

**HOW DO YOU HANDLE ALLEGATIONS MADE BY CHILDREN WHICH ARE THEN
RETRACTED, OR THEY ADMIT THEY LIED OR HAVE A HISTORY OF BEING
DISHONEST AND MAKING THINGS UP?**

ANDREW BAGCHI KC, 1GC FAMILY LAW, 19 NOVEMBER 2025

Introduction

1. Statistically, it is almost impossible to measure how often children make false allegations. Particularly in the context of sexual abuse (where most research has been conducted), conclusions do suggest this is rare but of course not unknown. Much more common is the situation where the court is simply unable to say that the quality of the evidence is sufficient to discharge the burden of proof which is different from saying that the allegations are false but nevertheless result in the same conclusion in our binary system.
2. **Key Principle:** The mere fact an allegation has been made and then retracted doesn't mean that the truth of the original allegations cannot be proved, even if that subsequent retraction is maintained. The court must be alive to the fact that allegations may be withdrawn for many reasons, even if true.
3. So, it doesn't simply follow that because the allegations may have been retracted that the case suddenly comes to an end. Before that can happen, there has to be a close forensic examination of the circumstances of the allegations and the retractions, and for the court to take a holistic view of the evidence.
4. One authority which supports and informs that is the decision of Black LJ in ***Re W (Children) (fact finding: hearsay evidence) [2013] EWCA Civ 1374:***

"[28] The retraction of a complaint normally requires careful and specific consideration, and this case was no exception. Obviously the fact that a complaint is subsequently retracted does not prevent a judge from accepting that it is in fact true, but it gives rise to questions which must be addressed sufficiently fully and directly in the judge's reasons so that one can be confident that the fact of the retraction has been given proper weight in the judge's conclusions about the subject matter of the retracted allegation. Where, as here, the only evidence before the court about the complaint is hearsay, it seems to me that this is particularly so".
5. So, the reality is therefore such allegations will usually require careful exploration of the evidence to ascertain whether they are true.

False Allegations: What Factors may Lead to a False Allegation?

6. There are obvious evidential questions that will need to be considered when representing any party in a case where a child makes and retracts allegations: who have they told, have appropriate ABE procedures been followed, what led to the allegation being raised, is there any corroborative physical or digital evidence?
7. When there is a wholesale lack of independent supporting evidence, the focus is very much upon what the child has said, even sometimes what the child has written down. In those cases, there is much more of an intense focus on the quality of the allegations and the motivation for any retraction.
8. What we do not tend to do in England & Wales is to undertake a psychological overview of the child with a view to assessing their credibility. Some years ago, it was possible to have expert evidence to comment on the reliability of the ABE interviews in terms of the adherence to proper interview techniques. That has largely gone out of fashion, although it is common for experienced practitioners to undertake that exercise in the cross-examination of witnesses by reference to the published ABE guidance.
9. What we do not have are assessments of the credibility of witness of fact, because, as a matter of law that is said to be usurping the function of the judge whose task is to assess the factual evidence themselves. This is described as the judge's obligation to make an assessment of the evidence on the "ultimate issue", without receiving expert evidence as to whether there may be features of the complaint, which have the hallmarks of lies.
10. However, with experience, the practitioner will build up a picture of the type of features which may suggest that the allegations may not be credible. No list on this will be exhaustive, but it can include: -
 - Proven lies on other important matters, subject of course to a Lucas direction – will discuss later.
 - An established track record of attention seeking behaviour;
 - A motivation to lie;
 - Particularly with younger children when they may have been influenced or encouraged to make false allegations. These are often children caught in the middle of parental conflict.
 - Allegations which are preceded by indirect influence by leading questions, approval and reassurance or by the person receiving the allegations;

- High levels of inconsistency in the accounts given.
- 11.** Inevitably, the court will have regard to the wider context in which the allegations were made. A number of issues arise for consideration, which include:
- a. *Chronology*: was the allegation preceded by a major change or incident that might cause a child to fabricate an allegation, or alternatively a parent to encourage a child to make such an allegation;
 - b. *Wider History*: if there are wider concerns about alienating behaviours by the other parent, particularly if the parent being accused does not have any record of sexual / physical impropriety;
 - c. *Problematic Evidence Collection*: despite how well established the ABE guidance is, it is clearly visible in case law that this is not always complied with. Leading questions and a child-like desire to please can result in confused or unreliable evidence.

