<sup>th</sup> December 2023, the one child had become twins.
230. On 18<sup>th</sup> December 2023 at 0956am (it is not clear whether this was before or after the call above although it was probably afterwards) PH1 emailed ZZ asking for her mobile number. At 1003 the reply came that it was a number ending 188. At 1416pm PH1 sent an email saying she had just tried to call her again.
231. PH1 asked her to confirm the “home address you are currently registered under and the home address you were registered with when you gave birth to your twins”. PH1 asked her to confirm the name of her solicitor and the address they sent their request to.

232. At 1654 on 18<sup>th</sup> December 2023, someone calling themselves ZZ responded by email with her address which was an address with a postcode in the north. She gave her solicitor's details as Ison Harrison solicitors (Leeds).
233. On 19<sup>th</sup> December 2023, the Portland Hospital tried to contact the Respondent's GP with safeguarding concerns about the Respondent and possible children. This was chased on 20<sup>th</sup> December 2023. The hospital said the address of the Respondent according to the NHS was said to be a particular house number with a postcode, in another part of the north,.
234. On 19<sup>th</sup> December 2023, there is an email at 0844 where a member of staff PH2 comments that there is a record for the Respondent on 'meditech' but 'absolutely no records' which she said was 'very strange' and was not something that another member of staff PH3 had seen before.

#### The 22<sup>nd</sup> December 2023 calls

235. The calls which occurred between the Portland Hospital and the Respondent on 22<sup>nd</sup> December 2023 I have found to be significant.
236. On 22<sup>nd</sup> December 2023, the Portland safeguarding department finally spoke to the Respondent's GP and the GP told them she had spoken to the Respondent who said she had had no contact with the Portland. This was untrue as even on ZZ's own case she had.
237. On 22<sup>nd</sup> December at 11.03am the Respondent emailed PH1 saying that her solicitor was going to send an email to Portland Hospital asking for her details. The Respondent then wrote the following: "Who would this go to? Also have

you checked to see if any of my records are still available. I hope they are not and if I can ask what my rights are if I don't want them disclosing?"

238. On 22<sup>nd</sup> December 2023, an untimed call was received from the Respondent recorded in four parts by the Portland Hospital switchboard. The operator tried to connect the Respondent to two separate member of staff in safeguarding.
239. The Respondent in her statement of 22<sup>nd</sup> March 2024, said she contacted the Portland with a solicitor's support after her GP had told her that the hospital had raised safeguarding concerns with them. She considered the Portland had invaded her privacy by contacting her GP.
240. It was unfortunate that the Portland provided two timelines, one with redacted material and one without. I looked at both. The one with unredacted material had three parts of the call made by the Respondent on 22<sup>nd</sup> December 2023 whilst the one with redacted material had an extra part of the call which was identified by the last digits 5439. It was clear from the Respondent's reference to the GP ringing her "today" that the four part call was made on 22<sup>nd</sup> December 2023.
241. In the last part of the call the Respondent said she was concerned about privacy. The operator was friendly and the Respondent asked who she should contact about a GDPR issue. She told the operator that she had made an enquiry on 7<sup>th</sup> December 2023 about any personal records they might have as she had had an appointment in 2020 with a Consultant which she had cancelled.
242. The significant part of the conversation is that she went on to say that she had spoken to PH1, the manager of the records and had exchanged emails with her

including when she gave her her number, previous and current addresses and the names she used including her maiden one and married one. There was only one exchange of emails on 7<sup>th</sup> December 2023 exhibited by the hospital and I have set out what they said above.

243. In the conversation on 22<sup>nd</sup> December 2023, the Respondent said that on 7<sup>th</sup> December she had spoken very briefly of her situation with her ex-husband. She wanted to know why extreme measures had been taken including her GP being called. She wanted to know where the hospital's concerns originated from. She said she was entitled to know what information they had on her. The operator said she would put her through to complaints. I had no doubt this was the Respondent's voice.

244. The Respondent had a conversation then with PH2. This was not recorded but handwritten notes were made and provided to the Court and there was an email sent by PH2 dated 27<sup>th</sup> December 2023, which set out a note of what was said on 22<sup>nd</sup> December between her and the Respondent.

245. On 22<sup>nd</sup> December 2023, someone from the hospital contact centre had rung PH2 to say that a lady wanted to raise a concern about a data breach. The woman wanted to speak to her. The caller introduced herself as ZZ. She was concerned about her privacy and the sharing of information the hospital held.

