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Neutral citation number: [2022] EWFC 73

Case No: WV20C00319  
WV342-345/21

**IN THE FAMILY COURT AT WOLVERHAMPTON**  
**IN THE MATTER OF THE CHILDREN ACT 1989**

Date: 28<sup>th</sup> March 2022

Before :

**Her Honour Judge McCabe**

Between :

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**SANDWELL MBC**

**Applicant**

- and -

**A MOTHER (1)**

**A FATHER (2)**

**FOUR SIBLINGS (“P”, “J”, “E-R”, “E-L”)**

**(by their Children’s Guardian) (3-6)**

**Respondents**

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**Miss Davis for the Local Authority**

**Miss Mathew for the First Respondent**

**Mr Plunkett for the Second Respondent**  
**Miss Grant for the Children's Guardian**

Hearing dates: 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup> 15<sup>th</sup> March 2022

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## **JUDGMENT**

**Judge McCabe:**

Background

1. I am concerned with four children: P who is 6, J who is rising 5, E-R who is 3 and E-L who is 2.
2. The Application is dated 16.7.20 and is for a care order for all four children. On 11.11.21 the Local Authority made a placement order application with respect to all four children.
3. The children have been subject to interim care orders since 17.7.20. They have lived away from their parents during this time, cared for by foster carers, P and J, the elder two together, and E-R and E-L together.
4. The First Respondent is the Mother of all four children. The second Respondent is the Father of all four children, although he does not have parental responsibility for E-L. The parents were in a relationship with each other certainly between 2016 and 2019.
5. Problems with the family had been known about since 2016, when the health visitor raised concerns around the Mother's mental health, (she had ADHD, was not taking medication) and there were poor home conditions. There then followed variously reports of Mother being unkempt, the house smelling of cannabis, domestic abuse situations, poor basic care being provided to the children. On 13.5.19 the children were placed on child protection plans under the category of emotional abuse.
6. The relationship between the parents was, on every party's view, extremely volatile. Each very much, at heart, blamed the other for this in their written and oral evidence to this Court. In April 2019 the relationship came to an end and between May 2019 and 2020 there was a non molestation injunction in place.

7. On 13<sup>th</sup> July 2020 a referral was received by the Local Authority from a consultant at Sandwell General hospital due to serious concerns for E-L as she presented to hospital in an ambulance with a suspected cardiac arrest. He was extremely concerned about significant neglect of E-L as she presented with severe nappy rash, was struggling to breathe and was severely malnourished and dehydrated. She had to be placed on a ventilator, so unwell was she.
8. The Consultant caused a further ambulance to attend at the property to collect the other children, who were also described as being unkempt, malnourished and hungry. The home conditions were found to be very poor indeed.
9. The Police exercised their powers of police protection. The Mother was then detained under section 2 of the Mental Health Act.
10. I note, for the sake of completeness, that the Mother has had a fifth child, B, born to her. He is not in her care. He is not the subject of these proceedings and I am not tasked with making any decisions about him.

#### Procedural history

11. As stated, the children have been the subject of interim care orders since July 2020.
12. On the 28<sup>th</sup> and 29<sup>th</sup> of June 2021 a fact finding hearing took place before HHJ Dowding. On that occasion the Learned Judge determined various disputed facts and ruled upon the historical factual matrix in order that care planning, going forward from that point, could have a clear set of facts informing it.
13. Some facts were accepted by the parties and some were determined by the Court, leaving the factual matrix as set out at A41-43. Threshold is plainly crossed on the basis of those facts found proved by the Learned Judge in her judgment.

14. I have heard evidence over three days and listed the matter for a further day after the Guardian described the Local Authority care plans in her evidence as inchoate.
15. Just before the final hearing the Mother issued a C2 application seeking a further assessment of her ability to care for the children to be undertaken by an independent social worker.
16. Just after the 'last day' of the final hearing the Guardian issued a C2 application seeking a psychological assessment of P and J, their relationship, to inform care planning with respect to how their needs for permanence should best be met.

#### Issues for this hearing

17. The issues for this hearing have been as follows:

- The parents oppose the making of final care orders and placement orders. They each seek to care for the children.
- The Mother seeks a further assessment.
- The Local Authority originally sought final care orders and placement orders on the basis of a care plan that would see all four children adopted together, and if not together then in two sibling groups of two, with a rather unclear contingency plan. This changed during the hearing, indeed after what should have been the close of evidence. (Procedurally this hearing has not moved in a straightforward way, which theme will no doubt return within this judgment). Eventually, the plan morphed to placement in two sets of two, but with regular reviews of the search for the older two, which may then, at any point within six months (after six months a cut off for the adoptive search) turn into a search for two individual placements for the older two children (thus, three placements in total, all adoptive)

- The Guardian’s position has also evolved: it started out her view that i) P is not suitable to be adopted, given her age, entrenched family memories, and difficulty in presenting behaviours, and the appropriate plan for her is one of long term foster care in a therapeutic placement, on her own ii) J may fall into the same category, but should be given the opportunity to have adoption tried for him, albeit separate from his two young sisters, and if not then also long term foster care either on his own or as the youngest child, iii) the two youngest children should be placed for adoption, together and iv) all four children desperately require therapy (indeed, should have had it provided to them many months ago) in order to be put in a position where they are in a condition to move on to permanence.
- By the end of the additional evidence called on the last day, the Guardian had changed her stance to say that in her view only the two youngest children had sufficiently well thought out, reliable care planning that had taken place and that they should have placement orders made for them, but that with respect to the older two children, the Court should adjourn the application on the basis of interim care orders whilst commissioning a further expert report to inform properly the care planning for them, with respect to permanency and their sibling relationship with each other.

18. Much of the time in evidence was taken up exploring the rationale behind the Local Authority’s care planning and seeking to put ‘flesh on the bones’ thereof.

19. Given the very stark difference of opinion between the Local Authority and the Guardian, and the fact that the social worker went off sick after the first day of the hearing, it became necessary to seek to look further up the ‘food chain’ to consider whether the Guardian’s

concerns might be taken on board by the Local Authority. I ended up directing the head of services to attend on what should have been the final afternoon at a time when I should have been giving judgment in this case.

20. If I say that the Local Authority evidence has been lacking / unreliable / generally weak, I am afraid that that would be an understatement.

21. I start by taking this example. Something so fundamental as to how to divide the four siblings into two groups of two if they are not to be placed together. The care plans submitted placed the children in a particular format of two groups of two. The ADM documents placed them in a different two. When asked why this was, in her oral evidence the SW started by saying that it was a typographical error. She then went on to acknowledge that it wasn't, it had in fact been her view that the middle two should be together and the oldest and youngest together due to the strength of relationship of the middle two, and that this had been a well considered plan, due to the nature of the relationship that they had. This had then changed when the team manager assessed the documents.

22. Now I am told, in the team manager's witness statement, that indeed it had been a typo, never picked up in the court documents. That it is a typo is confirmed by the ADM in his statement.

23. It is not far short of bewildering to try to follow the Local Authority's care planning in this case. The together and apart assessment, which the team manager and the ADM in his recent statement, confirm that they relied on in their decision making, was accepted by the social worker in her evidence (quite rightly, in my view) as being an assessment that is "fundamentally flawed".

24. The care plan then changed on the final day of evidence. This is not, on its own, necessarily spectacularly unusual, indeed a LA is expected to react to the evidence as it unfolds and to reflect when a party, or perhaps the Court invites it to do so.
25. When she was recalled to give evidence on the final day, the GAL said this:
26. *“It’s really difficult to say it without saying it: the lack of appreciation from the trust as to what these individual needs are for the children and the lack of ability to reflect on what we’ve heard and take into account both now and in longer term....”*
27. *The landscape as to what has been progressed by LA and put remains confusing, I’m confused, I don’t know what the Care Plan is, I don’t understand contingency measures. I don’t know how court can make final orders and trust can be trusted to execute those Care Plans properly.....*
- I’ve never been in this position ever as a GAL, I wouldn’t feel I am executing my roles to the children if I allowed the care plans to be signed off now.....*
28. *Concerns me we’ve had these proceedings running now for almost two years, the children have been represented by me, a solicitor, significant oversight from a number of professionals, should have been concluded last week, with decisions that appear to be made off the hoof, knee jerk decisions, with long lasting outcomes for the children.....*
29. *No confidence that the Care Plans we are being provided with on rolling basis are right”*
30. She talked of an atmosphere in the case of confusion and said this:
31. *“It’s massively concerning the state of the evidence and how its been presented to the court, even now today, the trust don’t seem to have a proper understanding of what the children need moving forwards.....”*

32. *Less than 40 minutes ago, the plan changed from placement all four together, to the parallel of two and two.....*
33. *It's confusing and I think the court needs proper evidence before it is in a position where trust is given to professionals to ensure the childrens' needs are properly met in the longer term. Options extremely limited.....*
34. *I'm not happy, I've known these children long enough to know they deserve what's right for them, not confident that the Care Plans meet their needs"*
35. It should be noted that all of this was said at a time when it was necessary to recall the Guardian to give evidence after having a further morning of evidence from the team manager who had had to prepare a statement of evidence over the weekend.
36. The way in which this case has proceeded is, in my judgment, wholly unacceptable. These are applications for placement orders for four children. The parents, each of whom have their own mental health vulnerabilities, oppose the applications. They should not be having to react, with their Counsel, to ever changing plans and evidence served last minute. It is difficult to understand how it is that these proceedings can be so heavily delayed and yet come into Court in such poor order, and as I made clear at various points during the hearing, this could not have been rendered more painful and difficult for the parents had it been deliberately designed that way. Having said that, I ensured that time was given at each stage that it was necessary, and I am satisfied that the parents have in fact had a fair and full hearing. It was unfortunate, however, that parents who are facing the permanent loss of four children, had to endure and listen quite so much and wrangling between professionals.

37. It has been difficult to manage the evidence and the seemingly ever changing nature of aspects of the case. If it appears within this judgment that there is heavy reliance placed on the careful and thoughtful analysis of the Guardian, then the above example might be considered to 'set the scene' as to why this was necessary.

### The written evidence

38. I have carefully read and taken into consideration all of the relevant parts of the lengthy bundle of documents in this case. I have carefully read the judgment of and the conclusions reached in the fact finding hearing dated 29.6.21.

39. The most important documents in my opinion, alongside, of course, the SWET and the Guardian's analysis, were the statements of the parents and the parenting assessments carried out by the Local Authority (for each parent there is an initial parenting assessment and an updating assessment) and the together and apart assessments of the sibling group.

40. I also read the statement of evidence that was produced by the Team manager on day four of the hearing, and that of the agency decision maker. Having said that, the care plan changed even after those statements were filed, so it might be said that the utility of those statements was less than it otherwise would have been.