Retracting Allegations

- 12.** Those factors are also helpful when considering any retractions that have been made – if they follow a traumatic step such as the initiation of care proceedings, or are the result of leading questions, they will require closer scrutiny.
- 13.** Further, research indicates that children who experience abuse and are more susceptible to adult influences (e.g. younger children, those abused by a parent or those who did not receive support from the non-offending caregiver) are more likely to retract allegations.
- 14.** That influence may be direct or indirect, as reflected in the case law - a couple of examples

Direct: ***Nottingham City Council v AZ & Ors [2023] EWHC 3513 (Fam)***

- 16 year old girl ('DZ') made allegations of physical and sexual abuse against F. F was arrested and DZ requested that she be placed into foster care.
- DZ underwent physical examination which showed injuries 'consistent with the history given'. She subsequently retracted her allegations and said that she was

angry F had been strict with her, though then told her foster carer the allegations were true.

- DZ's foster carer found a letter the week before trial. This included statements such as 'Papa tried to commit suicide, but we saved him for your sake...take your complaint back...Papa will be jailed for 19 years, Papa will die, don't take this sin on yourself, God will never forgive you, Papa is saying tell my [DZ] to forgive me'
- Lieven J accepted that the fact DZ was pressured into retraction didn't necessarily mean that the allegations were true – it might be said that the family wanted them to be retracted because they were not. This was however inconsistent with the evidence. In particular, the letter did not suggest that the child was lying but rather sought 'forgiveness' of the father.
- This was one of several factors which supported findings notwithstanding the retractions. Others included inconsistencies in DZ's story when she sought to retract, and in particular the suggestion that she met a boy outside of school who provided a sex toy that caused the injuries identified.

15. Indirect: *A London Borough v A Mother and others* [2024] EWFC 271 (B)

- 13 year old girl ('A') made allegations of sexual abuse against her stepfather from 2017-2022. M was aware of the allegations from 2017-2019 but didn't report them.
- When allegations were made for the final time in November 2022, M shaved A's head as a punishment for lying. Both M and stepfather were arrested and could not return to the family home.
- A withdrew the allegations, stating that she was jealous of the stepfather's relationship with the other children and wanted more of M's attention. She expressed her upset to social workers at her siblings missing their mother.
- HHJ McKinnell considered that A had felt responsible for and guilty about M's absence from the family home and humiliated by her M's punishment, and that her retractions had to be seen in the context of the pressure A was under after M's arrest. She wanted things to go back to normal and so withdrew the allegations.

- As such, notwithstanding the fact that A was competent and separately represented, findings of sexual abuse and failure to protect were made.
- These were upheld by the CA in **Re K-K (children) [2024] EWCA Civ 1025**. At [43]:

Analysis of Evidence

16. Clearly however, evidence may point the other way. Though the words of Black LJ have carried through subsequent case law, she was clear that the case did not give rise to any ‘general arguments of principle’ [9]. Rather: *“Making findings of fact is a complex process which depends upon the judge’s evaluation of the whole of the evidence presented and of the witnesses who appear before him or her. It is only when the whole jigsaw is assembled that the weight of an individual piece of evidence can reliably be determined.”*

17. One of the many rehearings after the Black LJ appeal was **Luton Borough Council v Family W [2014] EWHC 4347 (Fam)**. In distinction to the cases above, one of the children alleging sexual abuse (‘T’) had made 10 separate retractions to various different people. No findings were made in this respect:

471. The court must be cautious when weighing the force of retractions. It is not uncommon for genuine victims to retract. There may be many, understandable, motives for this. Fear of reprisals and pressure by others are common examples. And in the case of T, the court is amply satisfied that some family members were putting pressure on T to retract, though not the parents. Some of the pressure may indeed have contained threats. But just as the court must be wary of relying too heavily on retractions, so it must be cautious not to reject them out of hand merely because of pressure to retract. Retractions can be genuine even when they co-exist with pressure. Here we have so many retractions, all made at different times to different people - doctors, social workers, the police, a solicitor, friends and relations. Furthermore, the court cannot forget that while T was being pressured to retract, she was undoubtedly being subjected to counterpressures by SW to make allegations.

