[2023] EWFC 78

CASE NUMBER: DE22C50030

IN THE FAMILY COURT SITTING AT DERBY

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF:
Child W born in 2019

BETWEEN:

DERBY CITY COUNCIL

Applicant

AND

Mother of child W

1st Respondent

AND

Father of child W

2nd Respondent

AND

Child W
(Minor by her Children's Guardian)

3rd Respondent

JUDGMENT IN WRITING
Hearing dates 25 and 26th January 2023
Judgement delivered 9th February 2023

Representation ;

Adele Jenkins for the local authority
Marie Huggins for the Mother
Thomas Bramall for the Father
Libby Wood for the child

HHJ SUE WILLISCROFT:

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

1. I am formally handing down this written judgment having given reasons orally to the parties at the end of the oral hearing. I am doing this in order to provide a clear record to the parties of the reasons for my decision and to comment in more detail about concerns I expressed at the time briefly, in order that the parties the court, and the local authority can consider and learn from the issues I identify here. For that reason I have anonymised the judgment and therefore consider there is no reason why it should not be published. I have left the name of the local authority in the public domain only.

2. The case is about an application made by the local authority for a care and placement order for this child, child W, who is young. The care proceedings began in February 2022 and the placement order application in November 2022.

3. The Mother at this hearing sought the return of the child to her care or alternatively an independent social work assessment of her as a carer, arguing her circumstances were now very different and she could be trusted to work openly with professionals. The Father argued with the support of his family, particularly his parents, he could care or in the alternative supporte the Mother as a carer. Both opposed the making of a placement order. The Children's Guardian supported the local authority's position.

4. As a result, I read a full bundle of papers and heard oral evidence from the current social worker, both parents and the children's Guardian, and careful submissions from the advocates for which I am grateful.

5. The concerns I have relate to
    a. The adequacy of the Pre-birth assessment of both parents
    b. How very long this case has taken both pre proceedings and after issue
    c. The risk assessment, particularly of the Mother
    d. Generally the right level of support and learning for a parent who is a victim of domestic abuse
    e. Lastly, why the police have not (yet) charged the Father with assault of the Mother in November of 2021 saying that the Mother had not co-operated. I consider this is a case that should and could be prosecuted without her co-operation and it would force the criminal justice system to consider what work it can make the Father do to reduce his risk to adult females and their children as witnesses, which he has not yet taken steps to address.

What this case is about

6. The parents have one child together, but the Mother has two older children who live with their paternal grandmother as their special guardian after public law proceedings. She sees them still on a supervised basis, fortnightly. She has a conviction for assault by battery on one of these children in 2017. This means she has what is called a "risk to children status".

7. The parents met and formed a relationship around a time at the end of the care proceedings for the older children and the Mother then became pregnant . When the Mother became pregnant social services became involved and conducted assessments. They did not initiate public law proceedings as through the Public Law Outline

process they concluded the agreement they had with parents would keep thei child safe. That agreement provided for the Father to be the main carer and for further assessment to take place were that proposed to to change. Their child W is now over 3 years old.

8. I have not seen the documentation that relates to this save for the entries in the chronology but it has been obvious during this case that the authority cannot have fully investigated the history of the Father and his relationships as carefully as they might, especially given he has a caution for assault against a former intimate partner in 2010. The risk assessment conducted for these proceedings obviously includes his behaviour against the Mother but the historical concerns relating to police reports about previous partners and what he has to say about them are worrying.

9. It is right that court should be the last resort and parents working with social workers to ensure child safety is the right approach, but my concern here is that they appear to have done so without a clear picture of the Father and the risk he presents. They could not obviously predict that the parents would be dishonest throughout. Both say there were difficulties in their relationship right from the start, the Mother alleging an assault when pregnant.There was an incident in January 2021 when the Mother was seen with the child and both lied to say the Father was in the bank at the time when he was not. Social services never knew the Mother had become the main carer unsupervised.

10. This case began after the Father very seriously assaulted the Mother, when the local authority realised that the Father had gone out to work leaving the Mother as main carer for some time. The local authority had ended their involvement in April of 2020 believing the father remained as the main carer, and having seen nothing of concern. Their agreement was clear that if the Father returned to work the child had to be in nursery and other arrangements about collection and return made. The child was in nursery for a couple of months before November.