246. The woman was said to have said that she was engaged in a distressing situation with her ex-husband who was pursuing a malicious application through the Courts. She did not give any details.

247. The caller said her GP's surgery had been contacted that day by the safeguarding lead from the Portland. She was upset that she had not been approached directly and that information had been shared. The caller said she had had contact with PH1 to find out what information the Portland had from 2020. She had provided her maiden name, marital name and her husband's details as she was unsure which details she had used at the time.
248. She told PH2 she had been distressed when initially talking to PH1 and had opened up with personal information but felt this was an off the record conversation. She told PH2 that she had booked an appointment for a termination in 2020 but then cancelled and had never used the Portland services. The caller said she had a midwife, Helen (although she could not remember her surname) but she was not connected to the Portland.
249. The caller went on to say that she had previously requested that her records be deleted because her ex-husband had been trying to get information to locate her. She said the relationship had been very abusive and that the last three years of dispute had been very stressful. She said that in her faith a termination would not be accepted so she was anxious to know what had been shared.
250. The significance of this call is that it refers to Helen before Miss Midwife had got in touch with the Portland and there is a direct reference to the emails sent on 7<sup>th</sup> December 2023. The Respondent was concerned about her privacy and her personal information and why the hospital had spoken to her GP. She had given her names and addresses. What she said on 22<sup>nd</sup> December to PH2 connected the Respondent to the email of 7<sup>th</sup> December 2023 sent to PH1 where the writer referred to pregnancy and to the birth of a child.

251. The Respondent does not explain this call: what she says in her statement of 22<sup>nd</sup> March 2024, is that “no one was able to answer my call, but I was informed that a callback would be arranged. When I did not receive a response, I called again on January 3<sup>rd</sup>. By this time, my mental state had deteriorated significantly”. In fact, her call was answered and PH2’s fairly contemporaneous note is set out above.
252. Another piece of admittedly double hearsay evidence is an email sent on 22<sup>nd</sup> December 2023 at 1813 from a member of staff to others in the Portland Hospital. She said that the information that PH1 was given in the original email referred to a child but ‘later she mentioned twins (one of which she lost)’.
253. It would appear that the Respondent rang the Portland on 2<sup>nd</sup> January 2024 (mistakenly said to be 3<sup>rd</sup> January 2024 in the timeline). This was recorded. When speaking to the operator she referred to a call she had made on Wednesday 20<sup>th</sup> December 2023, when she had been put through to complaints. She said she thought they were going to call her back possibly on 27<sup>th</sup> December but they had not. She could not remember the name of the person she spoke to. Her reference to 20<sup>th</sup> December was the wrong date. This was undoubtedly the Respondent’s voice.
254. On 3<sup>rd</sup> January 2024 at 1550, there was a file note of a call made directly to PH3, the Quality and Governance Manager at the Harley Street Clinic (part of the HCA Healthcare group) by someone who said they were ZZ.
255. The call was not recorded. The person explained on the call that she had spoken to someone in records (who must be PH1) on 20<sup>th</sup> December 2023 asking for her medical records but she had not heard back. The note says the caller told

PH3 that in 2020 she had made an appointment at the Portland Hospital to enquire about a termination. She was currently going through a divorce and did not want the termination information to “come out in Court” because she was frightened of her ex-husband who had been physically and mentally abusive.

256. PH3 told the caller that she had come through to the Harley Street Clinic and not the Portland Hospital. The Respondent said she had spoken to someone about a week before. She said that her GP had contacted her after a telephone call from the hospital regarding the welfare of her children. This upset her as it questioned her parenting.
257. PH3’s note said that the Respondent repeatedly said “this is not a complaint however she would like to know if [the Portland Hospital] holds any records of her visiting regarding a termination (which did not take place) so she would be prepared if it came out in Court”.
258. The note continues “ZZ also stated she did not want the GP to know any of her medical history at the Portland Hospital and confirmed she has ticked a box on registration stating ‘do not share with GP’”. The Respondent gave her names ZZ or possibly a variation on ZZ and the telephone number ending in 2188.
259. In her statement to this Court, the Respondent described her mental state as having deteriorated by this point. She said when she spoke to the Portland on 3<sup>rd</sup> January 2024, she was extremely emotional, exhausted and frightened. She said the conversation was about the hospital letter relating to a miscarriage and she enquired whether anyone had requested her records.



