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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 his/her 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 would be a contempt of court.

Case No: MA16C00977 & MA614/17

**IN THE FAMILY COURT**

**IN THE MATTER OF THE CHILDREN ACT 1989  
AND THE ADOPTION & CHILDREN ACT 2002**

Manchester Civil Justice Centre  
1 Bridge Street West, Manchester. WC2A 2LL

Date: 4<sup>th</sup> August 2017

**Before:**

**HIS HONOUR IAIN HAMILTON CBE**

**Between:**

	<b>TAMESIDE METROPOLITAN BOROUGH COUNCIL</b>	<b><u>Applicant</u></b>
	<b>- and -</b>	
	<b>KU</b>	<b><u>1<sup>st</sup> Respondent</u></b>
	<b>-and-</b>	
	<b>SB</b>	<b><u>2<sup>nd</sup> Respondent</u></b>
	<b>-and-</b>	
	<b>FR (a child by her children's guardian)</b>	<b><u>3<sup>rd</sup> Respondent</u></b>

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**Mr Andrew Moor** (Counsel) for the local authority  
**Mr Matthew Lord** (Solicitor Advocate **Pluck Andrew Solicitors**) for the mother  
**Ms Y Healing** (Counsel instructed by **Bromleys Solicitors**) for the father  
**Mr A Mountain** (solicitor Advocate **Stephensons Solicitors**) for the child

**Hearing dates: 17<sup>th</sup>, 18<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup> & 24<sup>th</sup> July 2017**

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**Judgment**

## Introduction

1. I am concerned with the interests of the child who is a girl to whom I will refer as FR for purposes of anonymity who was born on [a date in] 2016 and is now just over a year old. I will refer to the parents and other family members by their initials. Her mother is KU and her father is SB and to whom I will refer for convenience where appropriate as the 'mother' and the 'father' without intending any disrespect to either. The mother and father are not married. They are not in a relationship since they separated prior to the birth of FR. It was a short-lived relationship since they had only started the relationship and lived together from the summer of 2015 having originally met through Facebook in April 2015. The father has parental responsibility for FR. He has no other children.
2. The mother has two other children both of whom have been made the subject of care and placement orders. Her first child was JU born on the [a date in] 2010 and her second child, CU, was born on the [a date in] 2012. Both children were made subject of care and placement orders on the 7<sup>th</sup> February 2013. They have both since been adopted.

## Applications

3. The applications before the court made by the applicant local authority, Tameside Metropolitan Borough Council, are for a care order in respect of FR pursuant to section 31 of the Children Act 1989 in an application issued on the 1<sup>st</sup> December 2016 and for a placement order pursuant to section 22 of the Adoption and Children Act 2002 which application was issued on the 14<sup>th</sup> May 2017.

## Circumstances leading to the proceedings

4. The mother has had historical involvement with another local authority and the Court in relation to her previous children as indicated above. During her pregnancy, the mother moved to another local authority area resulting in it completing a pre-birth assessment which the father declined to participate in. The concerns that lead to the previous proceedings included: domestic violence; maternal drug and alcohol misuse; maternal mental health difficulties and a chaotic lifestyle. In the pre-birth assessment undertaken by Oldham social care the mother is said to have engaged well. Past risk factors pertaining to alcohol misuse, domestic unstable lifestyle and anger issues had apparently diminished and the mother was showing a level of commitment in her engagement with the assessing social worker and other agencies.
5. The mother then moved into Tameside area initially to live with her mother and then into her own property. Based on the positive pre-birth assessment Tameside agreed to the mother caring for FR on discharge from hospital as she was willing to enter into a working agreement to safeguard FR and reside in the maternal grandmother's home. There were issues around the relationship between the mother and the father since he

had a history of domestic violence and there were concerns about him putting pressure on her in relation to contact issues and she complaining about his behaviour and being angry with him. The mother's mood swings and frustration and outbursts were observed by the social worker, PH, and others on occasions. A Child Protection Conference was convened on the 29th July 2016 and FR made the subject of a Child Protection Plan under the category of emotional neglect. At the Conference, it was evident that the mother remained ambivalent about her relationship with the father, SB.

6. The local authority concerns escalated after the mother went back to her own home to live with FR. The mother was reported to be presenting as aggressive in several settings and being irate and angry with professionals. She disclosed that SB was driving without a licence or insurance was smoking cocaine and had difficulties with alcohol use. In addition, she complained that she continued to be a victim of a violent and abusive relationship with SB.
7. The father has a history of violence including violence perpetrated against partners. The Probation Service report that; *'(SB) is assessed as high risk of harm to partners and public. Due to the cumulative and psychological impact on partners and other victims which has had a life changing impact.'* *'(SB) has controlling behaviour and alcohol is a factor'*, *'there is concern if (SB) is having contact (with FR) as he finds it difficult to share the attention of his partner with others including with a child...he finds it difficult to consider the needs of others above his own'*, *'he presents a considerable risk to KU of domestic violence and at present there are few protective factors, he is not fully engaging with support'*.
8. SB's history was shared with KU, via Clare's Law, at an early stage in the pre-birth assessment in order that she could make informed choices regarding her relationship with him and demonstrate whether she could prioritise the needs of her child. It subsequently became apparent that both parents withheld information in the pre-birth assessment process and did not share information regarding the extensive history of physical abuse which is now known.
9. SB failed to properly engage with a risk assessment and pursued contact with FR directly via the mother. The mother did not adhere to the working agreement or the child protection plan and SB was known to have been staying at mother's house and been in regular contact with her and with FR. The mother has reported domestic violence both before, during and after her pregnancy with FR which included punching, slapping, being dragged by the hair and SB smashing up the house and making her clean it up. Despite this, the pattern of reconciliation and hiding the situation from professionals was repeated, the mother minimised the risks and talked of wanting a family life with SB. The mother was either unwilling or unable to protect her child from SB.