11. I consider there must have been a real risk of significant harm to this child throughout this period. While there is no evidence of direct physical harm, about which social workers were obviously worried given the Mothers conviction, there must have been emotional harm, and the risk of physical harm was considerable given parents admissions about their relationship and the events of November.

12. In November a neighbour called the police and the Mother reported a very serious incident in which her lip was split and her two front teeth loosened by a punch from the Father during an argument. She said he was not allowing her to take their child to the shop , he says as it was cold outside, and then she says he started to strangle her, pushed her to the bed and she tried to kick him off her. He punched her face and there was a lot of blood. She alleged prolonged controlling behaviour. The Father, who had injuries from her teeth, was arrested in hospital and bailed. The child was in the house while this happened. When no family supervision was realistic, the child was accommodated on the 26th November 2021.

The history of this case

13. Cases about young children should be concluded within 26 weeks unless there is good reason that is welfare related. Here I came late to this case which has had 7 case management hearings when the Public Law Outline suggests 3 ought to be the normal number.

14. It began on the 2nd February 2022 already more than 2 months after the child was accommodated. I have been told since that papers were sent to agent solicitors for issue on the 6th January in circumstances in which I am aware of serious resource issues in the local authority's legal department. In cases like this I prefer to consider the 26 weeks begins at the date of accommodation when the local authority ought to be considering what work it needs to do with the parents to make welfare decisions. At this time the Father remained on bail for the assault on the Mother and was homeless.

15. The first case management hearing was not effective as neither parent chose to respond to threshold by that time. Evidence was ordered from nursery (which I query was necessary), but health was ordered to provide evidence about progress of a referral for a paediatric assessment of the child, who has shown autistic tendencies The local authority also was ordered to serve contact notes which the parties will know I would almost never consider necessary. Mother said she had stopped using cannabis in November 21 and so was tested, Father said he had stopped 6 months before. The next hearing was 6 weeks away by which time proceedings had reached week 10 .

16. Bizarrely at this hearing the parties thought only a cognitive assessment of the Mother should be done before considering what other assessments were needed and the possibility of a fact finding raised, presumably about the nature and extent of domestic abuse the Mother alleged, which the Father has denied. An application for a cognitive assessment was made by the Applicant authority, which recorded the Mother had a community assessment in 2019 with an unusual profile. It was granted, despite the mother's solicitors thinking it unnecessary in these and previous proceedings. It was known the mother has some learning needs and difficulties with memory. The application said it was to "consider what additional support or intervention she may require." Surely ensuring that a parent with known difficulties of this type understands all communications is a basic skill of all trained social workers?

17. By this time the child had a second social worker. Before the second hearing the local authority had also applied for a paediatric overview of the child and a psychological risk assessment of the parents. These applications were adjourned.

18. The case was transferred to the District Bench but for resource reasons listed before a Deputy District Judge at the end of May. At this hearing it is noted parties were waiting for the police to explain why they were not taking action against the father and orders for Scott schedules and evidence by both parties were made. Again I note a lack of focus. By 27th June a further hearing took place but before this time the local authority applied for DNA testing having received an anonymous referral and the Mother admitting there was a possibility someone else was the Father. The testing in due course confirmed this father is the Father of the child.

19. By week 20 of the case a further District Judge ordered a fact finding about "the nature of the parents relationship and the extent of any domestic violence" (this Mother has lost two teeth from the incident in November I note) and "in order to establish a factual basis for the assessment of the parents moving forward." He also said the case should go before a lay bench but in fact the fact finding was listed before a Recorder in July. By this time no participation directions had been made and police disclosure was. The case then re-listed before me in August.

20. The parents accepted at the hearing before the Recorder that the Mother had pushed the Father in November and he had punched her, and their child was present throughout and there was blood everywhere. They accepted an unhealthy relationship at times and the breaking of a written agreement to serve their interests, not those of their child.

21. At week 26 when the case came before me I listed an Issues Resolution Hearing in December and ordered the local authority to file their final evidence. At this time paternal grandparents were undergoing a special guardianship assessment but concerns were expressed only about their age and health. In due course I listed the final hearing in January. A family group conference was planned. Threshold was agreed and parents sought referrals for some domestic abuse work. The Father said he was now not using cannabis.

22. What did the local authority do in relation to parents during this time ? They did not need a parenting assessment. The court ordered a risk assessment and the psychological risk assessment was not pursued. It seems the local authority needed all the historic information from police to do this but it did not begin until the 3rd social worker started work in early August. That is a lot of missed time.