260. In her statement the Respondent said “I distinctly recall this phone call. I divulged every detail of the situation to the lady on the phone”. She spoke about children, miscarriage, pregnancy and asked about the supposed midwife. She was deeply distressed and “I speculate that the lady may have misunderstood my emotional state or only retained a summary of our conversation when she made a note two months later, which may explain why the note mentions my discussion about pregnancy and children”.
261. The Respondent’s recollection of the conversation was not the same as PH3’s who recollected her speaking about a termination which did not take place. PH3’s note also reflected a continuing concern that the Respondent had that her GP be excluded from having information about her. There was no mention of pregnancy or children.
262. On 5<sup>th</sup> January 2024 at 0827, I had a copy of an email sent by PH2 at HCA Healthcare to the Respondent’s iCloud email address using the family name. PH2 said that they had spoken on Friday 22<sup>nd</sup> December 2023, after the Respondent’s GP had contacted her after they had been contacted by the Portland Hospital.
263. The email said the Respondent had queried first why she had not been approached directly and second, she enquired what medical records were held in the hospital and who had access to them. PH2 apologised for the delay and said she would try to answer the Respondent’s question in the coming days.
264. The Respondent replied later the same day and said that she had heard from her solicitor yesterday and “I believe Portland have responded back without sharing any information”.

265. PH1 responded to the 22<sup>nd</sup> December 2023 email on 8<sup>th</sup> January 2024, where she apologises about the delay over the Christmas period and told her to advise her solicitor to email the legal department at HCA Healthcare. PH1 went on to say before they could confirm any details they needed to verify her identity per GDPR. The Respondent was advised to submit an access request. Later the same day the Respondent replied and said the matter had been dealt with.
266. The emails above between PH1 and the Respondent formed one chain that started with the Respondent's enquiry of 7<sup>th</sup> December 2023. The outcome was that the Records Department contacted the Data Protection Officer ("DPO"), there was a search against all the names provided by whoever wrote the email from the iCloud email address, signed by someone using the names of the Respondent. The DPO confirmed that no erasure of records had taken place.
267. The emails between PH2 and the Respondent were a different thread but the Respondent was using the same email address in both. There was no evidence that two different email addresses were being used by the person saying they were the Respondent.
268. To summarise the evidence provided by the hospital above:
- a. The MRO said that on 7<sup>th</sup> December 2023, someone using the Respondent's details spoke about the birth of a child at the hospital,
  - b. PH1 said that on 7<sup>th</sup> December 2023, after speaking to the same person, the latter sent emails checking there were no records concerning her pregnancy. The latter said that her private midwife had assured her no records would be kept.

- c. It was PH1 again who sent an email on 18<sup>th</sup> December 2023 asking the person using the Respondent's details for the home address she was registered at when she gave birth to twins. Clearly she thought the person using the Respondent's details had said to her she had had twins.
  - d. PH2 said that on 22<sup>nd</sup> December 2023, the writer told her that she had booked an appointment for a termination in 2020 but then cancelled it. She said she had a midwife, Helen, but she was not connected to the Portland.
  - e. Finally PH3 said she spoke to the person who said that in 2020 she had made an appointment at the Portland Hospital to enquire about a termination.
269. Four separate members of staff gave written evidence in a timeline and other documents that the person who was contacting the hospital was talking of terminations, pregnancy and childbirth. Although I did not hear direct evidence, I noted that there were emails backing up what was said and some of the notes made of the conversations were contemporaneous (PH2) or nearly so. Their accuracy perhaps could be shown by all the notes of calls and the emails setting out the caller's obsession with her medical records and her wish that they not be disclosed.
270. At about this time, but after the question of a private midwife had been raised by the writer of the emails to the Portland Hospital, an email was sent on 29<sup>th</sup> December 2023 at 1146, by helen.[surname]@ at the HCA Healthcare domain address to PH4 at the same domain address. In this email she said she was trying

to ring “Dean” back but he was in a meeting the day before and she had been told he was off that day.

