

IN THE FAMILY COURT  
SITTING IN CARLISLE  
IN THE MATTER OF THE CHILDREN ACT 1989  
His Honour Judge C Baker

Between:

Cumberland Council

Applicant

and

The Mother (1)

and

The Father (2)

and

'C' a child via his Children's Guardian, Mr M Lenaghan (3)

Respondents

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Mr G Pender (Solicitor) for the Applicant  
Ms E Agamemnon (Counsel, instructed by Cumbria Family Law Solicitors)  
for the Mother  
Ms K Wheeler (Solicitor, Atkinson Ritson Solicitors)  
Ms A Bone (Solicitor, Bendles Solicitors)

Hearing date: 3<sup>rd</sup> April 2023  
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**APPROVED JUDGMENT**

His Honour Judge C Baker:

**This judgment was handed down in private. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the child and the adult members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current**

addresses of the parties and the child will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

1. I have taken the step of publishing this judgment relating to a situation which has occurred during a set of ongoing care proceedings. It arises out of a situation that is not uncommon – the late identification of potential carers for a child who *may* otherwise be placed for adoption. To promote readability but maintain anonymity, the names of the parties have been changed.
2. As Designated Family Judge for Cumbria I am, at least partly, responsible for the efficient operation of the Family Justice System in the area. The issue that has arisen in this case often arises and I consider it might be of assistance if I set out what I expect by way of best practice in this area in circumstances where delay could be avoided.

### Background

3. Christine (not her real name) is a child who was born in mid-2022. Christine's father, who is present and represented, has taken the decision that he is not putting himself forward to care for Christine and therefore does not feature further in this judgment. Her mother, whom I will call Jane, is a young mother who for reasons I do not need to relate in this judgment has had a previous child, Ben, removed from her care. The first set of proceedings in relation to that child concluded in July 2021 initially with Ben remaining in his mother's care pursuant to a 12-month supervision order. However, that plan was not successful and Ben was placed in foster care in October 2021. The second set of proceedings in relation to Ben concluded when Ben was placed with an alternative carer by way of a Special Guardianship Order in November 2022.
4. In October 2021 Jane informed the local authority that she was pregnant.
5. The local authority began their assessment with respect to the then unborn child. They informed Jane that upon birth they would be issuing care proceedings as they were concerned as to the risks that Christine would be subjected to if Jane were allowed to care for her. The local authority issued their application for a care order with respect to Christine the day after she was born. Christine has been in temporary or interim foster care since that time.
6. At this hearing Mr Pender, who represented the local authority, agreed that in light of what had happened to Ben, it was almost inevitable that the local authority was going to make an application in relation to Christine and that this would have been obvious to the local authority from the time when they were told by Jane that she was pregnant.

7. The initial social work statement identifies the following maternal family members (with addresses):
  - a. Jane, the mother;
  - b. Daphne, the maternal aunt;
  - c. Patricia, the maternal grandmother; and
  - d. John, maternal uncle.
8. The initial social work statement also included a genogram. That is a map of the family with diagrammatical representations of the relationships with each other – an enhanced family tree of immediate family members. Genograms are a standard part of the social work evidence template.
9. The genogram identified the individuals mentioned above and included a box in which was written “Jane has 2 other sisters” and appears to identify a further brother of Jane’s, namely Justin.
10. Is it agreed that the bundle is replete with references to Jane being estranged from her maternal family. Even the genogram has red dotted lines between Jane and all her maternal family members and the ‘key’ to the genogram indicates that a red dotted line represents “estranged”.
11. The order made on 13<sup>th</sup> June 2022 directs “the mother shall file and serve her initial statement in response to the local authority’s application by 21st June 2022. This statement should include details of any person whom the mother wishes to be assessed as a potential carer for Christine and should set out the mother’s position in relation to further assessment.”
12. Jane’s statement (dated 3<sup>rd</sup> July 2022) states ‘unfortunately I have no family members or friends to put forward as alternative carers’. Ms Agamemnon, who represented Jane at this hearing, clarified that Jane gave instructions that she had asked her sister, Hannah, at the outset of the proceedings whether she could care for Christine and Hannah’s response was no. Ms Agamemnon acknowledged that it would have been helpful if the details of that conversation was included in the initial statement. She pointed out, and I agree, that there was a real possibility that Jane would not have nominated any maternal relatives both because of the strained relationships and Jane’s own belief, which may of course be correct, that Christine would be returning to her care. I also note that Jane now has the benefit of an intermediary following a report that indicates some difficulties in her levels of comprehension.
13. Until relatively recently the proceedings in relation to Christine have been case managed by a now retired judge. That judge granted an application for an

independent social worker to carry out an assessment of Jane. An independent social worker is usually an experienced social worker who is not in the employ of the local authority, in this case instructed by the mother's solicitors, who carries out an assessment of someone, as the name implies, independently of the local authority.