472. For the avoidance of doubt, the court is satisfied that the two retraction letters reflected T’s true sentiments. Nothing sinister can be read into the fact that the letters were each written by another. T has learning difficulties. As for the other reasons given by T in her oral evidence namely, that she was reluctant to speak openly to males, that her phone was hacked into, possibly by her husband, that she was reluctant to speak in his presence, these are wholly unconvincing. I am afraid that T was being very untruthful in this respect. The reality is that there were just too many retractions made by T to ignore. The court also takes into account

the fact that T has continued to see her parents since the accusations were made and sought their help from time to time.

18. Obvious avenues to explore are (a) whether there is other evidence in support of an allegation and (b) whether there is reason as to why an allegation may have been fabricated. If so, a retraction will naturally be afforded more weight. E.g. ***Re P and Q (Children: Care Proceedings: Fact Finding) [2015] EWFC 26***

- Two subject children (9 and 10 years old) were alleged to be part of a large group of children in Hampstead that had been sexually abused, made to abuse one another, and were otherwise part of a satanic cult which sacrificed babies and drank their blood (among other things)
- In police interviews, the children alleged that their father was the leader of the cult along with teachers, members of Cafcass and others. Some of the allegations were then retracted.
- Court found, robustly, that none of the allegations were true. They were fabricated by M and her partner, who did not appear. The court found that they inflicted the physical injuries to the children (not least as they had not seen F in the relevant period) and expressed concern about the expert evidence which supported the suggestion of sexual assault.
- It further found that: *“The children's false stories came about as the result of relentless emotional and psychological pressure as well as significant physical abuse. Torture is the most accurate way to describe what was done by Mr Christie in collaboration with Ms Draper”*
- In summarising, the court concluded that:

“160. If there is one key message at the end of this inquiry it is that it is not and never will be sufficient to consider just one or two evidential features in isolation. It is always necessary to take account of all the material not just a selection. Those who arrived at their own early conclusions on the basis of partial material were woefully misguided.

161. The individuals who have watched online film clips, read online articles and believed in the allegations would do well to reflect that 'things may not be what they seem' and that it is all too easy to be duped on the basis of partial information. There are many campaigning people, sadly, who derive

satisfaction from spreading their own poisonous version of history irrespective of whether it is true or not.

162. Proper consideration should always be given to the context within which allegations are made. In this instance, years of court conflict over the issue of contact and Ms Draper's antipathy for Mr Dearman provided fertile territory for the creation of false allegations and their reiteration by the children.

163. The history of the key protagonists may also play a part in untangling the intrigue so as to get at the truth. Mr Christie has a background of criminality for drugs offences, violence and dishonesty. More recently, he received a police caution for assaulting his adolescent son."

19. Key part of the jigsaw is oral evidence. *Re W* exercise

20. This gives rise to tricky case management decision as to whether to call the child that has made / retracted allegations. Considered in ***Re S (Children) [2016] EWCA Civ 83***, with Gloster LJ dissenting.

- 13 y/o ('K') made allegations of sexual abuse against F. Findings made despite K having at times retracted her allegations or declining to pursue them.
- F appealed decision that K and two of her friends would not give oral evidence (on advice of the Guardian) - dismissed
- Considerable effort was made to explore K's position before the hearing and judge had had regard not only to what was said but also wider evidential picture
- Gloster LJ dissented - no medical evidence to support the idea that it would have been mentally damaging for her to have given evidence and wrong not to consider other ways of giving evidence that might better preserve F's Art 6 rights

Approach to take when children admit they lied or have a history of being dishonest and making things up?

- **A propensity to lie – but what sort of lies and why.**
- **Retraction obviously means lying then or lying now**

21. Key Principle: Merely because a person lies about one thing, it does not automatically follow that they are lying about all things. This is the obvious rationale which has informed judges and tribunals charged with the responsibility of fact-finding hearings for many years (*R v Lucas* [1981] QB 720).