23. Overall this case reflects that the Applicant and all the parties and the court allowed decision making for a small child to drift.

The Law

24. The local authority has to prove a factual threshold showing the child was at risk of significant harm when proceedings began , and both parents accept this is met and I agree, (section 31(2) of the Children Act 1989). This then means the court has to consider welfare as its paramount consideration, and in relation to a placement application, a child's welfare throughout their life. In both cases the court examines a checklist of issues including the child's needs, wishes, parents' capacity to care and risks that exist, as well as the enormous seriousness of any order that might end family relationships and interfere with the child's and parents' rights to family life.I have considered the checklist set out in s31(4) of the Adoption and Children Act 2002.

25. These orders are the most serious a court ever has to make and have to be based on evidence and careful consideration of all welfare options always bearing in mind that is obvious children should live with their family of origin or alternative family members unless it is unsafe. The court always has to consider if any order is needed at all.

26. If facts are in dispute the court considers what is true based on what is more likely than not.

The Threshold accepted by all parties and found by the court is as follows ;

a. The Local Authority asserts that the child was suffering and/or was likely to suffer significant harm by way of emotional and physical harm and neglect and seeks to rely on the following facts:

b. On 24 November 2021 Police were called to an incident of domestic abuse at the parents family home.

   i. Mother accepts she pushed Father
   ii. Father accepts he punched the Mother
   iii. The child was present throughout the incident
   iv. The house was bloodied as a result of the physical assaults (I add it was the Fathers assault of the Mother that caused the blood)

c. The parents relationship was unhealthy at times

d. The Mother has 2 older children who are no longer in her care. Both children are the subject of Special Guardianship Order to their paternal grandparents due to concerns regarding the Mother's parenting and a non-accidental injury sustained by one of her children

e. The Mother has a conviction for assault by beating against her older daughter on 17 November 2017 and therefore has a risk to children status

f. The Father received a caution on 24 June 2010 for an offence of battery arising out of an altercation with his previous partner in which he hit his partner in a public place in front of a child.

g. On 18.07.2019 a public Protection Notice is received from the police. Police attended the family home due to an argument between parents.

h. The Mother accepts historical use of cannabis. She declared last using cannabis in February 2022.

i. The Father tested positive for high levels of cannabis use from mid September 2021 to mid November 2021, medium levels from mid November 2021 to mid January 2022 and low levels from Mid January to mid February 2022, despite having denied drug use.

j. The child was made subject to a Child Protection Plan on the 19/03/2019 prior to her birth and Public Law Procedures were initiated on the 05/04/2019. The case concluded on the 06/02/2020 with a schedule of expectations which included that Mother would not have unsupervised care of the child unless another approved person was in the house, due to the concerns relating to her older children. Both parents accept that the safety plan was not adhered to and

Mother has had regular unsupervised care of their child on a number of occasions since shortly after the case closed to social care in February 2020. The breaches of the written agreement were to serve the parents interests. As a result of their dishonesty, neither parent has prioritised their child's needs above their own and both have placed her at risk of physical and emotional harm.

Written evidence

I had the benefit ofthe cognitive assessment of the Mother completed in May of 2022 whichI consider reflects my observations of her evidence. " she ..at times gave relevant information, but tended to revert to her own preoccupations. She was a vague , patchy historian/ She seemed to have difficulty grasping others' perspectives. She presented as socially vulnerable. She was well orientated and did not show any cognitive confusion or distorted thinking." The psychologist gave suggestions for good communication which should be commonplace in social work . She recommended a PAMs assessment would be necessary and also in court measures to ensure she was able to participate fully including being behind a screen, and agreed questions. She suggested a supportive friend and a member of her legal team was present with her

Oral evidence

27. The key social worker gave oral evidence. Unfortunately she is the third social worker since this case began. Inevitably that must make forming trusting relationships difficult. She is relatively recently qualified and has been the social worker since May of 2022.

28. She had prepared an assessment plan for the court which I was toldwould be reviewed once the cognitive assessment of the Mother was completed. In fact it seems that didn't ever happen. She explained how she had used simple language and checking on understanding to ensure the Mother's full participation in the risk assessment, which wasfiled in October. Two of these sessions had been conducted by telephone.