14. The report of the independent social worker was completed on 5<sup>th</sup> October 2022. The report concludes that Jane is not in a good position to look after Christine. Whether that conclusion is correct remains to be seen and is not the subject of this judgment.

15. However, during the assessment the social worker asked Jane about her family and support network. She reports:

“Jane confirmed that she also has a sister called Hannah, a sister called Daphne, a brother called John and another brother called Justin ... She confirmed that she has a good bond with Hannah, stating that they support each other well and see each other as often as they can...”

...

It is noted that she mentioned moving... to Yorkshire to be closer to her sister Hannah... Jane confirmed that she does have a good relationship with her sister Hannah and her brother Justin. Jane confirmed that if she ever needed anything she is aware that they would support her, and she could rely upon them, she gave me permission to make contact with her siblings.

...

A telephone conversation has been held with Hannah, on 25/09/2022, this is Jane's sister, they share the same mother but different fathers. Hannah stated that she lost touch with Jane for a period of 3 years... She stated that this was due to her own personal reasons within her own life. Hannah said that she could not understand fully why Jane does not have the care of her own children. She said, “Jane has been brilliant with my kids...” ... Hannah said that she fully supports Jane having the care of Christine, she said, “I will offer her all the support that she may need, but practically this may be difficult because I live in Yorkshire.”

16. On 22<sup>nd</sup> February 2023 the local authority social work manager spoke to Jane. She asked Jane about Hannah and her husband's ability to look after Christine. Jane told the manager that Hannah had said 'no' they would not be in a position to care for Christine.

17. However, sensibly, that same manager spoke to Hannah the day after her conversation with Jane. She explained to Hannah that there was a real risk that Christine may not return to the care of her mother and that she may be adopted.

Hannah said that she would in fact like to be assessed as an alternative carer for Christine. It appears that this was the first time anyone in the employ of the local authority had any conversation directly with Hannah.

18. The local authority undertook an initial assessment of Hannah and her husband. They have children of their own about whom there are no known difficulties. The initial assessment contains many positives. There are some negatives although none that rule out the possibility of them caring for Christine and accordingly the recommendation of that initial assessment is that Hannah and her husband should be assessed as Special Guardians for Christine.
19. Whilst reading the papers in this case in preparation for today's hearing one of the matters listed as a 'negative' with respect to Hannah and her husband caught my eye. The assessment indicates that a negative factor with respect to the possibility of Christine being placed with them is "[They] have not put themselves forward to care for Christine at any point throughout the proceedings until now. Christine is now 9 months old, and the proceedings have been ongoing since her birth. [They] have reported that they were unaware that they could put themselves forward to care for Christine. It appeared that they understood from Jane that Christine would be returned to her care at the conclusion of the proceedings. They reported that they were not initially aware that adoption could be an option for Christine and put themselves forward when they found this out."
20. During this hearing the local authority agreed that there was no evidence to suggest that the assertions made by Hannah and her husband that (i) they were unaware that they could put themselves forward as carers or (ii) that Jane was indicating a more positive likely outcome that the local authority are recommending or (iii) that they were unaware that adoption was a possible outcome, were in any way incorrect. Accordingly, the local authority accepted that this was not a fair criticism of Hannah and her husband and should not feature in the 'negatives' column of their assessment.
21. On 7<sup>th</sup> March 2023 the local authority made an application to move and reclassify the Issues Resolution Hearing listed before me, originally on 30<sup>th</sup> March 2023 to today's date because (a) of the need to fully assess Hannah and her husband and (b) the Children's Guardian would not be available on the original date.
22. In preparation for this hearing the local authority submitted a draft order which proposed re-timetabling the case to a further hearing (an Issues Resolution Hearing) to take place after 31<sup>st</sup> August 2023. That is a date 21 weeks from the date of today's hearing and would mean that the case would not reach any form of resolution until at least week 64. I somewhat flippantly commented to the

parties that when I read the draft order, I had to check that this hearing was not in fact listed on 1<sup>st</sup> April. The local authority had sensibly reconsidered the timescales by the time the matter came before me today and proposed a more truncated timetable.