271. Miss Midwife said she was the midwife for her client the Respondent and asked for his advice about what to do as “I have been asked to confirm the scans from Portland hospital”. She said that from her recollection the Respondent was seen by a private Consultant in 2021 and she did not think that the Portland would have access “to the Consultants achieve [sic]”. She said she no longer had access to records or to the NHS system to confirm any details. Miss Midwife asked to whom she should refer the enquiry, whether to the Consultant who treated the Respondent or to the ultrasound department at Portland.
272. PH4 then emailed Miss Midwife at HCA Healthcare at 14.25, the same day. PH4 told her that if the patient had been scanned at the Portland using a Consultant owned US machine then the Hospital would not have access to the imaging. She would need to contact the Consultant directly.
273. On 8<sup>th</sup> January 2024, Miss Midwife from a different email address, contacted the Respondent’s solicitor, the Respondent and the Applicant. She said she could not confirm the exact scans “my client” the Respondent had at the Portland in 2021 but that she had taken advice from the ultrasound department and “you” would need to contact the Consultant direct to confirm the details as the Portland did not have access to them.
274. Miss Midwife said she would need her client’s permission before she could disclose any details because of patient confidentiality. She then provided the email address she had for the patient, although it was an iCloud account and contained the Respondent’s name it was not one of the addresses the

Respondent sent to the Portland Hospital. Miss Midwife also said she had been given the Applicant's name as the next of kin and gave his email address. She said her work email no longer accepts external emails.

275. It was not clear to me how she was contacted in the first place but in her statement which was provided by email she said that she had been contacted by Portland Hospital about the ultrasound scans which had been exhibited. They denied this. I think that was unlikely because her name was not shown on the ultrasound image.
276. Miss Midwife said she had then responded and told the hospital that the scans had been done via an independent Consultant and asked whether she should make the enquiry via the US department of the Portland Hospital or to the Consultant.
277. In her statement of 22<sup>nd</sup> January 2024, she gave her home address but she did not provide the house number. She said she was a midwife who had worked independently and had been registered since 2017, her registration was going to expire in November 2024. She was not currently practicing.
278. She said she had worked for the NHS Trust at Stoke Mandeville Hospital in Aylesbury, Buckinghamshire where she came across the Respondent.
279. She said she did not have access to any records but she remembered the Respondent's pregnancy. She had met the Respondent for antenatal check-ups from her second trimester between October 2020 and February 2021 either at her home address or at the Portland Hospital and once at Stoke Mandeville Hospital.

280. Her recollection was that the Respondent was estranged from her husband and had a difficult relationship with her brothers. Miss Midwife described the Respondent as “a vulnerable client and quite naïve”. She did not have any friends or family. The Respondent spoke fondly of her husband. Her pregnancy was complicated and she “avoided using NHS services where possible”.
281. Miss Midwife said she examined the Respondent several times and took urine and blood samples, blood pressure checks and weight measurements. She had a complicated pregnancy and was seen by an independent twin pregnancy specialist at the Portland. The midwife said she was present during the ultrasound and her Pinard stethoscope appointment to listen to the fetuses’ heartbeats. She saw the fetuses on screen twice.
282. Miss Midwife said she had only a vague recollection of the two independent Consultants who worked with the Respondent and did not know their names. The Respondent was always reluctant for the midwife to make notes and it was the former who arranged all appointments with the Consultant directly.
283. Miss Midwife said that the Respondent gave birth to twin boys via a C-section on a day in February 2021 at about 4am. This contradicted the hospital’s evidence.
284. Miss Midwife said she had the Respondent’s email address but this bounced back as undelivered and her contact number was disconnected. The midwife said her final visit was in about March 2021 to the Respondent’s home address.
285. Miss Midwife suggested she had been the Respondent’s midwife in emails dated 29th December 2023 and 8th January 2024 as well as an undated statement

which was received on 22nd January 2024. A hearing was listed on 24th January 2024 following confirmation from Miss Midwife by email that she would attend. She did not attend.

286. On 24th January 2024, I issued a witness summons to ensure her attendance on 7th February 2024, however, on 6th February 2024 we were informed by the Family Division office that the summons had not yet gone out. I adjourned to 9<sup>th</sup> February 2024 and Miss Midwife was informed that she should attend.
287. The summons went out on 8th February 2024 to both email addresses provided for Miss Midwife, one at HCA Healthcare and the other a proton.me address but the email bounced back for the email at HCA Healthcare saying it was undeliverable.
288. Miss Midwife did not attend on the 9<sup>th</sup> February 2024. The tipstaff considered there were insufficient address details given for an arrest warrant to be issued. She had given a road as her address. It was a very long one and there was no house number.
289. The Portland Hospital was asked about Miss Midwife because she had a HCA Healthcare email address. It said in a document dated 8<sup>th</sup> February 2024 that it had no knowledge of her and she had not been employed by the Portland Hospital or acted as a locum. They said the National Midwifery Council register lists a non-practising nurse of the same name. The only contact they had had was when someone saying they were Miss Midwife contacted the ultrasound department.