41. I will consider first the assessments of the parents. The assessments were carried out by two different individuals so in some respects there was a 'fresh pair of eyes' brought to the case. With respect to the mother, each of the assessments concluded that she would be unable to provide good enough parenting to any of the children.

42. With respect to the Father, the first assessment was cautiously optimistic. The second concluded that he could not provide good enough parenting to any of the children.

### The Mother: conclusions of the assessment

43. The Mother was assessed by Georgina Birch. Dated 25.11.20. Her assessment concludes C152 and team manager C153. I accept their conclusions as being valid. The conclusion was this: “I do not feel that C has been honest with me. I believe that C has told many mistruths, minimised and deflected from concerns within this assessment. I am not confident that C is able to prioritise the needs of her children, above her own, either now or in the immediate future. I believe that C struggles to take responsibility for the neglect that they experienced and the implications this may have on the children in the future....For much of this assessment C has focused on L and has criticised him at every opportunity... I am troubled that within this assessment C has provided conflicting information and will not expand on issues when asked. In regard to some of the issues C has not been able to provide any real context. This creates suspicion and perhaps undermines her reliability and credibility. I do not feel that there is a solid foundation to work with moving forward. C has much preferred to discuss G and L throughout this assessment rather than focus on the needs of her children.”

44. There was a further assessment conducted by social worker HF 16.9.21. The assessment concludes C468 as follows: “However it remains evident C has not yet achieved self efficacy in taking responsibility in her actions resulting in Care Proceedings being initiated. Although C is currently engaging in work around domestic abuse for which she is to be commended, it should be noted there has been a recent finding against parents, about extreme levels of domestic abuse the children have been exposed to and the harm this has caused..... the Trust remains concerned about potential future emotional harm and exposure to domestic abuse. Since C has been known to Sandwell Children’s Trust in her role as a mother, a clear gap in the correct form of therapeutic services remains prevalent.

This means C will have neither emotional or psychological capacity to see or appreciate the impact her relationship with L and her parenting style impacted on P, E-R, E or J...Based upon information outlined within this report, Ms Birch's professional analysis of C's lack of capacity to recognise and make insightful changes in the interests of her children and prioritising their needs above her own remains current. Along with C's dishonesty with professionals, this does not offer reassurance that C has capabilities to work in an open and transparent manner..."

#### The Father: conclusions of the assessment

45. This was also initially carried out by Georgina Birch also dated 17.11.20. This was a cautiously positive assessment. I do note, however, at C187 there was a theme (which I have noticed in the oral and written evidence of the parents) of blaming the Mother for the situation, viz: "However, I do hold the belief that L struggles to accept his role in the possible neglect that the children experienced in their early years. Professionals were involved with the family when he resided in the family home. Instead, L tends to blame C for service involvement... I would argue that he too needs to take some responsibility..."
46. The conclusions at C189 include a list of tasks for the Father to undertake. Achieving abstinence from substances, counselling for trauma from his relationship with the Mother, healthy relationship work and obtaining suitable housing for the children remains, in my judgment, outstanding.
47. With respect to the Father, there is also an updated assessment. Also conducted by HF. And now as the result of the fact finding hearing, taking into account the Court determined factual matrix. I note the conclusions of this updating assessment, including: "It is recorded throughout this assessment L has been dishonest with both the assessing social worker and

Ms G in terms of knowing about the pregnancy with E.... Furthermore, L has not been entirely honest with Ms G about the voice recording and has significantly minimised what occurred... L has a history of being described as being avoidant with inconsistent engagement with professionals... This is further iterated within the GP letter from 2020 and the Early Help chronology where by L has refused support from their service. There are significant concerns about L's lack of capacity to be wholly truthful. As outline within this assessment there are inconsistencies with information shared by him. Furthermore, L continues to deny being a perpetrator of domestic violence and abuse. L lacks capacity to recognise and take responsibility in acknowledging his behaviours and how these contributed to the domestic abuse and violence within his relationship with C and the impact this had on E-R, P and J in the form of emotional harm.”

48. The report concludes that there is a risk of significant harm to the children were they to be returned to their Father's care. I accept the reasoning in the assessment.

### The Oral Evidence

#### HF

49. I heard first from HF, the currently allocated social worker and the author of the addendum together and apart assessment and the updated assessments of the parents. She was clear, and stated more than once, that it was clear to her that the children required, given what they have been through 'better than good enough parenting'.
50. It is clear that HF is not the most experienced and could not be described in any way as an 'old hand' in terms of being a social worker. She admitted, in fact, that this assessment was the first together and apart assessment that she had undertaken. She admitted that it was deficient in certain aspects when questioned on behalf of the Guardian. There were

enquiries which, in hindsight, she should probably have made when she was conducting the exquisitely sensitive piece of work concerning these four extremely vulnerable children. Indeed, it might be better that her first together and apart report had not concerned such a complex group.

51. Everybody, however, must start somewhere. Everyone is inexperienced when they begin their role. What was extremely refreshing, in my view, and extremely important when it comes to being able to rely on her evidence for making my decisions in this case, is that HF was readily able to accept and acknowledge her deficiencies, and, where appropriate, make concessions. She was not overly defensive, she did not enter siege mode, she was open to suggestions as to how her work might have been improved. This is important.
52. What this means is that, whilst I might need to consider the more nuanced parts of her work with some care as advised by the Childrens' guardian, it does not render the totality of her evidence unreliable.
53. With respect to whether the parents were able safely to care for the children, she was clear and quite unshakeable. Her evidence returned again and again to a central theme. That is their complete inability to acknowledge and to take responsibility for the, as she put it, chronic neglect and profound domestic abuse that the children were exposed to.
54. She was able to acknowledge and accept, again and again when put to her on varying topics that the parents had taken steps to improve themselves, engage with specialist agencies, and make improvements. At the heart of their engagement, however, what was lacking, and on this she was strikingly clear, was acceptance and ownership, taking responsibility for why they were where they were (and why their children had suffered so awfully) Each, to state it in a simple way, at their heart blamed the other still.

55. I take the following from the social worker's evidence:

*“Re Father: It's v good that he has engaged with courses but at the time of my assessment he was unable to take active accountability for his actions and gave a lot of blame to Mother...*

*The recording is extremely distressing. Hear P crying at length and being shouted at. Father able to reflect on what happening for P at the time and able to accept it was wrong but not able to accept his role with M contributed towards that. Blaming M that her behaviour had triggered him to react and respond like that and give that parenting to P.....*

*What work he done re anger management? Nothing.”*

*“Re Mother: Superficial engagement M, why say that? She's been able to engage with specialist providers but not able to accept her responsibility that led to E being admitted to hospital and ch being police protected*

*She's said it might be an allergy towards sudocrem rather than her not being able to meet the childrens' needs and her not having done what she should have done.*

*She doesn't accept that the children were chronically neglected before admitted into care”*

56. When cross examined on behalf of the GAL with respect to the adequacy of the together and apart assessment she said:

*“Enquire of schools or nurseries? No. Did access their ECHPs and fed back them*

*Why not? Don't know.*

*Read contact recordings? Yes.*

*How many times spoke to foster carers? Remember speaking to them specifically on one occasion and sporadically when visited for family time.*

*I didn't read the previous together and apart assessment. Why not? Unable to locate it.*

*Wouldn't consider it to be a key document if you are preparing an addendum? Most certainly it is.*

*Did you prepare a strengths and difficulties questionnaire? No*

*Did you undertake the sibling relationship checklist? No*

*This my first together and apart report.*

*Did you know there was a sibling relationship checklist? No.*

*Seen the one attached to the Guardian's report? Yes.*

*When embarked on assessment did you understand purpose is to consider each child's needs, the relationships, and which is most appropriate placement for the child based on all of their needs? Yes.*

*How they interact? Whether they re traumatise each other? Vital information as to whether they should be placed together? Yes.*

*Why have you not updated that information when coming to court to assist the court. Don't know."*

57. When it came to consider with the witness how it was that the initial decision making documentation of the Local Authority talked of P and E being placed together and J and E-

R, the social worker eventually acknowledged as follows:

*"Is it because your assessment insufficiently considered?*

*Limited enquiries, accept that*

*Conclusion flawed, accept*

*Very limited analysis, accept*

*Lots missing from your assessment*

*It is a fundamentally flawed assessment, I agree.”*

Georgina Birch

58. Miss Birch, the previously allocated social worker, gave evidence next. I was impressed by her evidence. She ceased being the allocated social worker and left the employ of the LA in the autumn of last year.

59. Given that she had concluded a cautiously optimistic assessment of the Father, it is perhaps appropriate to note what she said when cross examined on his behalf:

*“Sadly, the reality is without the Father accepting the findings and moving forward from there and moving forward with work whilst he may have engaged with Solihull approach he’s coming from a position where he doesn’t accept the findings and I would question how much he able to gain from that*

*I’m worried also about his mental health, caring for four children that need better than good enough care and an available parent and the stress of relapse with looking after a sibling group and the worry is how all of these concerns play out together and what the impact would be on the children if they were to experience this.”*

The Mother

60. I heard evidence from the childrens’ Mother. It was quite obvious that she is distraught about being apart from her children, and that she loves them very much indeed.

61. It was quite obvious to me that she is completely committed to her children and that she would do anything that is within her power to change to be able to care for them.

62. It was quite obvious to me that she is extremely vulnerable. She remained in a profoundly abusive relationship with the Father that caused the children emotional harm. I obviously

don't blame her for that. She was so isolated and so unsupported in the year that followed that the events of July 2020 occurred. Whilst I know that it was a covid lockdown for some of that period, it was still a truly terrible escalation of events.

63. The Mother then went on to have a relationship with and bear a child to a man that her children have said they have frightened memories about. I note in the parenting assessment that the Mother was putting G 'on a pedestal' I note that in her evidence to me the Mother was careful to say "I am not going to call my children a liar" but..... There was a big but afterwards. I won't call my children a liar but I won't quickly and unquestioningly believe them and put this man out of our lives forever.

64. I don't criticise the Mother for this. She is highly vulnerable, she is quite isolated and she is a victim of her own life events and trauma. But, because of that very vulnerability, she remains imbued with risk.

65. I was struck by her saying "I rely heavily on Claire's law". That was very telling. Of course, I acknowledge, that it isn't the mother's fault that some men behave abusively towards some women. Indeed, such men may arguably be said themselves to be the recipient of their own trauma and difficulty in their lives. But the fact is that the Mother has not developed, not moved, in my view, to a place of safety for herself or for her children. To make any of her own assessment of risk from partners towards her. Indeed, I note from the Guardian's submissions that in fact the Mother had to be encouraged to make her Claire's law enquiry in the first place and that she was ambivalent about the information provided to her when it was received.