10. Both parents have/have had issues with drug misuse and alcohol misuse. Alcohol misuse was at times known to be a factor in SB's violence. The mother was also a perpetrator of violence and both parents have a history of criminality and chaotic lives. In addition, the mother has unmet mental health needs and the impact of this was observed on her parenting in terms of unpredictability, sometimes lacking emotional attunement to FR, and rough handling when agitated.
11. FR was known to have potentially serious medical needs relating to a heart murmur. The mother did not prioritise medical appointments for FR and she was delayed with immunisations. The possibility of FR having foetal alcohol syndrome was raised.
12. In light of the increasing concerns the local authority requested a legal gateway meeting which took place on the 16<sup>th</sup> November 2016. There was a further incident of domestic violence perpetrated against the mother by SB on or about the 26<sup>th</sup> November 2016. This incident was not reported by the mother to the police or the local authority and only became known due to a worker at the Women's Centre observing facial injuries on the mother on the 29<sup>th</sup> November. The mother alleged that she had invited SB to the flat to discuss things but that he turned up after 1.00am and was drunk and under the influence of cocaine. They had argued and he had assaulted her. This led to the decision being made to issue the proceedings immediately and an application being made to seek FR's removal from the care of the parents.
13. When social workers visited SB on 1st December 2016 to provide him with a copy of the court application he was clear that he had been seeing the mother and that he intended to continue to do so. It was apparent that neither parent was being honest with the local authority.

#### Progress of proceedings

14. On the 5<sup>th</sup> December 2016, Her Honour Judge Roddy granted an interim care order in respect of FR until the 19<sup>th</sup> December 2016 and listed a Case Management Hearing before DJ Berkley to whom the case was allocated for management and hearing. FR was moved to a foster care placement on the 5<sup>th</sup> December 2016 where she has remained to date.
15. There was a Case Management Hearing on the 19<sup>th</sup> December 2016 before DJ Berkley at which the interim care order was continued throughout the proceedings. Directions were given to provide for the paternal grandmother, MSB, to challenge at the next hearing the negative screening assessment which the local authority had completed in respect of her. Provision was also made for other assessments of family members to be done with a view to these being timetabled at the next hearing listed as an FCMH on the 13<sup>th</sup> January 2017.
16. At the FCMH on the 13<sup>th</sup> January 2017 before DJ Berkley the mother asserted that she

was no longer in a relationship with the father and wished for FR to be returned to her care. The father asserted that he had separated from the mother and that there had been no violence in their relationship and that the mother was lying about that. He wished to care for FR if she could not be returned to the care of her mother. The father objected to the disclosure of his GP records despite having earlier agreed to this. Provision was made for a letter to be sent to the father's GP to ask specified questions which the father agreed to. The paternal grandmother had not complied with the directions to apply to challenge the local authority screening assessment of her but had asked the fathers' solicitors to raise in the hearing her wish to be assessed as a potential connected person for the child. The local authority agreed to undertake a Connected Person Assessment in respect of the paternal grandmother.

17. The court approved and gave directions for drug testing and transdermal alcohol testing to which the parents consented. Directions were given for the filing and service of medical information regarding FR and provision made for the mother to pursue a referral to the community mental health services with a view to obtaining a report. Directions were also given to provide for the disclosure of documentation relating to the proceedings in respect of the mother's two other children, JU and CU. Directions were also given for the filing and service by the local authority of parenting assessments of both the mother and the father and the Connected Persons Assessments which were being undertaken. Placement order directions were given along with direction for the filing of final evidence by all parties and the matter listed for an Issues Resolution Hearing before DJ Berkley on the 23<sup>rd</sup> May 2017.
18. There was a hearing on the 7<sup>th</sup> April 2017 listed at the request of the local authority because of its concerns about not being able to keep to the current timetable since the paternal grandmother had asked for her assessment to be suspended and it was concerned about not being able to complete the parenting assessments on time. The court directed the local authority to complete its assessment of the parents and the paternal grandmother as previously directed albeit with changes to the dates for filing and serving of the assessment reports and other evidence to accommodate the difficulties experienced by the local authority with the IRH remaining listed on the 23<sup>rd</sup> May 2017.
19. At the IRH on the 23<sup>rd</sup> May 2017 the local authority plan for FR was one of adoption as the assessments of the parents and the paternal grandmother were negative. The court refused an application by the mother for further SCRAM testing for alcohol. The reports done showed some continuing use of alcohol. The mother contended that she had not know that the expectation was for total abstinence from alcohol use as monitored by the SCRAM bracelet. The local authority and the children's guardian asserted that the expectation had been clear at the time the directions for testing were given on the 13<sup>th</sup> January 2017. The court concurred with that and indicated that the mother had significant hurdles to overcome.

20. The father disputed the risk analysis completed by the Probation Service. He disputed that he had assaulted the mother but accepted that he had now been charged in relation to the incident in November 2016 and was due to appear in court on the 24<sup>th</sup> May 2017. He also disputed the results of the hair strand drug test report. Following the receipt of a further report from the testing company during the hearing, the father admitted using a small amount of cocaine shortly after his hair strand sample was taken which he said was a one off. In the light of his previous assertion of total abstinence neither the local authority nor the guardian sought further testing. The court concurred with that and recorded that it *“concluded that further testing was not necessary and at best (SB) has only been able to demonstrate abstinence from cocaine use for a few weeks.....the father has now made an admission in the context of inevitable discovery and determined that there was no value in additional drug testing.....the father will need to explain his decision making and failure to co-operate with the drugs test order in January 2017 at the final hearing.”* The father was warned that his lack of honesty had implications for the final hearing.
21. Directions for the filing and service of further documentation including a report from the father’s GP, a report from New Charter Housing in respect of the mother’s tenancy and information from the police were given and the proceedings listed for a 5-day final hearing before me to hear as a Deputy Circuit Judge commencing on the 17<sup>th</sup> July 2017 due to DJ Berkley not being available to hear the matter within any acceptable timescale.
22. The father subsequently issued an application to have the final hearing listed on the 17<sup>th</sup> July vacated after the parties were alerted to the fact that the key social worker was to undergo surgery early in July and would not be available to give evidence. The application was referred to DJ Berkley who arranged to list the matter for hearing on the 6<sup>th</sup> July 2017. In the event the father did not pursue his application having accepted that the team manager was able to give evidence on behalf of the local authority in light of the key social worker’s written reply to a question posed by the father. The court indicated that the local authority was not expected or required to take any further steps in any attempt to assess the maternal aunt, CW.
23. The court and the parties were informed that the paternal grandmother, MSB, had lodged with the court an application for party status to challenge the local authority assessment of her but noted that the application had not been formally issued and she had not attended at court for the hearing. The court identified six issues which were to be determined by the trial judge at the final hearing in the context of dealing with the primary applications before the court for care and placement orders. The issues were identified as being –
  - a. Whether the father should be permitted to adduce further evidence, written or oral, from the maternal grandmother and the three purported character witnesses;