29. The local authority had indicated at first it would seek a psychological risk assessment of the parents but did not in fact pursue this. It was unclear what their reasoning was for this but it was determined a social work risk assessment was sufficient and I considered a psychologist unnecessary.

30. The worker was asked about her experience of conducting risk assessments. She had done 8 to 10 but not had specific training upon them she said. I thought this was odd since assessing risk must be a core skill in all social work. In cross examination she confirmed she needed to consider what risks there were, what parents understood of the risks, whether the risk/s had changed and what would be done to manage risk. Such an assessment could include learning and support as well as consider what monitoring or other mitigations might be possible to reduce risk.

31. She identified the risks she was considering as risk of injury whether inflicted or through lack of supervision, risks of domestic abuse whether as a direct victim or

witness, and lack of openness. Both she and the Guardian seemed to think lack of openness was a separate area of risk, whereas I agree with Mother's lawyer that it is only relevant if there is something one needs to be open about.

32. We were unable to find the threshold in previous proceedings, in which there were concerns about injuries due toa lack of supervision. I suspect given the Mother's conviction it was not necessary to pursue this but it is unfortunate that, the issue at final hearing being the nature of the Order to be made, threshold was never proved in the previous proceedings.

33. In these proceedings the issues raised in the previous threshold – which are in any event denied by the Mother, were not pleaded.Her lawyer pointed out that it was unfair, therefore, to include them as risks in any risk assessment. That is fair point and shows the need for careful consideration of all the evidence before beginning a risk assessment

34. Social services did not at this time have concerns about basic care. I note this is an improvement since the end of the previous care proceedings . The social worker had not it seemed appreciated social care had closed their file in April 2020 but accepted in this time no concerns were raised.

35. She was clear risk of harm related to the inflicted injury and lack of supervision in relation to other injuries in 2017. She accepted her assessment ought to have included the fact that the wider concerns about the older children were not evidenced to have reoccurred with this child and also there had been a period when the child was seen at nursery and no concerns raised. She accepted in cross examination time can reduce risk in certain circumstances and might reduce risk in terms of this child sustaining an injury. The contact notes also recorded (apart from limited and minor issues I shall ignore) capable care with no rough handling or incidents of concern.

36. She accepted the risk of domestic abuse is described by her as a static, that is unchanged risk. There is no evidence parents' relationship has resumed and Mother has stated her intention to remain single. However, she noted the Mother had not done work to help her understand and manage the risk of further abusive relationships as requested, and did not feel her limited understanding now and understanding that she could use Clare's law in future, was sufficient, given she could not rely on the Mother's honesty. Without a 24 hour monitoring service she did not feel visits and reliance on family would be sufficient to ensure safety by which she meant no further abusive relationship.

37. The Mother had not spoken to her about her reluctance to attend groups. I was told by her she has been embarrassed about her teeth and how she looks after the assault , and she has had to have some extensive dental work. I note given her cognitive assessment she might well be anxious about going to a group anyhow, but the social worker confirmed if so social services could off a 1:1 service for her . The Mother in fact is about to start a group session of the Freedom Programme the court was told. The social worker's opinion was that it would be wrong to delay the child having a settled home for this work to be done, and I would say more importantly to check it was embedded.

38. She accepted issues of drug use and mental health seen before were not significant concerns for the Mother now.

39. She accepted the pandemic and lockdown was difficult for many. This mother was then aware if she told social care about what was happening, in terms of care and abuse, she would likely lose care of her child and this would have been difficult. She described to the psychologist that she was scared of social workers but the social worker correctly answered that the Mother's responsibility should be her child's safety first.

40. She noted the Mother accepted even in pre birth procedures she had been dishonest with the social workers who visited regularly.The social worker was aware the Father disputed the Mother's account of a serious assault when pregnant. He does however accept some serious difficulties in their relationship at this time which both chose to conceal.

41. Family support would not in her opinion alter the risk , noting that the Mother says her family relationships have improved and she has filed a statement from the carer of her older children who says she has noted the Mother maturing.

42. About other matters, she accepted that she had understood this child had not met her older step siblings as of yet and she didn't believe had met them while in her parents' care. She had not addressed this in her thinking it appeared, but planned life story work would now include them. Neither had she spoken to the carer of the Mother's older children who she accepted might have something relevant to contribute. It is obvious from the papers these relationships have existed so I was puzzled about her and the Guardian seeming oblivious to them.