66. The Mother has certainly undertaken courses and she is absolutely to be congratulated for that. She appears somebody who will take any course she can, will join support groups and

gets a lot out of them. I'm really pleased for her that she will do so, and I hope that she will continue to do so and will become the healthiest strongest version of herself, for her and for all of her children.

67. So, the Mother has attended courses. Healthy Minds, the Solihull parenting programme, and she has engaged with Cranstoun to become substance free, she says. She is in the process of organising her ADHD medication, now that she has given birth to B. She is doing, she strongly feels, all that is asked of her and engaging with everybody that she should.

68. But what is the true level of her engagement in these organisations? What harm did she think she was addressing? What risk? What is the basis for this engagement? Her evidence illuminates and amplifies what was found within the parenting assessment in my opinion.

*“Agree when they removed in 2020 you were not meeting their needs? No I don't agree.*

*I was meeting their basic needs, feeding them,*

*I was decluttering their home to make it even easier*

*I don't accept not meeting their needs at that time*

*Don't accept they were very hungry and malnourished when attended hospital? They weren't based on weights at that day. Hungry at that moment I accept as waiting in the hospital...*

*Foster Carer said P and J needed a number of baths as so dirty and smelt so bad? I think if true that would have been picked up by hospital when checked over...*

*Accept when E presented to hospital in life threatening condition you not meeting her basic needs? Not sure what I've done. Thought she teething and 'children do that' my mum said don't take to hospital...*

*Accept that they were caused significant harm in your care? I'm not sure what needs you mean, I was changing them, I was feeding them, doing what they needed, my home got cluttered with toys and things"*

And at its heart:

*"Accept it (hospital admission) was caused by your neglect? Can't accept I neglected my children but do accept was in my care, should have been on a Friday rather than Monday that I took medical help"*

### The Father

69. The Father gave evidence that also and equally demonstrated how much he loves his children and how devastated he is that they are not in his care.

70. The Father, equally, is vulnerable. He, equally, is a victim of his own background circumstances, his mental health difficulties and his substance problems.

71. He was able, in fact, to show some real insight into how awful the atmosphere in the family home would have been for the children, and he showed real remorse and regret at his part in it. He has plainly changed for the better, he has a high level of anti anxiety medication that he takes regularly, and he has secure employment and a loving partner. I am quite able to believe him that his current domestic life is a world away from his relationship with the Mother.

72. However, his current domestic life is not being tested by the presence of four young children, four young children who have particular needs as a result of their traumatic childhood. The last time he was present in such a situation he behaved in a way that I described as horrific to listen to, and described it so advisedly.

73. What was very clear, moreover, in the F's evidence, was that he does not accept the findings of fact reached by HHJ Dowding.

74. *“ At C235 you say you strenuously deny allegations, never caused any physical or emotional harm to M, is that a lie? That was me not understanding what I caused. I still saw it as biased point of view; someone comes at me I shout....*

*When you are in the situation and you have a child in your hands and someone is coming at you to attack you....I just used to shout....*

*It's v uncomfortable for me to accept that, I don't recall causing bruising to her face*

*I just can't recall it to accept it or not, it never got to a point where someone got hit in the face, I can't accept hitting her in the face can't accept what I haven't don....e*

*Still maintain hit face on breakfast bar? What I see on the photos is what I remember*

*I do accept trapped self in room, and did call Rachel dale*

*A42 physical force to chastise the children. Accept that?*

*I understand court's findings, but don't' know where come form*

*Not physical chastisement, have shouted at them but not hit them*

*C473 deflective of findings, said the Judge got it wrong, did nothing wrong you were the victim?*

*Conversation with Birch after hearing and said HHJ Dowding got it wrong?*

***I felt that the judge got it wrong yes***

*Didn't say done nothing wrong but I'm the victim as well as perpetrator”*

75. And what is perhaps most concerning, is that he can't help but push the blame towards M:

*“I believe when I came home that day could have behaved differently no matter what mood C in”*

76. Fundamentally, it comes down to this view held by him:

*“How toxic that relationship was changed my personality and my character”*

77. The Father confirmed that he has not carried out the work recommended with the drug agency Cranstoun (there was some very unconvincing evidence about him not having a mobile phone reception at his Mother’s and other times being at work but either way he has not prioritised this) and that he has not obtained abstinence from cannabis, continuing to use, on his case, one spliff each day at bedtime to help with sleep. He said that when he tried to achieve abstinence it made him feel very unwell.

78. It is also the case that the Father has not carried out any anger management specific work or domestic abuse work, certainly not any in any depth.

79. The Father has sought the assistance of his GP with regard to what he referred to as anxiety and panic attacks (there being an undertone in his evidence that the panic attacks and anxiety were brought on as a result of the Mother’s behaviour towards him) and he now takes sertraline at 150mg per day, the highest level that can be prescribed for him.

#### The father’s partner

80. I thought that DG was very brave coming to Court and entering into such difficult proceedings as these. It is plain that she loves the Father, as does he her, and I am satisfied that theirs is a far healthier, calmer, and more settled relationship than that that F had with the M.

81. She had to listen to the three recordings. It must have been extremely uncomfortable for her, deeply unpleasant. She certainly said and, in my judgement, believed, all the right things. She said that if the F behaved like that around her, she would remove the children. She said she would take them to a park, or to a family home, somewhere away from the

situation to let the Father calm down. I did note that she needed prompting before she spoke of calling the Local Authority.

82. The difficulty for Miss G, in my opinion, is that she has never had to face the father in this kind of mood. She literally does not recognise this person when she hears the recordings and compares with the person that she is in a relationship with. She has no experience of dealing with him when he is angry and stressed by his children, when they are pushing his buttons and making him feel anxious.

83. I noted, also, that Miss G used similar language to that of the Father when setting out her opinion of the Father's culpability towards the M. She talked about the evidence having led the judge to a finding, and seemed to acknowledge how the court process had ended up where it had ended. But I don't think she really believed that the F had behaved in the way that the Court found. When pushed by me she did say yes, but I don't think at her heart that she truly believed it. I consider she has, for understandable reasons, bought into the Father's narrative. What I mean by this is that any acceptance of risk by her is highly partial and is quite limited. She simply does not recognise in her beloved partner the risky dangerous man that the Court has found to exist in the Father.

#### The Guardian

84. The Guardian gave careful, thoughtful, detailed evidence. I found her to be a most impressive witness. She has plainly agonised over the decision making in this case, she has scrutinised all options anxiously, and moreover she has 'fought' for the subject children that she represents.

85. I was completely confident in following her recommendations. I unhesitatingly prefer her analysis and her approach to the case to that of the Local Authority.

86. I found that the Guardian had an extremely troubling tale to tell of her involvement in the case when trying to communicate with the Local Authority. She talked of emailing many times, sometimes with no replies, sometimes with certain questions that she had asked being entirely ignored. She talked of how the foster carers have become accustomed to communicating with her in preference to the LA because they know that she will listen and she will respond and take appropriate action in a way that the foster cares felt the LA failed to.

87. What is most utterly unforgiveable in this case, however, is the evidence that the GAL gave about how she has been pressing for therapeutic intervention for these children since August of 2020. It is now March 2022 and the children have been the subject of Interim care orders since July 2020. They were removed from, what has been established, were appalling home conditions and dreadful domestic abuse. One of the children has talked about seeing daddy punch mummy. One has described what is thought to be identified as maggots behind his bed. The youngest child nearly died and spent time in intensive care upon removal. Perhaps not surprisingly, the children are demonstrating disturbed behaviours. Extremely disturbed behaviours. That is not in the slightest bit surprising given what we all now know that they have endured. One might question whether it should ever have needed the Guardian (and for that matter the Mother) to point out that therapeutic intervention was needed.

88. As at what should have been the last day of the trial it became clear from the Guardian's evidence that she had been seeking therapeutic intervention urgently, but to absolutely no avail. She considered that the delay in the therapy being provided was likely to cause quite a lot more delay in the children being placed in any kind of permanent placement, quite

apart from the ongoing distress to the children in their inability to manage their own emotions day to day. By this point, the allocated social worker was on sick leave and the team manager was attending via Teams, but appeared to be absent for some part of the Guardian's evidence.

89. I directed that the head of services should attend Court for 2pm on the last day of the trial so that investigation and explanation could be provided. I was rewarded by the team manager physically attending at 3pm. By 5pm the Local Authority was absolutely no further forward in being able to explain what therapeutic intervention would be made available and when. The head of service had declined to attend via Teams (I having been told earlier in the afternoon that she was available to attend remotely 'from 4pm') but then attended at 5.05pm and, in fairness, immediately appeared to understand the severity of the situation.

90. The Guardian's evidence was very clear. She started by saying that she had agonised about the right plans for these children. She considered "*that the emotional state of the children largely being ignored by the Local Authority*" but certainly it was not being ignored by the GAL. I am satisfied that the Guardian has contemplated, long and hard, carefully and thoughtfully, the best way to balance and to manage the competing needs and the competing difficulties of the children. In some respects the needs of the children compete with each other and contrast. In some respects doing the best thing for one might appear to suggest a contrary course of action when compared with what doing best for another might point towards. What is certainly clear, however, is that in this difficult case the children require the decision maker for them, in this instance the Court, to consider them all as individuals, with their own, specific, personal needs. They are not simply a group of

siblings. They are a group of siblings with particular difficulties and vulnerabilities, some of which may compete.

91. I agree with much of what the Guardian said in her extremely carefully considered evidence. What struck me very particularly is how important she sees it, and I agree with her, to avoid what would be absolutely catastrophic for these children now, namely for their next placement / placements to breakdown.