- b. The application by the paternal grandmother for party status and leave to challenge the assessment of her by the local authority (it being noted that the paternal grandmother had not attended court today and whilst the paper the application had been received by the court, it had neither been formally issued or served at the time of the hearing);
  - c. Whether any adverse inference should be drawn in the event that the father fails to provide his GP records and a report from his GP as previously ordered;
  - d. Whether the father's GP or a member of the surgery staff should be witness summonsed to attend court and/or produce documents (father's medical records and report in response to written questions put to the GP), the court having expressed the view that the father must comply with previous orders to produce the same;
  - e. Whether any further assessment of any identified connected carer should be permitted;
  - f. Whether the father is in contempt of court, by reason of having posted confidential information on social media (this having been admitted through his solicitor in the face of the court), and if so what consequences should follow;
24. An extension of time was given to the father to file and serve a report from his GP. The father confirmed that he no longer required a representative from the drug testing company FTS to attend to give evidence at the final hearing but that he would require the supervisor of his contact.
25. At the commencement of the hearing on the 17<sup>th</sup> July I dealt with the paternal grandmother's application for party status which I indicated I intended to refuse since the grant of party status at this late stage would inevitably mean an adjournment and completely derailing the already extended timetable for the proceedings. The paternal grandmother had not dealt with her position in a timely way and her request to suspend the assessment had had adverse consequences which meant that the local authority had not been able to complete the assessment and had no medical report to inform their assessment. Granting party status would put the paternal grandmother in an unenviable position and I suggested that her position and desire to take issue with the local authority assessment of her could be best dealt with by her being called as a witness for the father. This appeared sensible since she confirmed that her primary position was to support FR's placement with either the mother or the father and only if neither of those options were possible she would wish to care for FR. The other parties' representatives concurred with that proposal. I accordingly invited Ms Healing to liaise with her instructing solicitors to confirm their willingness to take a statement from the paternal grandmother to file and serve on the parties. Ms Healing subsequently confirmed her instructing solicitors willingness to deal with the issue.
26. The father had been able to file and serve a report from his GP together with some medical records albeit some six months after being first directed. Accordingly, the issues at paragraphs 5c and 5d did not need to be addressed. Nor did the issue at

paragraph 5e in respect of any other connected carer assessment need to be dealt with since it related to the maternal aunt who had not responded to any of the efforts made by the local authority to see if she would engage in an assessment.

27. That left the issues identified at paragraphs 5a and 5f to be dealt with which I indicated could be dealt with as the proceedings progressed and I had been able to consider other documentation relating to these two issues.

#### The parties' positions

28. The local authority position is that it seeks a care order for FR based on its care plan which is predicated on the basis that she should be placed for adoption. If the court approves the local authority plan and makes the care order, the local authority invites it to proceed to deal with the placement order application, to dispense with the mother and the father's agreement to adoption and make the placement order. If the placement order is granted, the local authority proposes to reduce the contact between FR and the mother to once weekly for a period of two weeks, and then reduced to fortnightly for two sessions and then a final contact being offered to the mother. In respect of the father contact will be once a fortnight for four weeks and he will then be offered a final goodbye contact. The children's guardian supports the local authority's plan for FR and the orders which are sought.
29. The mother remains opposed to the local authority plan. She wishes FR to be placed in her care under whatever order might be appropriate.
30. The father is opposed to the local authority's plan and wishes to care for FR if she cannot be placed with her mother. If FR cannot be placed with either the mother or himself then he supports his mother, MSB, in her wish to be considered as a carer for FR.
31. I heard evidence from the four witnesses called by the local authority as identified below as well as the mother, father and paternal grandmother, MSB, and the children's guardian over the course of four and a half days. Since there was insufficient time to complete the hearing, I indicated that I would require written submissions and would take time to prepare a judgment which I would hand down in type script by no later than the 7<sup>th</sup> August 2017. I have listed a hearing on the 17<sup>th</sup> August 2017 to deal with any issues which might arise on or from the judgment and to make such orders as may be appropriate. This is the judgment.

#### Legal Framework

32. A care order or supervision order may only be made on the application of a local authority if the Court is satisfied that the "threshold criteria" under Section 31(2) Children Act 1989 are established. Section 31(2) provides that:



*“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 the care given to the child or likely to be given him if the order were not made, not being what it would be reasonable to expect a parent to give him; ……….”*

33. Section 31(9) defines “*harm*” as meaning ill-treatment or the impairment of health or development and “*development*” as meaning physical, intellectual, emotional, social or behavioural development and “*health*” includes both physical and mental health.
34. If the threshold is established, the court then has to pass on to the ‘*welfare*’ stage with a view to considering what, if any, order is to be made. Consideration of this requires me to have regard to section 1 of the Children Act 1989 and to treat the child’s welfare as paramount and to apply the ‘*welfare checklist*’ or relevant parts of it in arriving at my decision.
35. The “*welfare checklist*” is set out in section 1(3) of the Act and requires the court to particular regard to:
  - (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
  - (b) his physical, emotional and educational needs;
  - (c) the likely effect on him of any change in his circumstances;
  - (d) his age, sex, background and any characteristics of his which the court considers relevant;
  - (e) any harm which he has suffered or is at risk of suffering;
  - (f) how capable are each of his parents, and any other person or relation to whom the court considers the question to be relevant, is of meeting his needs;
  - (g) the range of powers available to the court under this Act in the proceedings in question.”
36. An order should only be made if I consider that making an order is better for the child than making no order at all. If the court considers that an order is necessary it should go on to consider the range of options available to it, which include where appropriate private law orders under section 8, Special Guardianship Orders under section 14A as well as supervision or care orders under section 31. Before making a care order the court has to consider the local authority’s proposals for contact with the child and has to have considered the local authority’s care plan for the child. Since the care plan is one of adoption and the local authority is seeking a placement order in the event of a care order being granted on that premise, I am bound to have regard to the welfare checklist as set out in section 1 (4) of the Adoption & Children Act 2002 (see paragraph 41 below) at this stage.
37. The court should only make such order as the facts require, and only then in compliance with the principles of necessity and proportionality set out in Article 8 (2) of The European Convention on Human Rights and Fundamental Freedoms 1950.