22. In *Re A, B and C (Children)* [2021] EWCA Civ 451, the court emphasised that this rationale applies just as much to the fact-finding process in family proceedings as it does in all other proceedings. Moreover, the court requires a refined analysis take place as to the relevance of a person's dishonesty about aspects of their case or their life to the question as to whether or not they are lying about the central facts in issue in the case – i.e. how relevant their lies are as to whether they are lying about the allegations.

23. Macur LJ made the following observations (from paragraph 54 onwards):

54. But this formulation leaves open the question: how and when is a witness's lack of credibility to be factored into the equation of determining an issue of fact? In my view, the answer is provided by the terms of the entire "Lucas" direction as given, when necessary, in criminal trials.

24. The court then went on to specify the relevant extracts from the Crown Court compendium:

55. "Chapter 16-3, paragraphs 1 and 2 of the December 2020 Crown Court Compendium, provides a useful legal summary:

"1. A defendant's lie, whether made before the trial or in the course of evidence or both, may be probative of guilt. A lie is only capable of supporting other evidence against D if the jury are sure that: (1) it is shown, by other evidence in the case, to be a deliberate untruth; i.e. it did not arise from confusion or mistake; (2) it relates to a significant issue; (3) it was not told for a reason advanced by or on behalf of D, or for some other reason arising from the evidence, which does not point to D's guilt.

2. The direction should be tailored to the circumstances of the case, but the jury must be directed that only if they are sure that these criteria are satisfied can D's lie be used as some support for the prosecution case, but that the lie itself cannot prove guilt. ..."

56. In *Re H-C (Children)* [2016] EWCA Civ 136 @ [99], McFarlane LJ, as he then was said:

“99 In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the “lie” has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.

100 ... In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt.”

57. “To be clear, and as I indicate above, a “Lucas direction” will not be called for in every family case in which a party or intervenor is challenging the factual case alleged against them and, in my opinion, should not be included in the judgment as a tick box exercise. If the issue for the tribunal to decide is whether to believe X or Y on the central issue/s, and the evidence is clearly one way then there will be no need to address credibility in general. However, if the tribunal looks to find support for their view, it must caution itself against treating what it finds to be an established propensity to dishonesty as determinative of guilt for the reasons the Recorder gave in [40]. Conversely, an established propensity to honesty will not always equate with the witness’s reliability of recall on a particular issue.”

58. “That a tribunal’s Lucas self-direction is formulaic, and incomplete is unlikely to determine an appeal, but the danger lies in its potential to distract from the proper application of its principles. In these circumstances, I venture to suggest that it would be good practice when the tribunal is invited to proceed on the basis, or itself determines, that such a direction is called for, to seek Counsel’s submissions to identify: (i) the deliberate lie(s) upon which they seek to rely; (ii) the significant issue to which it/they relate(s), and (iii) on what basis it can be determined that the only explanation for the lie(s) is guilt. The principles of the direction will remain the same, but they must be tailored to the facts and circumstances of the witness before the court.”

25. Principle: Therefore, whilst it is open to the court to reject a witness’ evidence on the basis that they are lying about peripheral or non-material matters, it will be incumbent upon the court to demonstrate that it has weighed up the issues to which the lies relate and on what basis it can be determined that the only explanation for the lie is guilt. In other words, to set out how the lies are relevant to the credibility of the witness on the central issues in the case.

26. In the case of Kent County Council v AK and others [2015] EWFC 96, the court was concerned with allegations made by a child who had “*a general level of dishonesty*”. The court had earlier determined within a series of litigation, that the child Z was not to give evidence in the family proceedings, having undertaken an ABE interview. Despite deficiencies in the ABE interview and leading questions having been asked, Theis J in Kent CC v D & Ors (2) (Fact Finding) [2015] EWFC 93, although she had a mind to

“I have to consider Z's account in the context of the wider canvas of her lies and inconsistencies and the fact that she has not been cross examined, but also the material that is available to support the core credibility of her account that she was being sold for sex.”

“As well as the inherent reliability or unreliability of what she says I also have to consider whether there is any motive for Z to make up these allegations. None has been suggested.”

At paragraph 486, the court went on to say (emphasis added below):

“485. In reaching that conclusion I have carefully weighed in the balance all the points made by Mr Storey Q.C. and Mr Chippeck.