92. *“I’ve thought long and hard about this. It’s never easy to recommend separation. I’ve versed in research about importance of sibling relationships....*

*My biggest fear is if we desperately try to keep them together, not only will there be limited placements, but I worry that their relationships will break down later in life, and better to have planned separation now....*

*Unless the children receive right support their needs likely to be worse in time...*

*If trying to place together as group of 4 with needs that are going to get worse, any carer will find them difficult to manage....*

*Possibility that placement breakdown would happen later on, would be unplanned for the children, may mean placement would breakdown for some and not all....*

*Have P and J with issues about self esteem...*

*Bearing all those factors recommendation and to be honest needs to be real consideration as to whether even suitable for J and EE*

*Because of emerging needs of those 3 children, J starting to have his own needs, and given journey seen J come on, adopting some of P’s memories, are we going to see transferring onto EE will we see that harming EE?*

*J has strong view of his family, M and F, because spent a long time in foster placement, how will he transfer alongside two smaller children, will it be on the little ones the attention?*

*It's a very difficult one, not an easy one, to some extent clear what needs to happen to P. On reflection we might have been in a different position and have clearer view if the ch had had the work they so desperately need...*

*That work needs to happen before there is any positive prognosis of adoptive placement*

*Any transition plan from foster care to adoptive placement will need to be after some*

*Not a plan or timescale for therapeutic input*

*P had some charitable organisation counselling, 3 sessions*

*Counsellor has now said I can't meet her needs, far too complex, needs to be undertaken in far more therapeutic way*

*Counsellor had meeting from J but decided he too young and clearly need for him to have some support before counselling type approach can be taken*

*In absence of coherent plan from LA it's hard to know*

*I've been v clear with LA for months that the children need some therapeutic support*

*In absence of CAHMS accepting referral not only due to ages, without plan of permanency"*

93. When she was cross examined by the Local Authority, the Guardian said this:

*"Agree easier to find placement of two and two? Don't agree. .Don't think adoption the right plan for P and I'm doubting the positive prognosis for J as well. Don't think any placement with P and J placed together is in their best interests whether adoption or long term foster care*

*P has her memories*

*Each child will feel loss if placed separately, but aware of their relationships now*

*E and P quite ambivalent*

*Are strengths in P and J relationship but when we are making lifelong decisions for children, sometimes can approach with too much optimism, if the vulnerabilities are starting to show, we have to give them weight*

*Sibling rivalry we've seen*

*Position of LA is that at this stage it is concerned about long term foster care for P and being subject to statutory intervention*

*Irony to LA's current position, is that P is in desperate need of therapy and not had it whilst been under the statutory intervention!*

*With an adoption placement, support offered post adoption can be somewhat limited when compared with what would have under a care order*

*I see P's difficulties much more long term than LA thinks*

*I think given P's lived experiences, she is going to need longer term help to manage emotions in right way*

*Have to look at importance of P's relationship with birth family, no matter how poor her life experiences with her M were*

*Those relationships she now has with her parents are clearly important to her and I think there would be difficulties with those relationships coming to an end*

*Not just about saying generic position of saying long standing statutory intervention, if it's meaningful and purposeful then can benefit children*

*She needs that intervention, needs the strings pulling together*

*P's needs won't be met within the 6 months time frame that they will be looking for adoption so would prob move to long term foster care anyway*

*Really important that we get the right decision for her so that she gets told the right things from the start, we don't want the 'why doesn't anybody want me' feeling*

*What is the effect if P subject to long term foster care and her other 3 siblings adopted?*

*Of course there will be loss but it's how that loss is managed and how the decisions are explained.*

*Their needs need to be placed at the centre and decisions made in their best interests. While no guarantee that sibling contact will take place but will be an expectation from the professionals and the IRO that any families found are told we would like you to promote these sib relationships*

*It's not about trying to keep them together whatever the cost, its about making their relationships positive and long lasting and will take together with them wherever they go, if blinkered you are just going into let's fight to keep them together and what will be will be if you ignore the warning signs the children will end up with negative views not positive”*

94. The Guardian had this to say about the Child Permanency Reports:

95. *The CPRs need updating to reflect what I know about the children from the foster carers.*

*Don't want to put the foster cares in a difficult position, they've had a v difficult relationship with the trust. Don't feel as though they've been given their opportunity to share what they know about the children. Are difficulties in that working relationship.*

*Apparently the Local Authority have said to the foster cares don't speak to the Guardian.”*

96. When it came to giving evidence about that incredibly difficult task of weighing up competing and contrasting needs of the children and how to deal with them where they come into conflict, the Guardian put it this way:

*“There are current needs and future needs*

*Been in such a desperate need for stability for such a long time, can’t try this, try that, needs to be right decision*

*J length of therapy is unknown*

*J needs the therapy before any placement search undertaken. His emerging needs going forward informs the adopters from outset.*

*None of these children can wait but for EE its more important than ever only secure attachment E has had was to foster care*

*Attachment to M highly insecure because of what going on in home environment prior to removal*

*The longer that time unfolds the more difficult the task becomes*

*On reflection I think EE need to be placed now whereas for P and J there is work that needs to be undertaken to inform where”*

97. I have quoted extensively from the Guardian’s evidence. More than would normally be my practice, but as will become clear in this judgment, it has been necessary to consider the recommendations of the Guardian in real detail, particularly when comparing it and contrasting it with the quality of evidence provided by the social worker.

The Team Manager, Miss Hinks

98. I heard oral evidence from the team manager, following an emergency statement that she prepared after what should have been the end of the case. I am afraid to say that, with the

best of intentions I am sure, she was unable to give evidence that was any less generic, and any more helpful than the evidence that had previously been given by the Local Authority. It lacked specific, detailed, careful analysis of these individual children and their individual needs.

### The Recordings

99. I was provided with three audio recordings, I am told that these are the same as the ones that were heard by HHJ Dowding. The first two are recordings of domestic abuse between the parents. They include the Father using completely unacceptable racist language against the Mother. They are truly awful to listen to. To hear the anger, the threat in the air, the fear and pain, and to know that there were small children being exposed to it, being in it, accepting it as part of their normal experience (which I have no doubt it was) is incredibly distressing.

100. To witness how fully ignored the cries of the children were. To listen to these parents so obsessed with their arguments with each other (their insecurity, their fear of the other being unfaithful, their attempts to control each other, and their plain nastiness to each other) absolutely completely and totally ignore the increasing levels of distress in their child or children.

101. I make it quite plain for the parents to hear. That scene was utterly unacceptable. They were both there. They both ignored their childrens' cries. They both caused very, very serious emotional harm to their children by very much frightening them. Whatever narrative they want to write about what happened, they were both there and they are both responsible for their children being exposed to that.

102. The third recording that I was provided with is the most difficult to hear. It is the Father, plainly furious with P (for still unexplained reasons) and for a full 17 minutes he shouts at her / taunts her / cruelly behaves towards a highly distressed three year old in a way that is truly dreadful. As HHJ Dowding observed, the other children don't even react, so normal it might seem this behaviour is to them.

103. That, then, was the evidence that I heard. There then followed an 'emergency' statement from the team manager that came in after the close of the oral evidence, making efforts to put flesh on the bones in justifying the Local Authorities' care planning. I'm afraid that I did not find this to be an impressive piece of evidence. It repeated the various platitudes (examples being: it is best to place siblings together if you can, adoption provides the most permanent sort of permanence and so forth) but I'm afraid that it took me no further in truly understanding these particular siblings and their particular needs.

### Findings

104. I do not need to make specific findings of historical fact, that element has already been dealt with in a previous hearing. This case is about an analysis of risk and a holistic welfare analysis.

105. What I do, however, determine, is this:

106. The Mother does not truly accept that she caused the profound neglect to her children that she caused whilst they were in her care.

107. The Father does not accept the findings of HHJ Dowding in that he perpetrated domestic violence to the Mother.

### Relevant Law

The applications for care orders:

108. Care proceedings involve two principal questions. First, are the threshold criteria for making a care order under section 31 of the Children Act 1989 satisfied? Secondly, if so, what order should the court make?

109. Section 31 (2) provides:

"A court may only make a care order or supervision order if it is satisfied

(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to <sup>[ ]</sup><sub>SEP</sub>

(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or

(ii) the child's being beyond parental control. <sup>[ ]</sup><sub>SEP</sub>

110. In this case, the threshold for the making of orders pursuant to Section 31 Children Act 1989 was conceded / ruled upon some time ago, and whilst the Mother made noises that might be consistent with seeking to resile from her concessions, I am not troubled by that. She was saying what, in fact, she honestly believes. I have made it quite clear that I determine there is a wealth of, broadly unchallenged and unchallengeable, evid safely to prove that threshold is crossed.

111. In determining other issues in this case, I remind myself that I must apply well-established legal principles. The local authority brings the case and the local authority must prove it. The standard of proof is the balance of probability. I bear in mind the rights of the children, the mother, and the under Article 8 of ECHR to respect for family and private

life. And interference with those rights must be necessary, proportionate and in accordance with the law. In the event that there is a conflict between the rights of the children and any of the adults, it is the rights of the children that must prevail.

112. Under section 1(1) of the Children Act, the welfare of each of the children is my paramount consideration in the care proceedings. Under section 1(2), any delay in making decisions concerning her future is likely to prejudice their welfare. Section 1(3) provides a checklist of factors to be taken into account when determining where their welfare lies, and what order should be made. I have considered each and every one of those factors when reaching the decisions that I have.

113. On the application for a placement order, the court applies section 1 of the Adoption and Children Act 2002. My paramount consideration is each child's welfare throughout his or her life: section 1(2). Again, I take into account the fact that delay in coming to a decision is likely to prejudice a child's welfare. There is, again, a checklist of factors to be taken into account, in this case set out in section 1(4) of the 2002 Act.

114. Under section 21(3) of the 2002 Act, a court may not make a placement order unless satisfied either that the parent has consented to the child being placed for adoption or that his or her consent should be dispensed with. Under section 52(1)(b), the court may dispense with the parent's consent if the welfare of the child requires the consent to be dispensed with.

115. These provisions have been subjected to analysis in a number of important decisions by the higher courts, culminating in *Re B-S (Adoption: Application of s47(5) [2013] EWCA Civ 1146* and *Re W (Care Proceedings: Function of Court and Local*

*Authority*) [2013] EWCA Civ 1227. I have had those decisions firmly in mind at all points during this hearing.

116. In *Re B (A Child)* [2013] UKSC 33, the Supreme Court, reiterated that the test for severing a relationship between a parent and child is very strict so that, in the words of Baroness Hale of Richmond at paragraph 198, it should occur:

*"only in exceptional circumstances and when motivated by overriding requirements pertaining to the child's welfare, in short, when nothing else will do. As Lord Neuberger observed at paragraph 77, making a child subject to a care order with a plan for adoption should be 'a last resort' where 'no other course was possible in her interests'.* This interpretation was repeated by the President (as he then was), Sir James Munby, in *Re B-S*. The statutory language in the 2002 Act imposes a stringent test. What must be shown is that the child's welfare 'requires' parental consent to adoption to be dispensed with. Within that judgment, the President identifies the essential requirements where a court is being asked to approve a care plan for adoption and/or make a non-consensual placement order.

*"First, there must be proper evidence both from the local authority and from the guardian. The evidence must address all the options which are realistically possible and must contain an analysis of the arguments for and against each option."*

117. Then court must guard against undertaking a linear analysis of the options, and rather weigh the pros and cons of each of the options as part of a global, holistic analysis of what is in the welfare best interests of each child. In *Re Y (Care Proceedings: Proportionality Evaluation)* [2014] EWCA Civ 1553, Ryder LJ said;

*"The process of deductive reasoning involves the identification of whether there are realistic options to be compared. If there are, a welfare evaluation is required. That is an*

*exercise which compares the benefits and detriments of each realistic option, one against the other, by reference to s1(3) welfare factors. The court identifies the option that is in the best interests of the children and then undertakes a proportionality evaluation to ask itself the question whether the interference in family life involved by that best interests option is justified.”*

118. I always have well in mind the words of the former President in *Re L (Care: Assessment: Fair Trial)*[2002] 1379, in which he said,

*“The fairness which article 6 and 8 guarantee to every parent – and also, of course, to every child – in public law proceedings imposes, as Charles J recognised, a heavy burden on local authorities. But it must never be forgotten that, with the State’s abandonment of the right to impose capital sentences, orders of the kind which judges of this Division are typically invited to make in public law proceedings are amongst the most drastic that any judge in any jurisdiction is ever empowered to make. It is a terrible thing to say to any parent- particularly, perhaps to a mother – that he or she is to lose their child forever.”*

Both parents need be in no doubt that my responsibility and the gravity of the decision that I am required to make as been at the forefront of my mind.