43. Her observations of Mother's contacts had been positive.

44. She was confident despite some lack of clarity about the child's development and potential autism diagnosis, that she could be placed for adoption

45. Asked about Father - she accepted her concerns were around domestic abuse and his lack of honesty, and she felt he could meet basic care needs. She was unable to confirm what checks had been made about the Father before the child's birth.

46. He had not been honest about his drug use with the court, she noted, or about a recent report of entering into an intimate relationship.

47. In respect of both parents she accepted while not in an intimate relationship risk of domestic abuse was obviously reduced, but given their ages she felt their determination as stated to remain single was unrealistic. I agree.

48. She was asked how she assessed the father's risk given he disputed much of the many police records about his behaviour that exist. Her response tried to suggest she based her assessment on what he accepted and spoke about, the mere fact of all the call outs but also what was in them. Since she accepted she could not determine the truth this was a difficult fence for her to sit on I felt. The number of call outs is obviously relevant. What her assessment showed however was minimisation of serious incidents and some limited understanding by him of how his behaviour could appear controlling. She had wanted him to self-refer to a perpetrators' programme and over all this time he had not done so. He also would have benefited from attending a form of the Freedom Programme which she had also recommended. He had not begun either. He would also benefit from the Triple P programme she thought.

49. A Family Group Conference had looked at alternative carers in the father's family, but not at support it appeared, although she said she had considered it without putting it in her written evidence. Everything obviously ought to be there. She had been aware the Father was having unsupervised contact with his older child aged 13, but did not appear to have made any enquiries with this child's Mother about this. I could not see this was a protective factor and have some doubts about how often it might have taken place but like the Mother's children this child is a step sibling and a family member to be considered in life story work.

Comments

50. The social worker's understanding of how risk might alter over time was not sufficient. Risk must alter after periods of time when nothing bad has happened and when a parent in most cases inevitably matures. A risk assessment should be an opportunity for reflection about why things had gone wrong and what had changed to prevent them going wrong again or what might assist. It should look proactively at what steps could be made by learning, monitoring and family example to reduce risk. The Mother's stance in refusing still to accept responsibility for injuring her daughter, even after pleading guilty to it, is worrying I accept, and does prevent discussions about how that situation arose, but it is possible to look at obvious situations of stress and reactions, particularly at that time with two children in her care, and obviously struggling to manage in all areas. Each aspect of her functioning that improves surely reduces risk ? So, her no longer using drugs and improved mental health have to be taken into account. \the social worker's understanding of the Mother might also have been added to by speaking to the maternal grandmother and the older children's carer who could have given their own perspective. She did not choose to do so. It is a professional's life blood to assess risk but it needs to be done in a curious and holistic way. I would hope after being properly questioned in some detail about this she has reflected that she must do a more through and careful assessment of parents in future, as the court expects an in depth thorough fair and reasoned analysis.

51. I will explain later how I have come to my own conclusions about risk having considered the filed evidence and heard the parents give evidence.

52. I am also concerned about how someone who needs specific help – as here for both parents – are only "signposted" to help. In the case of the Mother who said she was embarrassed about how she looked and who told the court she had her solicitor read

her statements to her , whose cognitive report revealed some limits to her understanding and whose history revealed vulnerability, I do feel someone, whoever it was, could have made an appointment with her and taken her through the door of an agency. If she chose not to go after then it would be very much her responsibility but I am confident those first steps could be difficult ones to take for anyone in her position. Someone to get feedback from about how the visit was, such as a family support worker, would help too and encourage continued attendance. Such groups can have a powerful effect on understanding and the group effect is, I am sure, helpful. So while the social worker agreed one to one training in this area will now be offered I am concerned this wasn't discussed as part of the risk assessment work at least in October, although I accept her account the Mother had not mentioned any concerns about attending. The Father, too, is likely to need a prod to get to the domestic abuse work he needs to undertake.

53. I am confident that being the 3rd social workersince the case started cannot have helped. I have to recognise, however, that the Mother was clearly told, and not just once, that this piece of work was something she had to engage in and as an adult not doing so was her choice. I know the Guardian spoke to her about it and would be confident her lawyers did so too.