486. I accept his submissions about the inherent unreliability in the second ABE interview in relation to AK as a result of DCV's mistaken question means I cannot find that AK assaulted her in the way she describes, but I do accept Z's general account in the first interview that she was kept in AK's flat. He submits none of the papers in the criminal case provide a connection between AK and RB; that none of the defendants implicate AK as being involved with them in any arrangements relating to selling Z for sex and the telephone records do not support AK constantly calling Z. It is also right that some of the allegations that Z makes about others (such as IE, SF and CC) are not accepted by them. **But that has to be balanced with the information they give that is broadly supportive of the truthfulness of Z's account of being sold for sex. It is important to consider the wider evidential canvas.”**

27. The matter came back to court when the child Z gave oral evidence over a period of 12 days in criminal proceedings, and HHJ O'Mahoney acceded to the application at the end of the prosecution case that there was insufficient evidence for the case to continue on the basis of the inherent unreliability of Z's evidence.

28. Theis J considered the application for a rehearing in the family proceedings in **Kent County Council v AK and others [2015] EWFC 96**. The judge considered that there should be a rehearing on part of the findings made where Z's credibility had now come into question. Part of what had emerged during the criminal trial were instances where Z admitted she had lied and made a false allegation against her father.

“The credibility of Z was at the core of the Local Authority’s case. It is an issue that has already received careful consideration by this court but the new information from the evidence in the criminal proceedings provides a ‘solid ground’ upon which the findings I made should be reconsidered. It will be necessary for this court to consider again the reliability of Z’s evidence in the light of the new material that is now available.”

29. **Key point emerging:** despite the evidence that Z had lied and there now being a rehearing in relation to part of the hearings, Theis J once more concluded that Z should not be called to give evidence, on the basis of a combination of her expressed wishes and the evidence of her psychological vulnerability, demonstrating that it would not be in her best interests to give oral evidence.

30. During the hearing it was noted that

“30. behaviour by Z supports the suggestion that Z has the capacity to make up allegations against people for little or no reason. Two of the people she had made up allegations about, RK and A, she subsequently described as having been very kind to her. In other instances, when she has given a reason it has been a slender one (such as the allegation of assault against her father when she stated she wanted him to be in prison, to then subsequently state she had made the allegation as he had refused to allow her to attend a disco). This behaviour, it is submitted, supports the evidence given by Z’s mother, ZM, in the previous family proceedings that Z was someone who would *‘make up stories, someone who made up allegations of sexual abuse against people’*.”

31. It was argued that Z’s evidence was now so undermined and unreliable that it could not be supported by what is, in effect, hearsay evidence that there has not been adequate or proper opportunity to challenge – given Z had not been cross-examined in the family proceedings.

32. Nonetheless, the court again looked at the totality of the evidence, and simply because there was evidence Z had a tendency to “confabulate” and had admitted to lying in the criminal proceedings, the court still went on to make some of the findings, albeit not all as they had now been undermined by Z’s credibility.

33. Principle: as above, even when children admit they have lied or there is a history of them being dishonest, the core principles arising from the Lucas direction are what the court must have in mind when approaching how relevant the untruths are to the allegations in question.

To conclude: -

- (1)** There is generally no short cut to ending a family case if a complainant child withdraws the allegation.
- (2)** What is required is a holistic analysis of the totality of the evidence.
- (3)** Within that exercise the court will examine a vast range of factors such as: -
 - a. The quality of the original allegations;
 - b. The independent evidence which supports or undermines the allegations;
 - c. The motivation to make the allegations
 - d. The nature and circumstances of the retraction
 - e. The motivation to retract
 - f. The evaluation of the witness' dishonesty
- (4)** The mere fact of a retraction does not preclude the making of a finding of fact if the process of analysis suggests that the allegation was false.
- (5)** But always remember the burden and standard of proof because what the retraction might lead to is not that the original allegations were false but that the evidence taken as a whole pulls in so many different directions it is not possible for the allegation to be made. And for the accused person, because suspicion is not enough in our system, such a conclusion often works just as well.

Andrew Bagchi KC

**1GC | FAMILY LAW
10 LINCOLN'S INN FIELDS
LONDON WC2A 3BP**