23. Upon reflection I realised that the fact that such a timetabling proposal was ever suggested, made after the advocates in the case had all met and discussed the plans, may indicate that recent efforts to remind practitioners (both legal and social work) that there was a statutory time-limit to care proceedings and encourage an attitude and approach that seeks to avoid delay had not been successful locally. Hence this judgment, which attempts to rectify any such local misunderstanding.

#### Discussion of this case

24. The above chronology relates several missed opportunities to identify and assess Hannah and her husband well before February 2023.

25. First, there was the period *before* the local authority issued its application for a care order in relation to Christine. This is often referred to as the pre-proceeding process. I will relate below what *should* happen, certainly within this region, during that process.

26. Second, by the time the proceedings were issued, the local authority should *at least* have had a clear picture of the family. A genogram that identifies that a parent has '2 other sisters' has a glaring and unacceptable omission that could easily have been rectified. The local authority already knew the names and addresses of several maternal family members and could easily have obtained and completed that information in order to provide a fuller genogram. The genogram helps in identifying *possible* alternative carers, a matter to which I will return later in this judgment.

27. Third, the period before the independent social work report (i.e. between June and October 2022) could have been used to identify relatives who may wish to be assessed as possible alternative carers for Christine. As court proceedings had begun, any concern the local authority had about contacting relatives and disclosing information could have been raised and dealt with by the court.

28. Fourth, the independent social worker identified and contacted Hannah. It was not her job to ask Hannah if she wished to be assessed as an alternative carer and there is no evidence that she did so. From the context of her report it is clear that she spoke to Hannah for a different purpose and it is also clear from the report that Hannah did not at that time have a clear picture of the concerns of the local authority or the possible outcomes for Christine.

29. During submissions at this hearing it was tentatively suggested that the local authority is, to a large degree, reliant upon parents to identify alternative carers and of course Jane had not done so, although Mr Pender did point out that the social worker team manager had not relied upon what Jane had told her and made her own enquiries.
30. To dispel any possibility that in future a local authority may think that they (or the court) have 'done enough' if they simply ask the parents to nominate alternative carers, I will set out below why I think such an approach is both wrong in law and represents poor practice. In this matter the obvious point is that the local authority already knew that Jane's relationships with her family members were fractured and therefore it was always unlikely she was going to be forthcoming about potential alternative relative carers. Furthermore, Jane's view has always been that Christine should and would be likely to be returning to her care. The local authority considers at least that there is a real possibility that would not be the case. No one at the local authority seemed to realise prior to February 2023 that those two factors combined made it unlikely that Jane would volunteer relatives to be assessed or indeed that if she had discussions with relatives, the picture she would paint to them would possibly be too optimistic.

#### Local Practice – what can practitioners expect?

31. It is not for me as a circuit judge to attempt to set out or dictate any new law or practice. Indeed, it is not necessary as everything I am about to set out below can be derived from far more qualified and appropriate precedents. Indeed, as a circuit judge it is absolutely not my task to set a precedent for anything in a legal context.
32. However, as the relatively recently appointed Designated Family Judge for Cumbria it may be useful for me to set out what legal professionals, social workers and Children's Guardians can expect the approach to be when conducting public law proceedings in Cumbria.

#### The statutory time limit must and will be taken seriously

33. The Children Act 1989 says two vitally important things with respect to applications under Part IV of the Children Act (generally, this means care proceedings).
34. First, section 1(2) states:

“In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any **delay in determining the question is likely to prejudice the welfare of the child.**” (my emphasis)