### Analysis

119. I begin with a consideration of the children. What do I know about these particular children? I am not dealing with just any four children, I am dealing with a specific group of four and it is necessary to bear have at the forefront of my mind what their particular characteristics, personalities, needs and vulnerabilities are.

120. They are children who have suffered trauma. In fact, and this speaks very highly of their parents, everybody involved in the case, even their parents fully acknowledge this. It

isn't always the case that parents have the ability to acknowledge and recognise this, and whilst they may not be able to take personal responsibility for the harm caused, the parents at least can admit that harm has, in fact, been caused.

121. The children, then are particularly vulnerable as a result of their experiences whilst in the care of these parents. They demonstrate, variously, behaviours including very disturbed sleep (not just the normal or every day sleep difficulties found in children at various developmental stages) attention seeking behaviours (again, beyond the normal) regressive, baby like behaviour, and sometimes, in P, who seems to be demonstrating the most concerning behaviours, actions such as screeching. P is also sometimes wont to talk about her experiences, in front of J, which has caused him upset and there is a worry that he will copy and talk about such issues. The professionals have referred to the potential of the children effectively 're traumatising' themselves or each other.

122. The combined professional view is that these are, due to their vulnerabilities and their histories, children who require 'better than good enough' parenting. They will need parenting that is able to assist them to heal from the trauma that they have suffered, that will be able to cope with the behaviours that they will likely demonstrate, that will be attuned to their particular vulnerabilities and needs.

123. Indeed. The evidence that I received from the Guardian, and accept, is that these are extremely experienced foster carers who are both struggling with the groups of two that they have in their care. Nobody has given notice but certainly each of them is, I understand it, 'at capacity' in terms of what they can cope with. I bear in mind that the ability to cope with all four children may well be beyond any carer. It certainly sounds, on the basis of the evidence that I have heard, that this may be so.

124. So the parent that the children need to meet their own particular needs is somebody out of the ordinary and somebody who can climb higher than the bar set by parenting that is 'good enough'.

125. What, then, are the realistic options available for these children?

Can the natural parents care for their children?

126. I will start by saying that I consider that there is a wealth of evidence before me upon which to base my decision making in this case. There are two assessments of the parents (an initial assessment and an addendum) and there is a very careful analysis prepared by an experienced Guardian. There are numerous witness statements and there has already been a detailed fact finding hearing.

127. I say this because the Mother has made an application for a further assessment to be carried out by an independent social worker. I do not grant this application, I have considered it within the days of evidence that the Court has received. It is not necessary. There is no need for further assessment of the Mother, the Mother having been, in my opinion, fully assessed already. There is no gap in the evidence, no change in circumstances, no other fact or matter that would render any further such assessment necessary, because the fundamental issue as I will go on to consider, is that the Mother does not accept that she has chronically neglected the children, and if she is unable to reach acceptance of that in the course of two assessments and the giving of evidence in the witness box, she is not going to accept it to any further assessor.

128. A line must be drawn somewhere in finishing the assessment stage and turning to the decision stage. That line is now. There is a sufficiency of evidence and it is not

necessary for there to be any further. Moreover, the adverse impact on the children of any further delay must be avoided.

129. So I start by considering the parents with the evidence that I have regarding them, separately, of course, albeit that they each gave evidence that they would feel it appropriate for the children to spend time with the other parent (indeed, the Father and his partner talked in clear terms about ‘co parenting’ with the Mother)

130. I make it clear, I am not comparing options in a linear way, and I am not ruling out options such that I am only left with the most draconian. I am comparing all realistic options. I am carefully considering their pros and their cons. Having said this, I must start my comparison somewhere and I consider it appropriate that I first consider whether either natural parent is able to care for their children.

131. The positives of being cared for by one of their parents for these children is, I hope, obvious. They will grow up in their birth family, being cared for by people who love them unconditionally, and who have an unbreakable bond with them. They will have their identify needs met in the most appropriate way, because this is their birth family and there can be no better way, all other things being equal, for a child to be sure and secure of their place in a family structure.

132. Another particular positive in this case, given the competing care plans, is that the children would be all together. It is a wonderful thing if children can be given the opportunity to be cared for together, the sibling relationship is usually the most enduring and important of all relationships. It is a really significant step to determine that children should be cared for in a way that divides the sibling group and it is generally considered

enhancing of their welfare all round if this can be avoided. I have this well in mind in this difficult case.

133. What, then, are the potential drawbacks to parental care in this case?

134. This is at its heart, a case about predicting and managing risk. The four children who were received into the care of this Local Authority were profoundly, chronically neglected. The youngest nearly died as a result of the sepsis from her appalling nappy rash. The children needed several baths, so dirty and awful smelling were they. They had been subject to the most horrific scenes of domestic abuse in the home, around them, and on at least one occasion that we have a recording of, towards one of them.

135. This is not a marginally crossed threshold. I note that the Mother does not really, truly, accept that threshold was crossed. This might be a legal nicety, and I am grateful to Ms Mathew for the very practical way in which the case has been put. There has been, quite rightly in my view, no application to re open threshold or to resile from any admissions. The focus of the hearing, rightly, has been on future planning and welfare disposal. But it is interesting to me, as I pronounce, very firmly, that threshold is crossed for the making of final orders and on the basis of the composite threshold document set out at A41 in the bundle, that the Mother does not, at her heart, accept that her children were chronically neglected. Insofar as I heard her accept responsibility for the life threatening events for E, it was that she did not seek medical attention on the Friday but waited until Monday after the weekend.

136. I also note that the Father does not accept, at his heart, the findings of domestic abuse made by HHJ Dowding. He, and his partner, in their innermost beliefs, think that a series of evidential events and the Court process led to a logical, explicable, but ultimately

wrong set of findings being found by the Court. As this judgement is delivered, the Father had not yet accessed any anger management work. As this judgement is delivered the Father does not accept that he perpetrated serious domestic violence on the Mother so he may well never feel the need to access that work.

137. The parents will doubtless think that the professionals involved in this case, and now the Court, have had an obsession with whether they are able to accept responsibility and take ownership of what happened to their children.

138. There is a reason for this. The background facts of this case are profoundly concerning. E might well have died as a result of the neglect that she suffered. The other children were all, also, the subjects of deep, chronic neglect.

139. They were also the subjects of very serious domestic abuse. I remind myself of the facts found proved by HHJ Dowding. The Father inflicted serious injury to the Mother and then he and his Mother lied about it to a Court. This makes him a dangerous person, and if he is to change then he needs to first accept the need for change.

140. Acceptance of a need for change is the bedrock foundation of change taking place. Without acceptance of a need for change, there is very unlikely to be any change, and without change the risks remain.

141. Father had been 'out of the household' for over a year when the children were removed in circumstances of searing neglect in July 2020. That may be so, but there are a number of matters to consider. He was not taking care of his children or an active role in their protection from the neglect. He was gone. He may not have seen his youngest child ever when she was admitted to intensive care as the result of neglect, but that might also

be considered to be a relevant fact. What I mean is that this does not absolve him of all responsibility in the way I think he believes it does.

142. The Mother, by July 2020, was a broken person. She was trying, in lockdown, when all agency support had been removed from her, to care on her own for four very young children. The Father had caused her to have to leave what had been her home due to profound and enduring domestic abuse. I have no doubt about that. He had contributed, most definitely, to the appalling situation the Mother found herself in by July 2020 when she found herself utterly unable to cope. His behaviour had led to a non molestation injunction being made that he interpreted, and told his partner, meant that he could have no contact with the children. This all feeds into why the terrible situation developed by summer of 2020.

143. This case is all about assessing future risk. What is the risk to these children? To be assured that there is no risk, or less risk, a manageable level of risk let's say, in the future, requires a belief that there will be a change. And in order for there to be a change there must be a bedrock foundation of acceptance.

144. I saw real regret and sorrow in the parents evidence and their demeanour in the Court. I saw evident love for their children and real sadness about what the children have been through. But here is the crucial thing. They each still blame the other. They blame their 'toxic relationship'. They blame what each other has done to them. How each other has caused them to act. They see themselves and the children as being victims of the conduct of the other. They do not, truly, hold the mirror up to themselves, and so there can be no reassurance that there will be real change, and that there will be a real reduction of future risk. Their narratives are, once you scratch the surface, still narratives that place the

blame squarely at the door of the other. That is true in their written evidence, their oral evidence to me, and even, still, in the Mother's response to threshold in the proceedings relating to B.

145. Having found that the parents have the deficits that they do, I firstly must consider if there is any support that could be offered that would ameliorate those difficulties. Here we come back to the same point. Not without true acceptance of fault. The engagement of the parents with the assessment process, with the professionals, will always have a somewhat flimsy aspect to it. A somewhat superficial nature.

146. This is evidenced, I think, by their strong desire for therapeutic intervention for their children. Now, therapy is clearly going to be needed in this case, and the Local Authority, as statutory parent, should be ashamed of how little they have moved this forward for the children. So therapy is a good thing. But what the parents plainly envisage is that their children will receive therapy, that therapy will 'cure them' of the things that have been done to them, mainly by another person, and then all will be well.

147. As I think I have made clear in this judgement, I do not believe, without proper and full acceptance of their own responsibility in what happened, that the parents can move on to ensure any safeguards put in place will be effective. Not that they don't adore their children. But the last time the Father cared for the children was the night of the appalling recording of his verbal abuse of P, and the last time the Mother was the night of E's admission to hospital.

148. Without acceptance of these terrible failings, the Court can have no confidence that the risks won't be manifested once more in the future.

149. The Mother: has not moved forward in terms of support networks. Has gone on to have a relationship and a child with a man

150. I must therefore conclude that the negatives outweigh the positives and that the risks of harm cannot be protected against safely.

#### Alternative permanency

151. I am then left with consideration of the realistic outcomes for these children that do not consist of them being cared for by their parents or either of them.