290. The Chief Nursing Officer of the Portland who wrote the letter said that Miss Midwife did not have a HCA email address, which it appeared she did. They said that the person referred to by Miss Midwife in her email sent to the hospital (see above) was the Ultrasound manager at the Portland but contrary to the impression given by Miss Midwife of the Ultrasound manager contacting her, according to him, they never spoke. I bear in mind this was hearsay evidence.
291. Miss Midwife never got in touch again. Her evidence would have been of significance, if true. Her statement had she adopted it in evidence would have proved that the twins had been born. Instead of this, she never came to Court, the question for me was whether this was because she did not exist or because she existed but did not want to give evidence because she did not have her client's permission to breach confidentiality. Marginally I thought the latter was more likely.
292. On 22<sup>nd</sup> March 2024, when the Respondent was no longer represented, she drafted her own statement. She said she had been receiving anonymous abusive telephone calls for several months.
293. On 5<sup>th</sup> December 2023, she received such a call from a man who gave the name Shazad. He said he was investigating the case and threatened to expose her. He was abusive. He kept speaking of her records at the Portland Hospital and referred to someone called Helen (the first name of Miss Midwife). The Respondent ended the call.
294. In relation to the Portland Hospital, she said she had had an appointment there with a gynaecologist "a few years ago". She had called the Portland on 7<sup>th</sup>



December 2023 to enquire about the records they had on file for her because of her concerns about the threats raised by the caller Shazad.

295. Of the call to the Portland on 7<sup>th</sup> December 2023, she said the call handler was very friendly and she had shared with her her current situation in the family Court and how her medical records had been shared with the Applicant.
296. In anonymous calls which she said she received on 8<sup>th</sup> February 2024, she was being threatened with violence. She was being pressurised to withdraw instructions from her solicitors. She then did so and told the Court. On 9<sup>th</sup> February 2024, the day of a hearing, she had spoken to her solicitor who reassured her and she felt that she should have legal representation.
297. At around 12.15pm she was near the RCJ when she was told the hearing would be remote. She was relieved and was on her way back to her home address when she received a phone call from a man who hurled abuse at her and threatened to vandalise her mother's grave if she did not go back to Court to attend in person. He said he was by her mother's grave and described it to her. She returned to Court and seemed to me to be genuinely very distressed. I insisted she leave Court and go to her mother's grave in the North.
298. In her statement of 22<sup>nd</sup> March 2024, she said the calls went on until she changed her number on 12<sup>th</sup> February 2024. She said she was not accusing the Applicant of making these calls but she said she was puzzled about why someone would do what they were doing. She had not told the police about what was happening as she had had a negative experience with the police when they had tried to pressurise her into making a statement against the Applicant.

299. She said then she had not received any further communication from the Portland between 7<sup>th</sup> December 2023 and 22<sup>nd</sup> December 2023 but that “someone impersonating me had called the Portland, an incident the Portland Hospital did not disclose to the Courts but it was mentioned to me by the woman I spoke with. I became aware of this when Portland Hospital raised a safeguarding concern and felt it was necessary to contact my GP”.
300. Her GP had contacted her on 22<sup>nd</sup> December 2023 and told her about the Hospital’s concern. She was in a state of panic and went to see a solicitor (not those then instructed in the case). He sat with her as she called the hospital, she spoke to them and repeatedly reassured them that she was not making a complaint and that they could tell her solicitors that she had been in touch with them. No one answered the call (other than the switchboard operator) but she was told a callback would be arranged.
301. She did not receive a response so she rang the hospital on 3<sup>rd</sup> January 2024. She then explains that she was extremely emotional and exhausted and she “divulged every detail of the situation to the lady on the phone”. She mentioned the Court case, miscarriage and pregnancy and asked about Helen, her supposed midwife. She speculated that because of her deep distress, the lady on the phone may have misunderstood their conversation when she made a note two months later “which may explain why the note mentions my discussion about pregnancy and children”.
302. The Respondent was wrong in thinking the call where it was said she had divulged information about a pregnancy etc was on 3<sup>rd</sup> January 2024. As I have set out above the call was on 22<sup>nd</sup> December 2023.