38. If, however, I approve the local authority plan and conclude that a care order should be granted in accordance with the local authority application, I then have to go on to consider the application for a placement order under section 21 of the Adoption and Children Act 2002.
39. By virtue of section 1 of the Adoption and Children Act 2002, the child's welfare throughout his life is the court's paramount consideration. The court also has to have regard to the '*welfare checklist*' set out in section 1 (4) of the Act. The matters to be considered are: -
- (a) the child's ascertainable wishes and feelings;
  - (b) the child's particular needs;
  - (c) the likely effect on the child (throughout his life) of having ceased to be a member of his original family;
  - (d) the child's age, sex, background and any of the child's characteristics which are relevant;
  - (e) any harm which the child has suffered or is at risk of suffering;
  - (f) the relationship which the child has with relatives, and with any other person in relation to whom the relationship is relevant, including –
    - (xcviii) the likelihood of any such relationship continuing and the value to the child of it doing so;
    - (xcix) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise meet his needs;
    - (c) the wishes and feelings of any of the child's relatives or of any such person regarding the child.
40. Section 21 Adoption and Children Act 2002 provides that a placement order shall not be made unless the child is subject to a care order or the court is satisfied that the conditions for making a care order are met and only then if either the parents have consented to the making of such an order or, in the event that no such consent has been given, if the parents consent should be dispensed with.
41. Section 52 of the Adoption and Children Act 2002 provides that the court may only dispense with parental consent either if the parent cannot be found or is incapable of giving consent or the welfare of the child requires consent to be dispensed with.
42. I have reminded myself of the guidance from the Supreme Court in *Re B [2013] UKSC 33* and the Court of Appeal in *Re B-S (Children) [2013] EWCA Civ 1146* to be applied in cases involving care applications for children in respect of whom the plan is for placement for adoption. These authorities in line with the many other recent Court of Appeal cases dealing with care proceedings revisit and restate the key principles which underpin public law proceedings and provide a reminder that adoption for any child who has had to be removed from its parents' care by state intervention must be seen as being the last resort "*where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do*" (*Re B* para 198).

43. In *Re B-S* we are reminded that there must be evidence from the local authority and the children's guardian to address all options which are realistically possible and should include an analysis of the arguments for and against each option. There must also be an adequately reasoned judgment which should demonstrate that the court has undertaken a global, holistic evaluation of the options for the child's welfare which takes into account all the negatives and the positives, all the pros and cons, of each option.
44. Ms Healing for the father has reminded the court in her written submissions that adoption is a draconian order and should only be considered as a last resort and that if there is a family placement available then the child should be placed with that carer as long as the placement is safe. She quoted in support the President in *Re A (A Child) [2015] EWFC 11* and Lord Neuberger in *Re B* above.

### The Evidence

45. The local authority case for commencing proceedings and seeking the removal of FR from the care of the parents under an interim care order is set out in very considerable detail in the Social Work Evidence Template (SWET) completed by the social worker, PH, and dated the 30<sup>th</sup> November 2016. There is a very extensive social work chronology which commences in 2003 through to November 2016 and contains 20 pages from C9-C28. No less than 10 pages of the chronology are devoted to events involving both the mother and the father following the birth of FR.  
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46. During the proceedings, a Parenting Assessment of the father was undertaken by the current key social worker, NG, which is at C174 to C204. Although it was acknowledged that the father had engaged well with the assessment and the assessing social worker and had evidenced an ability to meet FR's needs within the confines of his contact with her these positives were outweighed by the numerous concerns as set out at paragraphs 15.4 to 15.11 at C202 to C204. She summarises the risk indicators as being –
  - Domestic violence
  - An element of disguised compliance
  - His criminal history
  - His volatility
  - His lack of honesty with professionals
  - His minimisation of concerns
  - FR's age

Her conclusion was that it was not a safe or viable option for FR to be placed in the father's care.

47. A Parenting Assessment of the mother was undertaken by a social worker, JR, and this is dated the 2<sup>nd</sup> May 2017 and appears at C205 to C231. Although it was acknowledged that the mother was able to demonstrate a lot of good theoretical knowledge of parenting and was able to meet FR's needs in contact and had the ability

to meet her everyday needs, these positives were significantly outweighed by the concerns set out in detail at paragraphs 15.4 to 15.18 at pages C227 to C230. In brief the concerns identified included –

- Description of incidents which demonstrate that the mother continues to lead a chaotic and unstable lifestyle
- Not being open and honest with professionals about her relationship with SB and minimising professionals' concerns regarding FR's safety
- Her relationship with JW in light of his involvement with Rochdale children's social care and concerns about her previous relationships involving domestic violence including herself as a perpetrator which suggest the risk posed by JW are high and unassessed
- Her tendency to become defensive and contentious when challenged which reflects her past history of being aggressive to professionals and others when challenged
- Continued volatile relationships with her family members
- Her continued drinking of alcohol when her ability to sustain and control it has not been monitored by any form of support service
- Her failure to complete the Freedom Programme

48. The assessor recommended that FR should not be returned to her mother's care. She considered that the mother had continued to make concerning lifestyle choices during the proceedings and, by not engaging with an alcohol support service and commencing a relationship with a man about whom there are significant concerns, showed that she lacked the ability to make and sustain positive change in order to meet FR's emotional needs and safeguard her.

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49. A Connected Persons Assessment in respect of the paternal grandmother, MSB, was to be undertaken by LS, a fostering social worker, following on from an Initial Screening Assessment undertaken by the first key social worker, PH, which is dated the 16<sup>th</sup> December 2016 and appears at C54 to C73. The assessment by LS was never fully completed since the paternal grandmother had asked for it to be put on hold while the assessments of the parents were being undertaken. The implications of that request were spelt out to the paternal grandmother as set out in the statement of LS at C124-125 and an e-mail dated the 27<sup>th</sup> February 2017 at C115. The assessment report of LS is at C241 to C245 and concludes that on the basis of the information she had been able to gather that placement with the paternal grandmother would not be in FR's best interests.

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50. The local authority's SWET (Final Statement) was prepared by the current key social worker, NG, and dated the 9<sup>th</sup> May 2017. It appears in the bundle at C247 to C266. This sets out the local authority case taking into account the outcomes of the assessments, the results of the drug and alcohol testing undertaken in the proceedings together with information from the Probation Service and the police and other

agencies and confirms that the plan for FR is to achieve permanence by adoption with only indirect contact for both parents on a once yearly basis.

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51. NG was unable to attend this hearing to give evidence owing to her indisposition due to medical reasons. The parties and the court had been alerted to this towards the end of June and, at the hearing on the 6<sup>th</sup> July, arrangements had been agreed for her team manager, ED, to give evidence for the local authority in her place.