54. What did the risk assessment of the Mother done by the social worker tell the court? First she continues, as she did in court, to deny that she assaulted her daughter and also to minimise the injury. She was able to describe some of the stresses she was experiencing at this time. She had formed a relationship with the Father who had moved in when she became pregnant. She described this being a controlling relationship from the start and once they returned home from the hospital the Father was often "mardy" and angry and would threaten she couldn't leave him as he would keep the child. If the child cried he would get angry, she said. He would call her horrible names " and make her feel nobody would want her." He would often smoke cannabis when angry.

55. She said she had learnt from the Father's daughter of an assault on her Mother, suggesting she had not been aware of the caution before. Given her poor memory and lack of records I cannot be clear about that.

56. She felt that her child would remember some of the abusive events that had taken place in the family home, so if she was able to care it would need to be somewhere else. It seems to be her view that her daughter having nightmares was because of the impact of abusive behaviour at home, and she had screamed throughout the November incident from the living room. She had gone back to fetch her that night wearing a mask so she would not see the blood on her face and the Father was then telling the child they had been play fighting.

57. In the Mother's oral evidence she described how serious problems with her teeth led her not to want to leave her flat and feeling sad and crying and so she hadn't attended the Freedom Programme. She will start with Womenswork in Derby where I am confident help with self esteem and other issues will also be available and she would welcome 1:1 work she said. Things were different for her now since she was not

experiencing depression and described family support, though that appeared quite recent.

58. She told the court she had ignored advice from her kids' nan about the Father, who hadn't liked him from the start ,"but I ignored her because I was in love."

59. She had not left the Father when she said he had strangled her when pregnant. She accepted she should have begun at least courses to increase her understanding by now and claimed she had told lies, "because I had no choice" and described how she is now scared to sleep in the dark as a result of her recent experiences with the Father, and "I'm not the person I used to be." She hoped her child might be able to stay in foster care while she completed learning.

60. I felt she remains at risk of exercising poor judgment and while she has good intentions to check a future partner, she is not likely to follow through with this. She remains vulnerable and likely easily persuadable, as well as accomplished at misleading professionals.

61. The Father also had a risk assessment. I felt a clearer picture emerged from this and the worker had in discussion with him obtained some helpful information . He did not tell her about his caution for assault on an intimate partner in 2010 when asked about any convictions. He described taking a phone off a previous partner, controlling behaviour in my assessment. He said there had been 12 police call outs referred to in the child protection conference for this child, suggesting social workers had been clear about his history at that time. He was unable to recall police call outs in the early 2000's. In relation to another partner he said when they used to argue, "he used to kick her out" of what must have been her home. This also controlling behaviour. He accepted a threat to take his life when this partner later was with someone else "probably to get a reaction." Again, I would describe this as controlling behaviour.

62. He denied an account by this partner in 2010 that he had grabbed her head and banged it against a takeaway counter and a window although he was cautioned for battery meaning he accepted an assault. "She took it upon herself to hit me. Obviously I retaliated and hit her in the back of her head, she went dizzy and fell to the floor in the chip shop". Their baby was present at the time. He accepted after the end of this relationship, breaking into this woman's home to get his possessions. In 2012 he had kept the baby for 5 days from her care and said he had to give her back as a result of a court order. Again, I would see that as wrong and controlling. In 2015 he was arrested but the matter not followed through, but he recalled meeting a woman for the first time in another town and plainly she called police feeling very uncomfortable.

63. He said , "I have never lashed out at people first, it's always been the opposite and then I have retaliated….(I hate) when people are lying and this is when arguments start." He described the events of November when he was threatening to leave with their child and the Mother said she would end up in care and, "this is when he had got annoyed and "went for her"". She was "pushing those buttons". He seemed to think if their child was playing, or not right there, then shouting would not affect her. I note

he felt he was paying the price for what he had done. It is the child of course, who is most affected. A theme of his was this was the fault of women telling lies.

64. He has lied to the court about his cannabis use and in the risk assessment accepted it had used considerable income and was wrong if you have a child. Only public money spent on testing revealed those lies.

65. What is odd in this risk assessment is the lack of information about his continued relationship with his children from the earlier relationship which he informed the court meant the younger spent alternative weekends at the home with the Mother and child. He mentions in the papers being told he couldn't see this child for a time, I would guess perhaps while on bail for the assault on the Mother. I remain unsure how often this was.

66. It is clear the social worker knew the Father's parents who were assessed had also had some contacts with these grandchildren as well as the others. The perspective of the parents and possibly young person might have added a more rounded picture. I conclude however the picture of his behaviour , lack of control when angry and his lack of responsibility as shown in these interviews, is of concern.