152. What, then are the competing plans as advanced by the LA and the GAL? I note the poor quality care planning that has been asserted by the GAL against the LA, and this comes directly from the submissions of the GAL:

153. *“P, J, E-R and E have been disadvantaged by poor decision making and planning on behalf of the local authority throughout this case. It is acknowledged that this has, in part, been caused by the multiple changes of social worker which to some extent is out of the control of the local authority. However, the inconsistency of social workers should have been mitigated by a greater level of managerial oversight. This has plainly been lacking and has led to a lack of joined up planning.*

154. *This issue predates the commencement of proceedings and the local authority has been required to justify its failure to take action to safeguard the children at an earlier stage when the family was known to the local authority and the mother had declined support (see statement of Danielle Lane at C26 – C29).*

155. *Subsequent to the issuing of proceedings poor planning can be seen in the following examples:-*

- a.) *when contact was resumed between the children and the Father - in spite of the local authority being informed that the children had been told by the Mother that their father was dead, no preparatory work was undertaken with P and J before setting up a videocall which unsurprisingly resulted in an adverse reaction from P (C532);*
- b.) *the failure to undertake any life story work to help the children to understand their situation in foster care and the decision making of the Court. This has simply not been implemented. There is a paucity of evidence about what discussions have been undertaken with the children about their situation and even their wishes and feelings for their future. Most of the information before the Court about these matters comes from the foster carers or the school rather than through direct social work;*
- c.) *the failure to undertake work with the children in respect of the mother's pregnancy with B – the local authority were aware of this from July 2021 but did nothing during the pregnancy, in spite of P showing some awareness that her mother was pregnant. The children still do not know about B, over a month after his birth. When the social worker had planned to inform only P about B's existence, at school, the school expressed considerable concerns about the potential impact and the guardian had to intervene to advise the social worker not to undertake the visit in a rushed and unplanned manner as that would only serve to cause disruption to P and J. It was clear from the social workers evidence that she hadn't properly considered the risks of informing P in school (that being a safe place for P) or of not telling J at the same time which would only lead either to J being told in a wholly unplanned way by P or P being required to keep the information secret. The local authority has not approached these issues in a child centred way tailored to the needs of these children;*

- d.) *This issue went as far as the local authority approaching P and J's foster carer to ask her to consider taking B upon discharge from hospital, even though the children were wholly unaware of his existence. The foster carer understood that the children would be informed about B and then he would be placed with her (and them) the following day. The guardian had to intervene in respect of this proposed plan because of the potential harm that could have been caused to P and J had this plan been followed through which clearly hadn't been considered by the local authority;*
- e.) *the failure to put in place therapeutic support for the children in spite of this being identified as a requirement in LAC reviews as far back as August 2020. By the time of the final hearing this work had still not been implemented. HF confirmed that she had done nothing to chase up the CAMHS referral made by Miss Finch in October/November 2021. As a result of the local authority's inaction and the fact that P was in desperate need of emotional support, the foster care took steps to identify counselling through a charity which could be provided to P at school. However, unsurprisingly, the counsellor who has undertaken some work has identified that this therapy is inadequate to address the concerns relating to P's behaviour;*
- f.) *The local authority had no discussions with the children about their wishes and feelings in respect of the primary plan which was initially being advanced before the Court. This is in spite of the fact that P and J have lived separately from E-R and E for over 20 months. This is a significant omission;*
- g.) *In spite of pursuing a joint placement for all four children together, the local authority completely failed to provide any transition plan in respect of how this would be achieved as part of either the original final care plans or the updated final care plans*

*filed during the final hearing. Even when this was specifically requested to form part of the updated final care plans it was omitted. In evidence, the social worker was unable to articulate a plan as to how the children would arrive at a final placement together and it was clear that this simply had not been considered by the local authority. This is a further demonstration of the local authority's lack of considered planning in respect of the option it has put before the court as the long term plan for these children;*

*h.) Although the local authority no longer pursues that plan at the point of drafting these written submissions, the plan remained actively pursued for four days of final hearing and only changed after the cross-examination of Ms Hinks. This is the clearest demonstration of the local authority's intransigence and inability to undertake reflective consideration following the evidence of its own social worker, which acknowledged the deficiencies in the proposed plans, and having heard the very considered and careful rationale of the guardian. It was clear from Ms Hinks evidence that the plan was being pursued not because the local authority believed that it was realistically achievable but because the social work team did not want to be accountable to the children for a decision taken to place them separately;*

*i.) The impression gained from HF's evidence was that many of the very obvious complications identified above had simply not been considered by the social work team and managers. It is submitted that this is characteristic of the approach taken by this local authority in respect of these children and this further undermines the confidence of the guardian in the local authority's ability to execute final care plans in respect of these children in a way that meets all of their needs.*

156. Against that background, I must assess extremely carefully what the Local Authority is in fact suggesting to me. I must, very unfortunately, be cautious.

157. What, then are the differences between adoption and long term foster care for these children? I think that it is helpful, before coming to the welfare checklist analysis, to conduct a broad consideration of the differences in nature between the two orders. The following authorities are wise and relevant:

158. In *Re LRP (A Child) (Care Proceedings - Placement Order)* [2013] EWHC 3974 (Fam) Pauffley J said the following in respect of long term foster care as a permanency option:

“Long term foster care is an extraordinarily precarious legal framework for any child, particularly one as young as LRP [who was aged 10 weeks]. Foster placements, long or short term, do not provide legal security. They can and often do come to an end. Children in long term care may find themselves moved from one home to another sometimes for seemingly inexplicable reasons. Long term foster parents are not expected to be fully committed to a child in the same way as adoptive parents. Most importantly of all in the current context, a long term foster child does not have the same and enduring sense of belonging within a family as does a child who has been adopted. There is no way in which a long term foster child can count on the permanency, predictability and enduring quality of his placement as can a child who has been adopted.” [39]

In *Re V (Children)* [2013] EWCA Civ 913, Black LJ identified the following key differences between adoption and long-term foster care from a judicial perspective:

“i) Adoption makes the child a permanent part of the adoptive family to which he or she fully belongs. To the child, it is likely therefore to "feel" different from fostering. Adoptions do, of course, fail but the commitment of the adoptive family is of a different nature to that of a local authority foster carer whose circumstances may change, however devoted he or she is, and who is free to determine the caring arrangement.

ii) Whereas the parents may apply for the discharge of a care order with a view to getting the child back to live with them, once an adoption order is made, it is made for all time.

iii) Contact in the adoption context is also a different matter from contact in the context of a fostering arrangement. Where a child is in the care of a local authority, the starting point is that the authority is obliged to allow the child reasonable contact with his parents (section 34(1) Children Act 1989). The contact position can, of course, be regulated by alternative orders under section 34 but the situation still contrasts markedly with that of an adoptive child. There are open adoptions, where the child sees his or her natural parents, but I think it would be fair to say that such arrangements tend not to be seen where the adoptive parents are not in full agreement. Once the adoption order has been made, the natural parents normally need leave before they can apply for contact.

iv) Routine life is different for the adopted child in that once he or she is adopted, the local authority have no further role in his or her life (no local authority medicals, no

local authority reviews, no need to consult the social worker over school trips abroad, for example).” [96]

The Court of Appeal in Northern Ireland in *Down and Lisburn HSCT v H and R* [2005] NICA 47(1) approved a similar judgment of Gillen (J as he then was) in *Re Z and T – Freeing Application* [2005] NI Fam 6 in the following terms:

“[Adoption]:

- (a) provides a permanent and secure care arrangement outside public care;
- (b) facilitates lifelong commitment to the child as few adoptions break down;
- (c) is the most “normal” circumstances outside the family of origin and reduces the child's sense of difference;
- (d) affords significantly lower rates of maladjustment than those in long term foster care;
- (e) provides, in adulthood, a stronger sense of self-worth and adopted children function more adequately at the personal, social and economic level than those fostered;

[Disadvantages to adoption]:

- (i) the disadvantage to the birth family and their loss of relationship with the child;
- (ii) the child's loss of contact with its parents can lead to a deficit through the potential loss of identity;

(iii) the adoptive family does need to be thoroughly prepared to best meet the needs of the child.”

159. I have, then, well in mind, what the generic benefits of adoption over long term fostering might generally be considered to be.

Specific analysis

160. I intend to address the factors within the ‘extended’ checklist in s1(4) of the Adoption and Children Act 2002.

161. *The child’s ascertainable wishes and feelings regarding the decision (considered in the light of the child’s age and understanding)*

162. P wants to be cared for by her Mother. That is her clear wish and want. I know this, she is expressing this, and I am told that it is a desire that is firmly held.

163. I consider that it is applicable to all four children that I am considering that they would wish, if it were safe to do so, to be brought up in the care of their parents. They would want to be brought up within their birth family, to be settled, secure and loved there, and to be kept safe from harm. Sadly, the reality that must be faced is That is not an option in this case, and there are no suitable or appropriate family members able to care for them.

164. That being the case, in my judgement what the children most desperately would want, if they were able to articulate it, is to be given stability, security, a sense of belonging, some certainty that there will be no more (or as few as can be achieved) moves. I consider that they would want to cease to be part of the statutory rigours of the looked after child system. I consider that they would want to feel that they can belong to a family, to have a clear identity, to have predictability and security and bluntly, to know with as much certainty as possible what happens next in their lives.

165. Again, that is all other things being equal.
166. I imagine, as a general concept, that all would wish to be living together if that were possible. I do note the evidence of the contact observations, however, where it has been noted that P can separate herself out from her siblings, wishing for individual attention.
167. If that isn't possible they also need to see each other, as often as can be managed.
168. I consider that all their views are likely to coincide in these respects.
169. What I definitely think is significant is that the children will each wish to have a permanent placement that does not break down.
170. *The child's particular needs*
171. After approaching two years of litigation, the most pressing need for all four of the children that I am concerned with (in the sense of having to determine competing arguments) is for there to be certainty about their future.
172. The children have experienced frightening parenting at the hands of their parents. If they are to be able to form positive attachments throughout their lives, to be able to concentrate and learn at school, to develop to reach their potential, they need to be protected from that environment moving forward. They need the most stable environment that can be achieved for them.
173. P has particular needs, I think, given her age and given her particular enduring memories and given her particular behaviours that she is showing. I am also told, and I accept, that J has particular needs. This is to be expected. They were exposed to abusive parenting for the longest time.
174. In the near total absence of any specific, tailored analysis provided by the LA, I find the following analysis of the children individually set out in the GAL's submissions

to be particularly helpful:

P

175. *P has now turned 6 years of age. By the end of the six-month adoptive search that the local authority proposes she will be six and a half years old. The pool of adopters willing to adopt a child of this age is very limited;*
176. *As a result of her age and experience, P has a very clear identity associated with her birth family. She has ingrained memories of living at home with her parents – both positive and very negative. The strength of this identity will make it very difficult for her to successfully transfer attachments to adoptive carers and assume a new family identity in her “forever family”. This gives rise to real risks of placement breakdown should adoption be attempted;*
177. *P is adamant that she wishes to return to the care of her mother. Whilst she will suffer distress whichever placement option the Court decided will best meet her needs (as between adoption and long-term foster care) the strength of her wishes and feelings on this point make it highly unlikely that she will be able to successfully transfer her attachments to an adoptive carer. This gives rise to real risks of placement breakdown should adoption be attempted;*
178. *There are a number of issues that P will have to contend with in the short term which are likely to cause her a significant amount of emotional disruption including; finding out about B, finding out that G is B’s father, finding out that she will not be returned to her mother in line with her wishes, finding out that she will have to leave her current placement. These factors make it even more likely that P will be emotionally unable to settle into an adoptive placement;*

179. *P has been able to settle into her foster placement and has at times had a very close relationship with her foster carer although this has not been consistent and demonstrates insecurity of attachment;*
180. *P has demonstrated ambivalence in her relationships with all of her siblings and active rivalry in respect of J. P has had to be encouraged to interact with E-R and E and does not appear to consider them as siblings;*
181. *P has some marked behavioural difficulties. It is essential to her future stability that her long-term care is met by experienced carers who can provide therapeutic parenting. The likelihood of adopters who meet this criteria being found in the context of an already small pool based on willingness to adopt a child of P' age, is extremely low;*
182. *In light of P's existing issues with self-esteem, placement breakdown would be catastrophic for P and would lead to further feelings of rejection and abandonment, making her even more vulnerable as a young adult; and*
183. *P needs to be the youngest or only child in her long term placement to ensure that her needs can be met fully without having to compete for the attention that she so desperately craves;*
184. *P urgently needs intensive therapeutic intervention to address her underlying trauma and also to assist her to deal with the immediate impact of the destabilising events detailed above. The team manager has confirmed that such work cannot be properly implemented until she is in her permanent placement. It is the guardian's view that P will not be able to transfer her attachments without that work having first been undertaken. It is plainly in P' best interests for that work to be put in place as soon as possible. This can be achieved if a careful and tailored search is undertaken for a foster care placement with*

*an experienced carer who can provide DDP based parenting to P as the only or youngest child in placement. Appropriate therapy will also be available from CAMHS and other agencies and can be implemented because P would be in her final placement. A foster carer would have access to a wide range of support to prevent placement breakdown.*

185. *The guardian's view is that P' therapeutic intervention will be long term, and this is not a case in which her prospects of being successfully adopted will be changed by a short-term piece of therapeutic work. The case of Re T [2008] 1 FLR 1721 can therefore be distinguished in respect of P;*

186. *The local authority's description of the provision of therapy pending final placement, given through Lisa Hinks' evidence – the implementation of life story work and adoption preparation work (both of which are provided to all children who are subject to final orders and is not therefore specific to addressing these children's presenting behaviours) and play therapy (which is intended to help them to understand what emotions are and how to deal with them rather than addressing underlying trauma) are wholly inadequate in the context of P's specific needs.*

## J

187. *J will be 5 years old next month. This may make it more difficult to find an adoptive placement for him;*

188. *He also has a clear birth family identity, although this is not fraught with the same level of difficulty and negative memories as P' birth identity;*

189. *His ability to form attachments does not appear to be as disrupted as P';*

190. *J does have additional needs related to his previous lived experiences and he requires therapeutic input but he does not present with the self-esteem difficulties seen in*

*P and the Guardian's view is that J could be prepared for a permanent placement through carefully implemented therapeutic intervention;*

191. *J's needs will not be met if he is placed together with P as she has the potential to undermine his placement. This is likely to take the form of undermining J's ability to make attachments by reminding him of his birth family identity, undermining his emotional stability by re-traumatising him and undermining his identity within placement by competing for attention from the carer. In recent times these behaviours have been demonstrated in the children's joint foster placement. This puts any joint placement of J and P at a significant risk of potential breakdown;*

192. *J has a strong and secure relationship with his younger siblings, particularly E-R. It is not suggested that placement away from P will not cause loss but it is considered that this can be mitigated by ensuring continuation of the sibling relationships including direct contact between J, E-R and E facilitated by their respective adopters if adoption can be achieved for J; and*

193. *Any adopters for the younger two children should be encouraged to promote the sibling relationships whatever is determined to be the best long-term plan for P and J.*

194. *In summary, adoption for J has the potential to offer a long term and stable form of permanence but only if he is properly prepared for such a placement by therapeutic work which hitherto the local authority has failed to put in place for him. There are potential risks for J of separating him from P but the guardian's view was that these can be mitigated.*

*E-R and E*

195. *As girls aged 3 years and 9 months and 2 years and 7 months respectively, E-R and E are more likely to be successfully adopted;*
196. *Their attachment to and memory of their birth family experiences are more limited than those demonstrated by P and J. E was only 4 months old when she was removed from the care of the mother and she had never lived in the care of the father;*
197. *Whilst E-R and E display some behaviours associated with trauma, these are not as entrenched as those demonstrated by P and J and the guardian's view is that these behaviours can be addressed with therapeutic intervention. Again the local authority's failure to put any such therapy in place has caused considerable delays in these behaviours being addressed but E-R's nursery has been proactive and are arranging for a member of staff to undertake some training to provide emotional support to her;*
198. *Whilst there are some behaviours which are indicative of a degree of rivalry between E-R and E, these are not at such a level that an experienced and highly competent carer has felt unable to meet their needs together;*
199. *The overall observations of E-R and E's relationship is that they have a strong sibling bond, and this is likely to be further improved through the therapeutic intervention;*
200. *The issues observed in the sibling relationship are not of a level that would suggest that they need to be placed separately;*
201. *The life story work, adoption preparation work and play therapy proposed by the local authority is more likely to have a positive impact on E-R and E in light of the fact that their emotional needs are less entrenched; and*
202. *The guardian believes that E-R and E would be able to transfer their attachments to an adoptive family successfully.*

The children have urgent needs for therapy. They need therapy to become equipped to move on to their permanent home. But P and J have greater needs for greater therapeutic intervention.

203. *The likely effect on the child throughout his life of having ceased to be a member of the original family and become an adopted person*

204. I accept entirely that any of the four children will suffer a significant loss as a result of becoming adopted children. They will likely lose the chance to enjoy direct contact with their birth parents and wider family. I acknowledge that this will be a loss to them, and one which is a heavy price for them to pay. Heavy, but necessary, given the factual background to this case, and the harm that they have suffered and the risks that persist in respect of the care of either their Mother or their Father in my judgment.

205. If they are separated, they also suffer the loss of failing to be cared for in a sibling group with all of their siblings, although the reality is that that loss was suffered by them when they were separated in their initial foster care placements.

206. I hope that the children will not lose the chance to enjoy direct contact with each other. Placements must be sought that are able to facilitate the ongoing sibling relationship. I am heartened to hear the evidence that adopters are much more open minded to promoting and preserving sibling relationships (if not, even, contact with birth parents) in the modern world of adoption with prevailing views. This is, in my judgment, as it should be. These children have the right to spend time with each other, no matter what statutory or legal regime they are brought up under, and they should have carers who can respect and prioritise that, hopefully over their own feelings.

207. I am satisfied, however, that although significant, these losses do not outweigh the

considerable advantages that can be offered to the younger children through a plan of adoption. These include the effect of being a true and complete member of the family, of having been 'claimed' by their new family, of being a 'normal' family without the intervention of social workers, of medicals, of LAC reviews. These are all so significant that they more than compensate for the loss of the childrens' birth heritage.

208. Where separation of the siblings from each other is necessitated this is compensated for by and this is because if the Court blindly considers only placing the four children together, sacrificing all other considerations at the altar of 'the sibling group must be preserved' then certain adverse consequences potentially flow:

- The children, particularly the younger children, are waiting too long to move to permanence. Put bluntly, E-R and E are, or could very soon be, in a 'condition' to be adopted. J and P are not, due to the failure of the LA to obtain their necessary therapy. Thus E and E-R would be forced to wait for their older siblings to be ready to move to permanence, which is plainly contrary to their welfare needs;
- By trying to place all four children together it would be far harder to find a placement, and the wait may well turn out to be longer, again causing delay in permanence which is contrary to welfare needs;
- By placing all four children together, the truly catastrophic outcome (that of placement breakdown and a 'failure' of permanence) is rendered much more likely
- By placing all four children together, in fact their relationships may be the worse for it, and the children may end up with worse relationships than if they didn't live all together

209. As the Guardian said, far better to be realistic now about what the inter sibling

relationship could potentially look like in the future, rather than have it break down in an unplanned, traumatic way, when either placements breakdown or the children become unable to manage their emotions with each other and just unable to manage the sibling relationship. Better (paraphrasing the Guardian's evidence) to have positive experiences six times a year, where there is a positive bond and connection, than have a terrible relationship 365 days of the year.

210. *The child's age, sex, background and any of the child's characteristics which the court considers relevant*

211. All four children have had an abusive and a disruptive start to life which has rendered them emotionally vulnerable. They have a desperate need for security. I remind myself of what the Guardian said:

*"Have to bear in mind looking at 4 childrens' needs here, vulnerabilities associated with each of the options for the children, it's looking at what the children need altogether...*

*Their individual needs cannot be met with sib group placed together v experienced foster cares who with a group of 2 and 2 are struggling,*

*P's foster carer cant cope with this, cant manage, think there would be highly unlikely someone who could manage all four"*

212. Taking E-R and E first, whilst they are younger and have, to a degree been protected from longer term exposure to harm and abuse, what is true for them is that they have formed very strong, very secure attachments to their current foster carer. They need i) to move on as soon as can be achieved and ii) they need to be in a placement that won't break down so that they can transfer those secure attachments to their next carers.

213. They need therapeutic input, and quickly, but it is likely to be a relatively

manageable piece of work and one that can be conducted in fairly short order, leaving them able to move on quickly.

214. P to a greater degree and J to a lesser degree (but still different when compared with E-R and E) are not in a condition to be adopted, and require a good deal of therapeutic preparation before they are able to move on to a permanent placement. Indeed, the Guardian made the very valid point that, unless the therapeutic work is well underway for these children, the family finding process cannot be meaningful because without knowing what their particular needs are, the prospective carers can't know what needs they are proposing to meet.

215. P needs, I accept, a therapeutic placement. She would benefit from skilled, attachment style parenting. She would benefit from being the only child in placement. Her carers would benefit from robust and thorough support, perhaps through a fostering agency, likely better and fuller than will be provided to any adopters. In any event, P' attachments to her family, her sense of her place there, her enduring experiences and memories make it the wrong plan for her, as a matter of principle, to pursue adoption.

216. J is, in essence, on the cusp of being in the same position as P. He might, just, if the local authority prioritise his therapy, to have him placed in a condition to be adopted, still be in time to obtain an adoptive placement and all of the identified benefits that flow from that. But he isn't ready now.