ED, social work team manager

52. The first witness from whom I heard was **ED** who was the key social worker's team manager. She had been involved managing social workers in respect of FR since November 2016 and had read all relevant documents.
53. In response to cross-examination by Ms Healing for the father, ED concurred that the father had engaged and cooperated appropriately with the parenting assessment and was committed to attending contact with FR and to caring for her. While acknowledging that father had an understanding of FR's needs, she considered he did not have full insight into previous history and domestic violence issues as he had not done any work to resolve the issues.
54. She understood the father had not completed the New Paths domestic violence course although she accepted that he had apparently attended 11 out of 12 sessions. She was aware that he had not completed the IDAP course with the Probation Service. She agreed that the Probation Service risk assessment in respect of SB had been an important factor included by the local authority as part of its assessment of him.
55. In reply to the suggestion that the father had insight into his past behaviour ED referred to the alleged incident of violence in November 2016 and the bruising to the mother's face and that he had a history of presenting with volatile, aggressive and arrogant behaviour. He had not engaged in the pre-birth assessment and ED said she was not convinced about his subsequently expressed regret at not doing so. She said the suggestion that he was maturing and calming down was untested. She had concern about his extensive criminal record and considered he needed to engage with an domestic violence course and a parenting course as well as needing to be open and honest about his drug use.
56. In reply to Ms Healing's suggestion that the father asserted that he had not been given any help or support by the local authority to address his deficits or offered any courses, ED said the father had the benefit of support from Probation Service but had not asked for any other support and had denied any substance misuse. She disputed the suggestion that the local authority had written the father off at the beginning of the proceedings.
57. Despite what was said by the key social worker about the father engaging with the assessment, ED said there were concerns about the father's openness and honesty in

the assessment in response to Mr Mountain when he questioned her. She said the use of drugs was a key area when the test results within the proceedings showed a consistent use of cocaine when the father had denied all drug use within the assessment. Domestic violence was another area since the father considered this to have been in the past and was a historic issue. It had been a feature in two of his previous relationships and yet he had never properly completed any domestic violence programme. She acknowledged that recent information available about the father's childhood and him being subject to systematic physical abuse by his mother undermined what he had said about his childhood in the assessment.

58. There was concern over his relationship with social workers and she commented that the father had on occasions been abusive in text messages sent and had been aggressive towards the key social worker. This reflected the concern that the foster carers expressed to the guardian about the father who had said they feel intimidated and threatened by the father when collecting FR from contact.
59. If FR was to be placed with the father there would be a requirement to work in partnership with the local authority. This required trust and being open and honest with professionals who should be able to challenge the father. ED had very little confidence that the father was able to work openly and honestly with the local authority.

*JR, social worker*

60. **JR** who had undertaken the parenting assessment of the mother confirmed that to her knowledge the mother had failed to engage at all with mental health services despite the requirements expressed in various of the court orders. In respect of the man, JW, with whom the mother had commenced a relationship which is commented on at paragraphs 15.9 to 15.12 at C228 JR was clear that the mother did not think JW was at fault in having his child removed from his care. However, Rochdale social care had confirmed to her that in respect of JW there were concerns about domestic violence and alcohol use which had led to the removal of the child.
61. In reply to Mr Lord for the mother, JR agreed that there was no evidence of any continuing association with SB. She accepted that the fact the mother had had no association with SB since November was significant. There were concerns about the mother's lifestyle choices. The information in the police reports demonstrates a pattern of behaviours. The issue of alcohol use was critical and it was positive that the issue of foetal alcohol syndrome had now been discounted. She was not surprised there were no reports of alcohol consumption. The mother had presented well during the assessment and had not been aggressive or belligerent. Reports of her contact with FR had all been very positive. She had a very positive relationship with the foster carers despite their initial concerns about her.
62. The mother had engaged with the support given by professionals but lacked any family support. She became very defensive when challenged about issues. While JR

considered that the mother could care for FR she had not acknowledged how aggressive she was when drinking or how she had behaved when drinking. Despite the positives in the assessment, JR remained of the view that she did not believe that the mother had made sufficient changes to enable her to safeguard FR.

63. In reply to Mr Mountain, JR confirmed that she was aware that the mother had not been expected to drink at all. She agreed that the order made by the court on the 13<sup>th</sup> January 2017 when it approved the testing for drugs and alcohol was unequivocal.

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64. In reply to a question from me, JR said that she had not talked about the mother's mental health issues in the assessment but she had seen no sign of mental health difficulties during the assessment.

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LS, Social worker

65. LS confirmed that she was a fostering social worker who was asked to undertake the Connected Person Assessment of the paternal grandmother, MSB. She had only done one assessment session with the paternal grandmother on the 17<sup>th</sup> February 2017. On the next appointment on the 27<sup>th</sup> February MSB made the decision to put the assessment on hold. She did so despite being informed of the implications for herself and FR in view of the court's 26-week timetable for the proceedings. LS had e-mailed MSB later on the same day (C115) to set this out for her. LS was clear that MSB understood the position. On the 27<sup>th</sup> April, MSB had asked the local authority to resume the assessment. No further sessions took place since on the 3<sup>rd</sup> May 2017 it had been agreed at a Professionals Meeting that there was no time available for any further sessions to be done since the local authority had to file its final evidence on the 9<sup>th</sup> May. LS was asked to write up her report of the assessment based on all the information available to her which is what she had done.

66. LS confirmed that the assessment of the paternal grandmother was to be done to the fostering assessment standard. It would usually involve six sessions and take a minimum of six weeks. She was questioned at length by Ms Healing about the Initial Screening Assessment report at C54 which had been prepared by PH and which had started in August 2016. She agreed that on her home visit to MSB the home conditions were good. She agreed that the report indicated that the grandmother was not denying difficulties with her son. She was open about her son and showed sympathy for the mother. She was trying to be neutral and helpful and appeared accurate in her understanding about the parents' relationship.

67. When referred to the instance of the grandmother's reaction to the alleged sexual assault on SB when he was four, LS was clear she would have expected the MSB to have gone to the police about that issue. She made the same observation about the incident when SB and a girl had been found playing 'ruddy doody'.