67. He confirmed he had been given details at least in the summer of an agency to contact to address his behaviour and has not yet done this. "I would do a course if the local authority or the court wanted me to do it," makes it clear he does not see the need. He has been legally advised throughout and is capable so could have made an appointment if he wanted to. He accepted dishonesty when his partner was seen on her own and he said he was in the bank and about drug use during the proceedings. He claimed he had "not thought" of telling social workers about his plans to work and leave the child in Mothers care. Now he lives in supported housing, but with support from family and a home, wished to care. He has more recently been seeing a therapist about his mental health which he felt was helping.

68. He described his return to work in 2020 and the long shifts he did. I would be surprised if the benefits agency knew of this.

69. The Guardian in her oral evidence supported the local authority plans. She had missed the reference in Father's earlier statement to the child knowing her step siblings and had not addressed this as she had been unaware of an existing relationship I noted. She was also unaware the Mother still saw her older children. I was puzzled by this. She accepted these relationships should have been considered.

70. She felt the main themes in the risk assessments conducted were correctly recorded and she shared the local authority view that risks could not be managed so had not been critical of a lack of analysis of how. She described the conviction as a static risk " and no guarantee that could change". Although the risk assessment had not mentioned the fact Mother appeared to have cared for the child for a year, she considered the child had not been seen for almost all of this time so this period was an unknown for her. I agree. As she pointed out, would either have reported concerns?

Clearly the couple of months in nursery passed without any concerns . The parenting observed at contact was satisfactory.

71. While education and nursery provided monitoring it was her view it did not reduce risk. She did not feel any safety plan could guarantee safety and in large part this was because of the extent of dishonesty. That could extend to such family members who might offer to help, I consider, and I read statements filed with her position statement of offers to support.

72. In their earlier discussions the Mother had not understood what domestic abuse was and had not seen the serious assault on her was domestic abuse. She too had encouraged attending the Freedom Project. Now since she had not done it she could not know how effective this work would be and how much it would effect the Mother. Her dishonesty exacerbates risks and concerns she said. About both parents she felt over 14 months she had not seen real impetus to change, and she did not feel the Father understood the risk he poses, feeling that using the word "toxic" to describe their relationship was in effect avoiding personal responsibility.

73. She was aware of a level of uncertainty about the child's diagnosis and needs but overall considered adoption realistic.

My analysis

74. This is a case about risk of harm , harm of physical abuse due to the Mother's forensic history and of future emotional and physical harm in the care of either parent due to their lack of understanding of what safe relationships should look like, ability to manage conflict in relationships and of a child witnessing or being in the crossfire.

75. The risks of harm of any of this are significant if they were to happen. I cannot be clear that under stress as a single parent or in a difficult relationship the Mother might not? again assault her child, though I am sure this would be a temporary reaction to stress and being overwhelmed. The issue for me here is whether she could recognise this and ask for help before this arose. That moves on to her ability to recognise poor partners and avoid them , given her nan told her to avoid the Father and "love" got in the way. I feel without attending at the Freedom Project and maybe work that helped improve her self esteem (so she felt she was worthy of being treated well- also available at Womenswork) there is a real risk of this happening again. I know both parents say they will stay single, but all humans seek out intimate relationships and I think this aim is unrealistic.

76. The other issue is that if anything goes wrong both are such experienced liars, for example about their relationship with social workers from the start, breaching the written agreement, and drug use that I could not expect either, when faced with a difficult choice, to put their child first.Both acknowledge they did not do so in the past. I ask what has really changed and cannot identify it.

77. The Father blames all difficulties on partners who lie to him but always retaliates. The incident in November is not the only example when he has done so far in excess of anything that could ever be described as reasonable self-defence, and in November in a house where his small child is next door and screaming. That significant inability to demonstrate self-control has not only been a very recent feature, but his police caution some years ago is also significant given that happened in a public place. I considered there was no real evidence he felt he needs to change and notably he chose to address his own depression but not his behaviour to others.

78. Family and friends support that might prevent issues arising is limited , and effective monitoring relies on the honesty of the parties after the event.. Notwithstanding my concerns set out above, I therefore agree with the local authority and the Guardian that the conclusions of the risk assessment were supported by the evidence of the parents.