**Drawing the evidence together, in search of a decision**

303. The case of *Lucas* enjoins me to identify any lies that were told. This is an unusual case because either the Applicant or the Respondent had lied about the pregnancy and the birth of these children for more than three years.
304. One of these parties had lied to me in these second proceedings for about a year through a dozen hearings (some very short) including the five day final hearing. The lies one of them had told had been complicated, persistent and very well planned and executed. Potentially two of the witnesses have lied, MSS and MTT in particular.
305. There are a number of alternatives open to me on the evidence.
306. The Applicant's case was that there were twin boys and that one or both may be living with the Respondent or her brothers. He says the Respondent has hidden the birth of the twins from her GP and others. The Applicant points out that there is no reference to two years of cancer treatment in the Respondent's records and that in the same way she could have hidden the birth of children from the surgery.
307. He says she could have asked her brothers to give evidence confirming the photographs were of their children but she did not. Furthermore he relies on the evidence of MTT that the Respondent was pregnant at the mosque meeting on 1<sup>st</sup> December 2020, that she had a child with her outside a meeting they had on 8<sup>th</sup> July 2021 and took a child with her when she met MTT at her home on 11<sup>th</sup> February 2024.

308. If they had been born, I would have expected their births to be registered, GP records, ultrasound scans which were clearly genuine and photographs of twins. If they were genuine there would have been no reason to forge any documents or WhatsApp correspondence.
309. In one of the recordings made by the Applicant, the Respondent was speaking of registering the birth of the children, yet there was evidence from the Registrar that no child or children had been registered to the Respondent in the relevant period. It is the parents who register a child with a document given to them by the hospital. If they choose not to register the birth of a baby in a private hospital, it was not clear to me on the evidence that I had been provided with that the State would know that the child had been born.
310. Children have to be immunised and usually the health visitor sees the mother and child soon after birth. If the GP surgery was not told of the birth and the immunisations were done by a private doctor, it was not clear to me that there would be a public record of the birth of a child or children. As far as the evidence went, the baby would not have been given an NHS number.
311. An argument put forward by Mr Gupta KC at the end of the final hearing in early December 2023 was that the Applicant must have known about the non-existence of the twins because if he had really believed that they existed and were living with one of the Respondent's brothers he would have pursued this and summonsed them to give evidence.
312. That argument had some force but also turning it around, and whilst accepting that the Respondent did not have to prove the twins did not exist, it might have

been helpful had she provided evidence from her brothers or at least up-to-date photographs of their younger children.

313. I was struck by the Respondent saying her brother's family including their son N1 were in Dubai which according to AFF was not the case. I find that the Respondent told a lie but I find it was likely she told it to explain why she could not call him. The truth appeared to be that her brothers had washed their hands of her since the marriage to the man the family disapproved of.
314. There was no clear key to the case that I was able to find and I was troubled by the recent evidence given by MTT that she had seen the Respondent with a toddler who called her "mummy" and the evidence from the Portland Hospital about conversations they say happened between the Respondent and them between December 2023 and early February 2024. In those conversations there were references to an appointment for a termination which was not attended, to twins, to a child born in the hospital and a private midwife used whose first name was Helen.
315. A possibility from the evidence was that only one child was born or survived. I base that on the admittedly weak evidence of photographs which on the whole show one child, the reference to a cancelled termination and to one child in the communication with the Portland Hospital, the double hearsay evidence that the Respondent had told the hospital she had lost one and the evidence of MTT that she saw only one baby or child with the Respondent on two occasions once in July 2021 and once in February 2024.
316. The Respondent's case is that the children do not exist, the Applicant has mounted a campaign of abuse which he has continued over the years seeking

revenge for her making a false report of his father as a child abuser to the local authority or for her family's failure to accept him into the family. Certainly the Applicant was very abusive and threatening in the three calls that the Respondent had recorded.