68. In respect of her assessment of MSB, LS said she had visited her at home and discussed the basis of the assessment. When the grandmother told her that she wanted to put the assessment on hold, LS wrote the letter for MSB at her dictation. When two months later MSB asked for the assessment to resume, LS said it was too late as it had already gone past the timeframe for the filing of the assessment on the 21<sup>st</sup> April 2017. In completing her report based on all the information known about the grandmother, LS discounted her as a carer for FR.
69. In reply to Mr Mountain LS agreed that the screening assessment had identified the areas to consider in a full assessment and that many significant concerns had been highlighted in the report. Her endeavour to complete a full assessment had been frustrated by the grandmother.
70. Although medical information forms had been sent to MSB at the beginning of the assessment, LS confirmed that she had not seen any completed forms and they had not been completed to her knowledge. The medical concerns in respect of the grandmother remained as relevant as ever.

KJ, Probation Officer

71. **KJ** supervised the father as his offender manager from July 2015 to March 2017. He is an experienced probation officer having qualified in 2001. In a letter reporting to the local authority on the 11<sup>th</sup> May 2017 at C267 KJ observed
- “At the time (SB) completed his sentence in March 2017 he was assessed as high risk to partners, high risk to public and medium risk to children.....(he) is assessed as being a high risk to his partner while he remains in a relationship, has not engaged with any programme aimed at changing his attitudes to relationships and has not made significant changes to his lifestyle.....he has struggled to take responsibility for his behaviour and has been prone to blaming his victims for their behaviour at the time of his.....It is my assessment that (he) does not want to make changes to his lifestyle and attitudes and he avoids rehabilitative processes as he believes he does not feel that he needs to make changes to avoid future problematic behaviour.” C268*
72. KJ had on occasions found the father to be difficult, argumentative, contrary and threatening. He confirmed that the father’s suggestion made to the guardian that KJ’ report contained typographical errors was wrong. There were no errors and his assessment was that the father was high risk.
73. In reply to Ms Healing, KJ confirmed that on most of his sessions with the father they talked about relationships. He said that sometimes the father understood what was being discussed but sometimes did not. There was a lot of room for improvement. He agreed that the father had only benefitted a small amount from all the work done with him.



74. No feedback had been obtained from the New Paths course which the father had attended. He thought it would have helped to have had feedback. Although he considered the father had the ability to make progress he had not done so as reference to his assessment of risk at C268 showed. He needed to make changes in lifestyle and attitudes.
75. In reply to Mr Mountain, KJ said he knew little about the New Paths course but understood it was based on a condensed version of the IDAP. He agreed that he understood the course was one where participants were not challenged about domestic violence issues or relationships.
76. When the father was challenged on issues, KJ said he has been negative and aggressive on occasion. KJ agreed that he shared the guardian's view that the father did not '*get it*' in the sense of understanding the issues around domestic violence. He was clear that the father did not want to change his lifestyle or attitudes. He confirmed the father had always denied cocaine use. If he had been using cocaine that was a lifestyle issue which would increase concern in a risk assessment and the father remained a high risk.

KU (the mother)

77. In her evidence **the mother** confirmed that she had filed just one statement dated the 17<sup>th</sup> May 2017 which is at C298. In this statement in describing her relationship with SB, she says he was violent to her throughout the relationship and says he was mentally and emotionally abusive. She concedes that she allowed SB to have contact with FR and allowed him to work his way back into her life contrary to what was agreed in her Working Agreement with the local authority.
78. She acknowledges her difficult childhood and the loss of her two other children to care in 2011 and 2012 because of her drinking and chaotic lifestyle. In respect of her mental health, she confirms that she has diagnoses of bi-polar disorder, Emotional Unstable Personality Disorder and Borderline Personality Disorder. She asserts that she has engaged regularly with her GP.
79. She takes issue with issues raised in the Parenting Assessment and disputes what was said about her handling of FR on occasion or that she had ongoing issues with men. She disputes that she was aggressive with professionals and feels her engagement has been good but complains about not having a consistent social worker. In respect of her alcohol use she says she does not purport to be abstinent from alcohol and that the use of the SCRAM bracelet was not appropriate for her.
80. She had not completed the Freedom Programme because of a disagreement with two other women attending. She had started a relationship with a man, JW, but says she was told she was not putting FR first and so ended it. She remains as friends with JW who she says is very supportive. She says her life is now settled and stable and that she is a different person when with FR who would be safe and well looked after if

returned to her care. She asserts that she has proved an ability to work openly and honestly with the local authority and will continue to do so.

81. In her oral evidence, KU said it was as a result of the hospital contacting social services when she went in for her first scan that Oldham local authority undertook the pre-birth assessment in respect of FR. She said she had always told professionals that SB had never hit her. She said the truth was that it was not just violence she was subjected to but also very abusive behaviour. She now understood why the local authority did not want her to be in a relationship with him. She considered FR to be a very 'jumpy' child which she said was a result of how SB had treated her in her pregnancy and what FR experienced. She had not had anything more to do with SB since the incident in November. She said she understood the risk domestic violence posed to FR. So far as JW was concerned she said she had been reassured by the police that he was not a domestic violence risk. She was aware that Rochdale social services had informed JR that there was a domestic violence issue with JW but said that had never been discussed with her.
82. In respect of alcohol she admitted that she continued to drink when the SCRAM bracelet was fitted. She said she would drink twice a month and consume about 4 cans of beer. So far as drugs were concerned she said that she had not been honest with the tester as she used to smoke cannabis at night as it helped her to sleep. She did not use cocaine and asserted that she would not use drink or drugs if FR were to be placed with her. She said she had difficulty managing her emotions when she was not on medication but was now back on medication and felt much better. She appreciated the importance of being honest about issues. She had support from the Women's Centre and her support worker who had been present with her throughout this hearing. She had asked for a referral for CBT and said she was on a waiting list. She had no support from her family.
83. In response to Mr Moore, she admitted breaching the Working Agreement with the local authority by letting the father come and live with her and FR when she returned home to live when FR was 4 weeks old. She said that what she described of the physical and emotional abuse she was subjected to by SB in the statement she made to the police at F225 onwards was true. Although her support worker from the Women's Centre had seen her with injuries, she admitted she had always given her untrue explanations for those. She did so because she thought SB would change. She said the WhatsApp screenshots at F243 recorded what were conversations between her and SB. The recordings in the initial chronology at C24 to C26 accurately set out details of the altercations between her and SB at the Core Group meetings in September and what she had said about being beaten '*black and blue*'.
84. In respect of the alleged assault in November she said he struck her in the face once. She said she had drunk three glasses of wine that night and that when she had had a drink she was not that scared of him. When pressed by Mr Moore she eventually conceded that alcohol had affected her judgement when she had decided to ask SB to

come round to talk to her about FR. When challenged about the expectation of the court and the parties that she would be abstinent from alcohol and drugs, she said that had never been made clear to her.