What welfare options are there ?

79. I do not consider prevention is possible here until each parent has addressed their personal and relationship issues. That means I have considered the child's safety would be at risk in the care of either. I note the Mother does not support the Father's care although he would support her if necessary. That means I cannot consider either parent as a carer since there are no realistic mitigations to prevent future harm.

80. Mother seeks more time to complete the work she is to begin but I consider this court process had already taken far too much time for this small child and she needs a settled future. Both parents would prefer foster care to enable a continuing relationship and the opportunity to demonstrate change in the future. For such a small child that is a long-term arrangement that would not meet her welfare needs given possible change of carers, and the oversight of being a young person in care, which can be considerable.

81. There are no family members now available to care. I am satisfied the realistic options have been properly explored

82. If adoption as sought by the local authority is the only option that will meet the child's welfare needs throughout her life I have to be satisfied it is necessary and proportionate to the harms I have found might occur. Sadly despite the obvious love of her parents and their ability to meet her basic care needs, that is the conclusion I must reach on the evidence.

83. The welfare checklist under the Adoption and Children Act requires me to consider her welfare throughout her life. The local authority has not evidenced the loss of sibling relationships.They have not been explored by them or the Guardian who thought she had never met her five half siblings. That is a failing I accept. I was told that this would be explored in life story work and this needs to be done urgently including to establish if there ought to be any contact now.

84. Parents' capacity to care is undermined by the risks I have set out. This child has some particular needs not fully clarified now but under a paediatrician for assessment. I am satisfied they would not prevent her finding an adoptive family. Of course if it was safe she would want to live with a parent and see both her parents who love her and obviously a family blood connection of people who may look and sound like you with shared history is an important part of identity as are all the wider family relationships including siblings. The loss of this is hugely significant and can only be considered if there are no other welfare options than can meet a child's needs and if such lifelong ending of legal relationships is proportionate to the harm.

85. I therefore approve the local authority care plans while recognising the distress this will cause W's parents who love her very much and of the impact on her of this lifelongseparation.

86. I come back in my mind to the pictures I have seen of the blood and injuries sustained in this child's home while she screamed in November 2021, and her Father then telling her that parents were play fighting. This is such a significant and serious incident demonstrating Father's retaliatinon when challenged and Mother's failure tounderstand the need to protect herself and the child.Neither canmanage their emotions and behaviour, and nothing since that time has persuaded me there is not a real risk something like this might happen again. The Mother is right, I consider this,and I am sure other frightening shouting at least, is the source of nightmares for the child.

87. In such circumstances I consider adoption is the only order that will meet W's welfare needs throughout her life and I must dispense with the consent of the parents on the basis the child's welfare requires it

Lastly

88. I am ordering a copy of this judgment to be sent to local police by social services. The documentation shows no reason for the decision they made not to charge the Father. His own injuries were caused by his own punch. There is evidence I would have thought to proceed whether the Mother assisted or not (she says she would) given the seriousness of the assault on her which has serious and lifelong consequences.

89. There is an opportunity for learning about the social work task , including looking at the pre-birth work and whether more could have been done to check safety so soon after the first care proceedings ended.Was reliance on the Father was somewhat naïve? I would add a police call out in 2019 which did not result in re-examining safety to any degree. The authority needs to focus on what evidence is known and what <u>really</u> needs to be done - what I call proper intellectual curiosity and a better understanding of assessing risk. This is a training issue I would ask them to address now.

90. How can workers not know about wider family at a final hearing when they are asking for approval of a care plan for adoption?

91. The court should have made clear findings in the earlier care proceedings about threshold and managed all of these hearings in this case to enable decisions to be made in a reasonable time. The task of advocates is to assist in that endeavour.

92. Recent cases including K and K [2022] EWCA Civ 468 have focussed on whether fact finding hearings should be held separately or at all. The purpose has to be to focus on what is needed to determine welfare and therefore serious thought must be given to whether a fact finding hearing is necessary or proportionate. Here, had either parent's account been accepted in total it would not have progressed understanding of risk in my view, and as such the delays from "thinking about" experts and fact finding have been contrary to the court's duty to make welfare decisions for children within their timescale. Of course, I am fully aware of the pressures on social workers and the fact that 3 were involved in the lifetime of this case demonstrates that, but actually proper focus could have ended this case within 26 weeks in my view. All parties including the court share responsibility for this.