35. Second, section 32 specifies that that any such application shall be disposed of “without delay” and “in any event within twenty-six weeks” so far as is reasonably practicable.
36. During the Covid 19 Pandemic timescales started to lengthen. As a consequence on 30th November 2022 The President of the Family Division issued "The PLO Relaunch" which was and is widely available. ‘PLO’ means the Public Law Outline, as set out in the [Family Procedure Rules 2010, PD12A](#). That Practice Direction sets out a structure that seeks to ensure compliance with the statutory time limit.
37. In the Northwest, Mr Justice MacDonald, issued a Northern Circuit Local Practice Direction setting out the approach to ensuring adherence to the Public Law Outline entitled “[Getting Back to the PLO on the Northern Circuit](#)” again widely available.
38. It is not necessary for me to restate the contents of this and other documents produced by far more qualified and appropriate individuals than I. However, a few observations relevant to the local situation may be apposite.
39. When I arrived in Cumbria I was faced with a large number of applications to re-timetable cases. The issue that has occurred in this case was common, together with a myriad of other reasons. Regularly practitioners came before me proposing lengthy extensions of the timetable in proceedings that had already far exceeded 26 weeks. I perceived, I hope incorrectly, an attitude of nonchalance among practitioners that had abandoned any real attention to the fundamental statutory principles set out above.
40. On prior occasions, it has been necessary for me to state orally *why* I was so concerned that the statutory time limit was being ignored on a regular basis. I will do so again here in writing:
  - a. It is the law.
  - b. It is not ‘the law’ because someone randomly decided to set an arbitrary time-limit. It is the law because it is fundamentally antithetical to a child’s welfare to take months and in some cases years to decide a child’s future. If, on a regular basis, children are being left in limbo for excessive amounts of time then the system is potentially failing those children.



- c. Parents and carers also deserve better. I probably cannot sufficiently imagine the anxiety and in many cases trauma caused to adults involved in care proceedings. They deserve and have a right to expect that when the state intervenes in their lives that process does not take so long it risks becoming a seemingly never-ending merry-go-round of assessments, statements and court hearings with decisions constantly being delayed, postponed or avoided.
- d. It is resource intensive. Social workers' time is valuable. It is being most beneficially used when social workers are helping families and children in the 'real world' not being sat in court or writing reports. The longer cases take, the more of their time is spent being diverted from their core purpose. Additionally, other cases that need social work attention, in and out of court, become resource-starved because proceedings that should have concluded months or years before are still active and demanding attention.
- e. Resources are scarce. Every aspect of 'the system' faces increasing pressures on budgets and time. Resource allocation is a matter for others. Ensuring that scarce resources are not wasted by excessive and ultimately unnecessary court hearings and processes is a matter for everyone who participates in proceedings before the court as well as the court itself.
- f. Some cases *do* properly require more time (see, for example, [Re S \[2014\] EWCC B44 \(Fam\)](#) at paras 33 and 34). It is not possible to devote appropriate court time and resources to those cases if almost every case takes an inordinate amount of time. There are many that could, through the application of best practice, be concluded much earlier. The fog created by systemic delay risks obscuring from view those children whose cases require additional time and consideration.
- g. Delay begets delay. By way of example, in this specific case the delay caused resulted in an entirely understandable application for *additional* assessments on the basis that the assessments conducted earlier were now so old they could no longer be regarded as relevant or up to date.

#### Identifying potential alternative carers

41. During this hearing it was tentatively suggested to me that, in essence, the responsibility to nominate relative carers falls primarily upon the parents. I do not agree with that assertion for the following reasons.

42. Experience and common sense suggest that there are many reasons why parents may not be effective or reliable sources of information when it comes to the nomination of potential alternative carers. Many parents lose contact with or are not speaking to relatives for a variety of reasons, often related to the issues that have given rise to the care proceedings in the first place. To expect parents to reliably nominate potential carers is an exercise in hope over experience.
43. Additionally, it is not at all uncommon that parents portray to their families the impression that there is 'nothing to worry about' until faced with incontrovertible evidence to the contrary. It is an entirely human and predictable reaction and it is one that that practitioners must be cognisant of.
44. Frequently in cases where relatives come forward at the end of the proceedings to be assessed they say to the court "we did not realise that X might be adopted". It is, in my view, the responsibility of the state to disabuse them of that misconception as early as is reasonably possible.
45. Many parents in care proceedings feel shame and acute embarrassment, as well as anxiety. Many suffer from traumatic experiences. The *last* thing they want to do in those circumstances is share their current situation with loved ones, even if that would ultimately be in the best interests of their children. Again, that is human and understandable. It must be ameliorated by a system that takes into account that entirely predictable possibility.
46. I also believe that the observations I have made above, which amount to being of the view that the local authority shoulders the primary responsibility for identifying potential relative carers is supported by the statutory and regulatory duties placed upon the local authority.
47. The local authority has a statutory duty (see [The Children Act 1989 section 22C](#)) to place a child in its care primarily with a parent. If a local authority plans to place a child in its care with a parent it must assess that parent pursuant to The Care Planning, Placement and Case Review (England) Regulations 2010 and in particular regulation 17.
48. In the event a parent or person falling within section 22C subsection (3) (a parent or person with parental responsibility) cannot care for the child, the next statutory *preference* is consideration of relatives, friends and connected persons who are also approved as foster carers (see [section 22C](#) subsection (6) and (7)).
49. The statutory requirements place on the local authority a positive duty to consider and give a preference to alternatives to professional foster care (see