317. If they do not exist, it would explain why there are possibly forged documents in the case, why the births had not been registered, why the two police welfare visits had not seen children, why the witnesses said they had never seen the children (despite the recorded conversations) and why there were no doctor's records about these children.
318. On the face of it, it seemed to me unlikely that the Respondent would have been able to hide the children's existence from her GP over a long period or her pregnancy from the hospital she visited on 9<sup>th</sup> and 11<sup>th</sup> November 2020 when it should have been obvious when they were concerned about weight loss. I thought it was unlikely that her records had been doctored for money as suggested by the Applicant.
319. The Respondent said someone was impersonating her when contacting the Portland Hospital and that MTT was wrong when she said she came to her house with a toddler on 11<sup>th</sup> February 2024.
320. There is yet another possibility which is so odd that perhaps I should discount it, which is that the Respondent has not had children but for some reason, linked perhaps to her mental health, she is responsible for the evidence that suggests the children were born.

321. When considering her credibility, I had to bear in mind that the Respondent had spent two years taking part in conversations which made it appear the twins existed. She also said she had lied to the Applicant when she had told him that she was pregnant and then had a termination. The Respondent said that she did this as she was the victim of abuse and she said that to get away from him. This is what I would call two 'innocent' lies, if they were a lie.
322. The thread running through all the contact with the hospital between December 2023 and February 2024 is the caller's insistence on her records not being disclosed. The emails come from the same email address and as I have said they link to call recordings where I identified the Respondent's voice.
323. There was no evidence that two separate people were having these conversations and sending emails at the same time. The Respondent said she was told by the hospital that they were being contacted by two people saying they were her. If that were the case, the Portland Hospital did not mention that in the documentation it sent to the Court. It seemed to me they would have done so and that the Respondent was trying to distance herself from the conversations she had with them.
324. I found too that, contrary to her evidence, the Respondent had been pregnant and had considered a termination being carried out at the Portland Hospital.
325. Having considered the timeline carefully, I find that it was she who contacted the Portland Hospital repeatedly in recent months in the way I have set out above. She was most concerned that her records not be disclosed. I did not accept that it was because she was vulnerable that she did not want her medical

records to form part of these proceedings. She wanted to coverup a pregnancy and an appointment to discuss a termination.

326. On the one hand the lie she told about never being pregnant and therefore not seeking a termination may have been told because of the effect on her reputation in her community, on the other hand, if she had been pregnant contrary to her assertions, she would have known that that would be significant support for the Applicant's case.
327. In the circumstances of this case it was not surprising that the evidence of where a baby or babies were born was not clear. The hospital had said that there were no twin births on the particular day in February 2021 and that the only birth was to a different mother.
328. Although there was evidence which suggested that the Respondent attended the hospital when she visited an independent Consultant for an ultrasound, that would not indicate necessarily that the baby or babies were born there.
329. There was evidence which seemed to indicate that if a child was born in a private hospital and the mother had said that her GP should not be informed of this, that that information would not make its way to the National Health Service.
330. I come back to the compelling evidence in favour of a child from MTT. She saw that the Respondent was pregnant on 1<sup>st</sup> December 2020, she saw a child with the Respondent in the car in July 2021 and then said that the Respondent and a child came to see her at home on 11<sup>th</sup> February 2024.
331. There was some evidence that undermined her account that she had remembered that the Applicant was pregnant on 1<sup>st</sup> December 2020 but there was nothing



that enabled me to find her evidence was not truthful. She seemed a respectable professional. There was no evidence that she had an axe to grind and I did not accept that she was being put up to give this evidence by the Applicant. Quite the contrary in her earlier statements and evidence she was critical of the Applicant.

### **Conclusion**

332. Up to the receipt of the evidence from the Portland Hospital and MTT in 2024 there was insufficient evidence to support a conclusion that the children existed, it was for the Applicant to prove that case and he had failed to do so.
333. It is the evidence provided in the early part of this year which has strengthened the Applicant's case. I now find there is strong evidence there was a pregnancy and there is some evidence that at least one child was born. There is insufficient evidence to say there were two.
334. This conclusion does not answer a number of questions raised by the evidence, for example, why a forged letter relating to a miscarriage was produced or why some WhatsApp messages were forged. I cannot say where the birth took place but it is likely to have been in a private hospital. I cannot say where the child is currently.
335. I am struck again by the difficulties that a Family Court has in fully understanding and exploring a set of facts in a case when there are no legal representatives. The Family Court cannot act as an investigator. There was evidence in these proceedings that may well, had it been explored appropriately, have led to a different conclusion. These proceedings had been lengthy enough,

each adjournment had led to further contradictory evidence, the fact finding had to come to an end.

336. This matter will be listed for further directions in due course.