85. She said she had done all the work which had been recommended by Dr CI in 2013 following the psychological assessment which had been completed even though there was no evidence of any of that before the court despite various directions which had been made. She did not accept that her life remained chaotic and disputed the issues about her behaviour in the report from New Charter Homes Ltd at C342. She confirmed that her relationship with JW is ongoing despite what she had said previously about it stopping and asserted that he had done nothing wrong.
86. Ms Healing took KU through her criminal record of violent offences and the myriad FWINs which recorded incidents prior to the birth of FR where she had been involved and there were disputes and altercations which involved her as the aggressor and when drink had been involved. Although she said she came across as being aggressive she said she was not.  
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87. In respect of her relationship with SB she had not wanted to end it even though she said she recognised it was not a good relationship. She agreed that SB had lived with her and FR for 8 weeks after she had returned home. She said that SB was supportive but then went on to say that SB had bullied and manipulated her into letting him see FR.  
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88. So far as the incident on the 26<sup>th</sup> November was concerned, she said she should not have invited him round. Although she said he wanted them to continue their relationship she said she was not upset with him but did not want the relationship. She said that SB was lying when he said nothing happened. She denied that she had sent him a text message the next day. She agreed that she did not contact either the police or the social worker about the assault she said she was subjected to.  
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89. When questioned by Mr Mountain, KU was unable to say when she had ended her relationship with JW as she had told the guardian she did when he met with her on the 16<sup>th</sup> May. She said that alcohol played no part in the bruising she suffered when she fell against the bath and injured herself which she had discussed with the guardian. She also disputed the suggestion that alcohol use was connected in any way to the missed contact sessions with FR.
90. When challenged about her cannabis use, the mother said she was honest with the drug testers since she had not denied using cannabis but said she had not been honest with them about how much she smoked. She agreed that the test results at C323 showed a very high level of cannabis use but asserted that she was no longer smoking cannabis since she was taking her medication.  
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SB, the father

91. In his evidence **the father** confirmed that he had filed four statements dated the 15<sup>th</sup> December 2016 at C47; the 9<sup>th</sup> January 2016 at C78; the 19<sup>th</sup> May at C312; and the 12<sup>th</sup> July at C369. In his first statement, he described FR as his pride and joy and said he played a full part in caring for her for the first 10 weeks of her life which he says were in many ways the happiest weeks of his life. He had had six relationships since he was 15 but said that domestic violence had only been a feature in two of those relationships involving SM and CL. There had been no domestic violence in the other relationships including that with KU. He had attended a course New Paths and did 11 of 12 sessions and learnt a lot and had benefitted significantly from it.
92. He goes on to assert that all the allegations of violence made by KU as recorded in the chronology are all false and that there has been no incident of domestic violence between him and KU. He had been unaware of the mother's history in relation to her previous two children. He felt disappointed and let down that she had not told him about her history and was upset that she had lied about him. He disputes her version of the events of the incident in late November and says what she says is incorrect. He denies any assault and asserts that she was abusive to him and when he left she shouted out that he had attacked her and the police should be called.
93. He denied having any problem with drink or drugs and asserted that he had never taken cocaine. He did not wish to compete with the mother for the care of FR but put himself forward to care for FR if the mother was not considered suitable. If he was not successful in his assessment to care for FR then he would support his mother to do so. The remainder of the statement was taken up in dealing with the threshold.
94. His second statement at C78 had appended to it five character references from friends who he said he would not let down and were intended to show that he had matured and benefitted from courses he had attended.
95. His third statement at C312 was intended to be his final statement in which he confirmed his opposition to the plan for adoption for FR and to support her being placed with his mother if he could not care for her. He asserts that he engaged with the assessment of him and that he has been open and honest with the local authority. He considers he has demonstrated insight and acted appropriately throughout.
96. He repeated his denial of the assault in November and says that at no time was his relationship abusive although he accepted it was at times argumentative. He says that her allegations of domestic violence were only raised when he pursued wanting to see FR.
97. He took issue with the assessment the Probation Service held on him based on his understanding of an assessment undertaken within the context of a pre-sentence report completed in February 2015. He did not accept that he posed a high risk and

considered that the risk assessment was not in relation to children and specifically his own daughter.

98. He also took issue with the hair strand testing drug results. He claimed not to have taken cocaine since he was about 20 and did not know why the drug testing results on the 15<sup>th</sup> May 2017 showed cocaine use. He said the report could not be relied upon and wanted the samples to be retested.
99. His fourth statement at C369 addresses the drug test results and flows from the admissions he made at court on the 23<sup>rd</sup> May 2017 when he admitted using a small amount of cocaine shortly after the hair strand sample was taken. He describes his use of cocaine as "*a momentary lapse of weakness of character*". He sniffed a very little amount after it was offered to him in the pub by someone he had not seen for years. He had last used cocaine over 10 years ago but had not disclosed it because he did not want it used against him. He considered it would not be fair to do so since he had only used a small one off amount. He also says he felt he knew the samples given on the 20<sup>th</sup> April would be clear.
100. In his oral evidence the father gave an emotional pen picture of FR who he described as having changed him as a person and said he now had a changed outlook on life. He said he found it hard to decide between himself and KU as to who would be best to care for FR. He would wish his mother, MSB, to care for her if neither he nor the mother could do so.
101. He was deeply ashamed of his criminal record and said there had been violence in two of his relationships as an adult which he said he did not condone. He had sought out the New Paths course which his Probation Officer referred him to. He had learnt something from the course in terms of identifying healthy relationships negative emotions and how to walk away from situations. As an example of how he put that into practice he described walking away from an argument when he had taken KU to Whitley Bay to celebrate her birthday.
102. He gave another detailed account of the events of the 26<sup>th</sup> November and how the mother had bombarded him with messages before he agreed to go to see her. When he arrived, he told her that he did not want to be in a relationship with her. He called a taxi and then went downstairs but she was pleading with him. He went upstairs again before going back down to get the taxi at which time he says she was screaming "*He's hit me*".
103. So far as cocaine use was concerned he said when he was denied contact he had occasionally used cocaine. He agreed he did not cooperate with testing to start with since he felt he was being attacked and not being given a chance. He last used cocaine in January or February. He did not describe his use as a habit but said he was using it as a crutch.