section (7)(a)). Accordingly, it seems clear to me that the local authority has a duty to be pro-active in seeking out potential alternative carers who are also relatives, friends or connected persons.

50. In any event, if I am wrong about that, in cases involving infants and pre-school children it is very likely that a child who cannot be placed with a parent the care plan will recommend placement for adoption unless an alternative connected carer can be found. In short, such an outcome is and should be a matter of last resort as it represents a huge and largely irreversible interference by the state in the family life of the parents and child. In such circumstances the state should take all reasonable steps to avoid such interference. I consider that taking reasonable steps to actively seek out potential alternative carers to avoid the possibility of adoption is the least the state can do to when it intervenes in such a fundamental way.
51. Finally, an approach by a local authority that ignores the reality, that relying on parents to nominate alternative carers is fraught with potential difficulty, leads to extra pressure on their resources. Inevitably at the end of a case a late-discovered relative needing to be assessed gives rise to judges and other professionals, appropriately concerned about delay, demanding the application of additional time and effort to carry out assessments in shorter timescales.

#### The Identification of Potential Alternative Carers

52. Consideration of potential alternative carers should begin at the earliest possible opportunity, where possible during the pre-proceedings process.
53. The local authority should commence construction of a full and detailed 'genogram' as early as possible to identify the relatives and relationships that may (a) assist in meeting the needs of the child(ren) so as to avoid care proceedings and (b) may be candidates for provide alternative care for the child(ren) so as to avoid temporary foster care or ultimately adoption.
54. By way of example, information about using genograms effectively is available on The [Pre-Proceedings and Family Justice Hub](#) and in particular the Practice Tool "Using Genograms in Practice" can be downloaded [here](#).
55. The use of Family Group Conferences is also encouraged to identify support and potential alternative carers. Useful information for families and professionals on the Family Group Conference process can be found, for example, on The Family Rights Group website [here](#).
56. The [Family Rights Group](#) website has a wealth of information for both potential carers and practitioners, as does the organisation [Kinship](#). Other resources are

of course available. The local authority, for example, also has access to the North West PLO Toolkit, which contains similar materials.

### The sharing of information with Potential Alternative Carers

57. If possible, information should be shared with the consent of the parents. Parents who may be reluctant to share information directly with a relative may in fact be grateful or at least prefer having that task undertaken by a professional.
58. If the proceedings have commenced, the court can be asked to sanction the sharing of information if there is a dispute.
59. However, it is possible and in the right circumstances appropriate for the local authority to share information without the consent of a parent.
60. In sharing information with potential alternative carers reference should be made to the local authority's information sharing policy and the guidance issued by the Government in [Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers](#) and the Seven Golden Rules for Sharing Information (see page 4 of that guidance).
61. Practitioners should bear in mind that avoiding a child being placed in local authority care (i.e. care by strangers) and in particular potential adoption may be a legitimate aim justifying the sharing of proportionate information with a potential alternative carer, even in the absence of parental consent. Any decision so to do must be documented carefully, with reasons, in the absence of consent.

### Best Practice in Cumbria

62. Potential carers must be worked with in an open and honest manner (subject to such information being proportionate – see paras 57 to 61 above). That includes being clear with them about:
  - a. What the concerns of the local authority and the steps that may be taken (i.e. issuing care proceedings);
  - b. What the potential outcomes are (e.g. long term foster care or adoption);
  - c. What steps need to be taken to ameliorate those concerns;
  - d. Why it is important that any potential alternative carers are assessed as early as possible; and
  - e. That any assessment does not automatically mean that the children will stop living with their current carers – it is not a competition but an insurance against a child being removed into foster care or adopted.