217. I accept, also, as a matter of principle, that P should be placed on her own, and that J will suffer more adverse consequences by being placed with her (the 're traumatizing' that he suffers as the result of her telling him her memories which he then adopts as his own) J should also be placed on his own because, as stated, it will not be in his best interests

to be placed with P (even if a carer were likely, which does not appear to be the case, to be able to cope with the both of them long term) and his two little sisters should not have to wait for him to be moved on themselves.

218. If J can be put in a condition of being adoptable quickly then that outcome can provide all of the benefits well known and hopefully articulated in this judgment of adoption.

219. Any harm (within the meaning of The Children Act 1989) which the child has suffered or is at risk of suffering

220. The children have suffered significant harm in the care of their parents.

221. For E-R and E being placed for adoption (and hopefully soon) would allow the children to settle, to recover, to attach and to be claimed in a way that is likely to be the foundation for their future development throughout their minority and into adulthood. Whilst I accept that, by making a placement order, there is not a 100% guarantee that an adoption will proceed, it gives the best chance of permanency for all four of these children.

222. J should be given the opportunity of adoption being explored for him, but he needs therapy before this can properly be advanced. E-R and E cannot wait for J to have his therapy in preparation for his move to permanence.

223. Turning to future risk, this all stems in many ways from the same thing. Risk of future placement breakdown. That is why getting the placement right at this point is so crucially important.

224. As the Guardian said: we can't try this and then try that and see how it works out. We have to plan the right move, the right regime, from the start. There will be loss. That has to be handled in a planned and sensitive way, not have it forced upon the children upon

a placement breakdown. They already suffered with that upon the making of the interim care orders and their separation at that point. It is not to be countenanced again.

225. *The relationship which the child has with relatives, any person who is a prospective adopter with whom the child is placed, and with any other person in relation to whom the court considers the relationship to be relevant including a) the likelihood of any such relationship continuing and the value to the child of its doing so b) the ability and willingness of any of the child's relatives to provide the child with a secure environment in which the child can develop, and otherwise meet the child's needs and c) the wishes and feelings of the child's relatives.*

226. I understand entirely that the childrens' parents, and quite likely their wider family, do not wish me to make an order placing the children for adoption. Whilst I do not doubt their love for their children, the parents are not able to care for their children safely, or any of them. The wider family has been negatively assessed. The Father's Mother was found to have lied and colluded with him by HHJ Dowding. There are no safe alternative carers within the family, I am afraid.

#### Finalising matters for E and E-R

227. I am satisfied that I am in a position to finalise the proceedings for E-R and for E. I consider that any further delay for them would be profoundly detrimental and with no purpose. The plans for them are clear, the road ahead fairly predictable, their welfare can be identified and provided for. They should be made the subject of final care orders and placement orders.

228. I acknowledge that by separating E and E from the proceedings at this point, by finalizing their position, and in such a draconian manner, I am thereby limiting certain

options potentially for their elder siblings. It has been said, quite properly, on behalf of Father, for example, that by removing E and E from the family and making them the subject of placement orders, I am removing also any possible prospect from J for him to grow up with his little sisters or either of them. I have to acknowledge that reality and do so, head on. Effectively I am sacrificing that possibility for J and I am doing so for the following reasons, when balancing all together the needs and the welfare of the sibling group:

- E and E-R have been separated from J and cared for by different carers for approaching two years.
- The evidence definitely tends towards a conclusion (and the guardian said this specifically) that J may well benefit from being the only child in placement and certainly the youngest child.
- E and E-R have formed an extremely strong bond and attachment with their foster carers, it is likely to be difficult for them to transfer that attachment and the longer that passes before they do so, the harder it is likely to be for them so there should not be delay in finding permanence for them when they are ready to move. The benefits to them in achieving this quickly militates against the ‘wait and see’ approach of whether J, when finally provided with the therapeutic work that he needs, can be placed with them. Looking at the sibling group of three there as a whole the welfare balance falls in favour of the girls not being asked to wait any longer.

229. *Dispensing with consent*

230. I entirely accept that the parents will be devastated when I make this order, as I have to remind myself, the welfare of the children has to be the paramount consideration.

231. But I am afraid that the evidence is overwhelming that this is the only option that meets the needs of the children throughout their lives. Their welfare demands that I should dispense with the consent of both the mother and the father to the making of placement orders. I approve the care plans for each of the children and I make care orders in respect of each of them. I also make placement orders in favour of Sandwell Metropolitan Borough Council.

232. I make it clear, if not already clear from this judgment, that I am of the opinion that nothing else will do and that the children's welfare demands the placement orders are made.

#### Finalising matters for P and J?

233. The Guardian has made, after the close of the evidence, an application under part 25 for a further assessment. She considered that this was necessary because somebody independent was needed to carry out, in blunt terms, the work that the Local Authority should have done and that she no longer trusted that they would do. She believes that there needs to be a proper assessment of the needs of J and P, whether they should be placed together or apart, whether they should be placed for adoption or long term foster care, what their therapeutic needs are and how they can be met, by whom and when.

234. I have found this difficult to wrestle with. On the one hand, I completely understand why the Guardian has felt compelled to make this application. Such 'analysis' of realistic options as could be found from amongst the thousands of pages of evidence in this case was woefully inadequate. That much the team manager, in fairness, accepted. For these two children, on the very cusp of what would be considered an 'adoptable age' and with marked behavioural difficulties, and difficulties in their own relationship, the welfare

analysis carried out by the Local Authority should have been exquisitely sensitive and absolutely focussed on the individual characteristics of the children.

235. Instead, what the Local Authority provided was little more than the usual platitudes of ‘adoption provides the best permanency’ and ‘siblings should be raised together’. I am afraid that, even after the additional statement of evidence of the team manager, things did not get much better. I agree with the Guardian that the care planning, when a limited concession was finally made at Court, could be described as ‘knee jerk’.

236. I understand why there is so little trust in the Local Authority by the Guardian.

237. Balanced against this, these are proceedings that have been before the Court now for 20 months. I do not wish to calculate the number of weeks. The children need a decision to be made for them. They need a resolution now. The obvious harm that would be caused to P and J in me failing to resolve their case for them now is unconscionable in my view.

238. J is on the very cusp of an age where he will find an adoptive placement. P is showing by her behaviour that she is really struggling. Both children urgently need life story work, therapeutic intervention and a long term placement.

239. In fact, I consider that there is a wealth of evidence (and this is informed by reports from the school, from the foster carers, from the people who know the children best, and channelled through the Guardian since the Local Authority did not make the enquiries) to tell me the following:

- P and J should be in separate placements;
- Each of them (and particularly P) will benefit from the attention they will receive as the only child in placement;

- The school consider that P would destabilise a placement for J if they were placed together;
- J might not be able to transfer attachments to a new forever family, but he might be able to and he should be given the opportunity to do so;
- P has such a developed sense of self in her family unit, such a strongly held desire to return to her Mother's care and is showing such disturbed behaviour that these factors, coupled with her age, (she is six) mean that she is highly unlikely to be able to have a successful adoptive placement, even if one would be found for her;
- The right placement for P is under long term therapeutic foster care. She requires a carer who is trained in attachment parenting, she requires a carer who will have the support of their agency, she requires all the benefits (if the Local Authority will provide them) that can be provided to her to adapt to her no doubt changing therapeutic needs. She needs to have contact with her parents and to retain her 'sense of self' in her family.

### My decision

240. Given that I have been able to reach the above conclusions, I consider that matters are, just, sufficiently clear for me to be able to make final decisions for P and J, and that the benefit to be obtained for them by obtaining better quality information and a fuller understanding via assessment is outweighed by the negative impact of so much further delay.

241. If I were to accede to the application I can be fairly certain that I would be removing J's last possible prospects of being adopted. I don't need to do that to him, I can make a

decision now, albeit on information that is poorer quality than I wish to, and I will make that decision.

242. I will make a care order and placement order for J on the basis that he should be placed for adoption on his own and not with E-R and E. They are, as already noted in this judgment, ready to move now, and they should move now.

243. J is not ready to move now, he urgently needs his therapy to start so that he is in a position to be able to move to permanence. Having said that, I have read the authority of RE T [2008] 1 FLR 1721 and I do not find that this case, in respect of J, is the same as that. He does need therapy in order to move to his permanent home but he is not 'in a condition' where he cannot be adopted in the same way as was found to be the position in that case. I am clear that I am able to conclude matters for him now and that I should do so.

244. For the same reasons as set out above, I find that J's welfare requires me to dispense with his parents' consent to making a placement order and I do so dispense.

245. P should not be made the subject of a placement order. As a matter of principle, I agree with the Guardian's analysis that the right placement for her is in fact long term foster care. I make a final care order in respect of P, but I dismiss the application for a placement order.

246. I formally dismiss the Guardian's application under part 25 for further assessment of J and P and that made by the Mother for further assessment of her.

247. I accept that this decision is going to be devastating for both of the parents. These are some of the hardest decisions that any family court is required to make. But I am afraid to say that the evidence in this case is overwhelming. Accordingly, it is my determination that I must make the care order as sought, and I approve the care plan for adoption. It is the

only outcome that can meet these childrens' needs throughout his life. I dispense with the consent of the parents to the making of the placement orders, and I make that order. I approve the plans for the reduction of contact as set out by the local authority.

248. I make some concluding remarks. This case has been extremely difficult and almost impossible to 'keep on track'. It has taken the strenuous efforts of the Guardian, Counsel for the Guardian, and the Court to ensure that the case proceeded in a proper manner, to the extent of the Head of Services for the Local Authority having to be summoned to Court at 5pm on a Friday afternoon.

249. This should never have been necessary and was only made necessary because of the almost absence of proper, responsive, careful planning by the Local Authority. The Local Authority's advocate was, at some points, left with nobody at all at Court to assist her or give her instructions, and at times with nobody from the Authority even listening in to the evidence on the Teams link.

250. The allocated social worker, who absolutely did her best to assist the Court, had to admit that her together and apart assessment was fundamentally flawed. That evidence was given on the first day of the hearing. From that point onwards it should have been patently obvious to the Local Authority that there was a real issue with their care planning and that careful consideration needed to be given to the complexities of the sibling relationship and their individual needs. Instead, the Local Authority remained doggedly fixed with its original care plan, providing generic reasoning only in its defence, and failing to see the complexities and nuances of the case.

251. In the end I have made orders that could be considered to be fairly predictable and reasonably uncontroversial on the facts of this case. They were the orders initially being

suggested, for very good reason, by the childrens' Guardian, and had the Local Authority been able to bring a more responsive, thoughtful, flexible eye to what was happening in Court the proceedings could have been much shortened and the parents spared having to listen to lengthy arguments amongst professionals about how care planning for their children should or should not be undertaken. I very much hope that this will not have to happen again.

LMC 28.3.22