63. It is suggested that all relatives and connected persons approached by the local authority to consider caring for a child should:

- a. Be approached as early as possible;
- b. Receive clear and accurate information about the reason for being approached (subject to paras 57 to 61 above);
- c. Received clear and accurate information about the assessment process, the caring options and the support that may be available in the event they do care for a child or children;
- d. Referred to resources (e.g. [The Family Rights Group](#) and/or [Kinship](#)) independent of the local authority so as to be informed as to the assessment process;
- e. Be given clear and accurate information about the child or children who may be at risk of needing to live with alternative carers;
- f. Given a reasonable but not unlimited amount of time to consider whether they wish to put themselves forward to care for a child or children;
- g. In the event that an individual does not consider themselves able to put themselves forward to be assessed as a carer, that decision and the reasons for it are documented clearly and, if possible, countersigned by the individual;
- h. If considered unsuitable as alternative carers, provided with information as to why their assessment is negative and advised to seek legal advice should they disagree with the conclusions of the local authority;
- i. If considered viable as alternative carers, given a clear explanation of the full assessment process and the support that may be available in the event they are called upon to care for a child.

64. Assessment of relatives, friends or connected persons as long term carers will be expected to have regard to the Statutory Guidance "[Family and Friends Care: Statutory Guidance for Local Authorities](#)" published by the Department of Health. Reference should also be made to The Public Law Working Group's [Best practice guidance: Special guardianship orders](#).

#### The New Allocation Order in Cumbria

65. Every application for a care or supervision order goes through what is known as 'gatekeeping'. Various directions are given by a judge and legal adviser looking at the papers and deciding, for example, what level of judiciary needs to hear the case. A new template order has been devised for Cumbria. Henceforth every allocation order will contain the following provisions:

- a. If the local authority commences proceedings the local authority must include in its initial evidence or file and serve no later than 5 working days before the Case Management Conference a statement dealing with the following:
  - i. A genogram (which should be as detailed as possible) of the relevant family setting out all the relatives and connected persons the local authority is aware of;
  - ii. By reference to the genogram, what alternative relative or connect persons have been approached to consider short or long-term care for the child(ren);
  - iii. What each individual's response was and whether the same is confirmed in writing; and
  - iv. In respect of any connected persons not yet assessed who wish to be assessed, what are the timescales for undertaking viability and/or assessments of them as foster carers and special guardians.
- b. The parents/carers must provide to the local authority the identity and contact details (phone number and email address) of any proposed alternative carer as soon as possible and no later than the advocates' meeting. They must confirm if they have discussed the matter with the person(s) nominated.
- c. The above stipulation in (b) does not relieve the local authority of its duty to proactively investigate relative carers/connected individuals as alternative carers for children at genuine risk of being removed from the care of their parents in the short or long term.

66. The judiciary in Cumbria are likely to be vigilant with respect to ensuring the above directions have been complied with prior to the first Case Management Hearing and practitioners can expect to be asked to provide detailed explanations for failure to comply.

#### The directions in this case

67. In this case, following discussion, a better timetable has been devised and I will see this matter again in June, by which time Hannah and her husband will have been assessed and the mother's assessment will have been updated by the independent social worker.

68. Nevertheless, there will be considerable further delay in this case. That additional delay has in my view been largely caused by the failure of the local authority. I do not want to unnecessarily deprive one publicly funded

organisation by taking money from it to give to another (the legal aid agency). Such an approach risks being counterproductive, and Mr Pender made the point that the local authority had not failed to comply with any *specific* previously made direction. I have not therefore made an order for the local authority to show cause as to why it should pay the wasted costs of the hearing today.

69. In light of the provisions of the new allocation order (set out above) and the fact that I intend to publish this judgment which should serve as early warning should situations like this present themselves in the future, the local authorities in Cumbria are on notice that poor practice and non-compliance with court directions may in the future be met with a more robust approach to wasted costs incurred unnecessarily or as a consequence of poor practice.

70. In any event I have directed that the updating report from the independent social worker, which is now necessary as a consequence of the delay in this case, shall be paid for solely by the local authority.

HHJ C Baker  
3<sup>rd</sup> April 2023