104. He conceded that he may come across to others as arrogant because he speaks his mind. In response to the suggestion that people found him to be aggressive he said it was that he was extremely passionate about FR and his wish to care for her. He considered that he had not been given a chance and that nothing by way of support or courses had been offered by the local authority.  
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105. He admitted having started on on-line petition for support for his claim to care for his daughter which he said only went out to some 200 of his peers because of the privacy settings he used. He was trying to reach out to everybody for help and support. He said he had sent a copy of the petition by e-mail to the social worker, NG. So far as the Facebook postings which appear at E9 are concerned he was extremely apologetic about this but said it had been taken down after three or four weeks and had now been deleted. There were 21 photographs of FR and also, he thought, a video of her.  
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106. In respect of a letter sent to his GP in June 2013 following a referral for him to see Manchester Mental Health which is at E19, he said that it was a true record of what he had told the Mental Health Practitioner but that none of the information he had given was true. What he said about “*suffering systematic physical abuse*” by his mother in his childhood was simply not true and he asserted that he had told lies in order to claim sickness benefit.  
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107. In response to questioning by Mr Moore for the local authority, the father said he believed the local authority was duty bound to assist him and to provide help and support to enable him to care for FR.  
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108. When asked about violence used against his former partners and consideration of the information from the FWINs involving them, it was evident that children had been present when incidents had occurred. He suggested that verbal abuse was less serious than violence. He disputed that he did not agree the seriousness of the domestic violence involved against his former partners but accepted that he had described the allegations as the lowest form of assault when he made the Facebook postings.  
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109. He disputed that there had been any violence in his relationship with KU and said there had been no domestic incidents. The bruising appearing on the photograph at F243 was not caused by him but was an injury the mother had sustained in some drinking session which she had subsequently photographed. He also said that the recordings appearing at F247 and F248 were not conversations between KU and him but had been falsified by KU using his phone to send messages to herself to get at him.  
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110. Asked about his drug use he admitted that he had lied about his cocaine use. He had lied on the questionnaire completed for the testers and agreed that he did not fully cooperate which he said was not clever. He conceded obstructing the testing process through the lies he had told. He acknowledged the recording made by the court at the hearing on the 23<sup>rd</sup> May 2017 at B55c following the admission he made as to his cocaine use at that hearing. He conceded that his denial of any cocaine use in his second statement at C50 paragraph 17 was a blatant lie.  
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111. He had no previous experience of social services and refused to participate in the pre-birth assessment because he did not consider it necessary since he viewed his domestic violence as something historical. He had refused to sign the Working Agreement because he said it did not provide for him to have any contact with FR. When Mr Moore referred him to the provision on page E2 for him to have supervised contact, the father said that in his opinion that had not been good enough and somewhat stridently quoted his Human Rights in support of his position. In living with FR and the mother when he knew she had signed the Working Agreement he said he thought what he was doing was legally right because he had the right to a family life.  
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112. He did not accept that he had been aggressive to professionals or to the foster carers and in reply to Mr Moore's question then started to read an extended quotation from the judgment of Hedley J in *Re L* in what I viewed as a somewhat contemptuous manner. When he was questioned about recording discussions with social services and probation, the father refuted what was said by the probation officer in his report despite not having challenged that when KJ gave evidence.  
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113. Questioned about the postings on Facebook and what this revealed about his attitude to professionals at E12 and E13 he replied by saying that given the local authority plan for FR to be adopted his posting would be regarded as an acceptable response in some people's minds. He conceded that the posting included information which identified FR, the social workers involved and the mother. He said he regretted what he had done although it was difficult for me to detect any real sense of remorse.  
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114. In reply to Mr Lord he said the Facebook posting was done when he was experiencing heightened emotions and without considering the consequences. In respect of the impact on KU because of the information disclosed to his friends and others who would be able to identify her he said he accepted it was not fair and regretted it but undermined that expression of regret by then contending that the information was '*factually correct*'.
115. In reply to Mr Mountain, he said FR had never been around and seen any arguments between him and KU and that they had barely had any arguments. He asserted that he had been honest and frank with the local authority. In respect of the detailed account of an incident of domestic violence in October 2015 which KU described to the police

in her statement, he said that she had made it up. She had been very cunning and he said the detail was high because she was describing an incident which had happened but with their respective roles being reversed so that it was she who had thrown the roast beef on the floor.

116. He had no problem with drugs but said he would accept help to prove abstinence if required. He had not been involved in any domestic violence for years but said he needed help in respect of his body language and tonal responses and wanted to do a course. He had no mental health issues and his referral to mental health had all been done as part of his attempt to claim sickness benefit which he had been awarded and was still receiving. He concluded by asserting that the local authority had not worked in partnership with him and had given him no help or support.

MSB, paternal grandmother

117. The **paternal grandmother**, MSB, was called to give evidence by Ms Healing as a way of enabling her to challenge the local authority assessment of her as determined on the first day of the hearing when I dealt with her late application for party status. There were four documents of hers before the court starting with at C116 dated the 27<sup>th</sup> February 2017 written for her by LS in which her reasons for asking the Connected Persons assessment to be put on hold were set out. At C118 there was a letter sent by e-mail on the 11<sup>th</sup> March 2017 in which she replied at length to a letter she had received from the local authority review team the previous day. At C173 there was a letter dated the 27<sup>th</sup> April 2017 in which she asked the local authority to resume her connected Persons Assessment. At C271 there was a five-page e-mail she had sent to the father's solicitors, the guardian and the local authority in which she responded to the Connected Persons Assessment which had been filed by LS and served on her. Finally, there was a statement dated the 17<sup>th</sup> July 2017 at C372 which had been helpfully taken and prepared by the father's solicitors consequent upon the determination of her party status application that morning. Exhibited to her statement was an e-mail dated the 6<sup>th</sup> January 2017 comprising 4 pages in which she wrote in response to the Initial Screening Assessment done by the social worker, PH, which she had received the previous day. In addition, she had exhibited copies of two e-mails she had sent to the police raising complaints about information from the police which the local authority had relied on to raise concerns about her character.
118. In her statement, she makes it clear that the Initial Screening Assessment report of PH was full of inaccuracies to which she responded with the 44-paragraph e-mail making it clear that she disagreed with the assessment. She also made it clear that she disputed the information provided by Greater Manchester Police to the local authority. She disputes the Connected Persons Assessment filed by LS at C241 since it is based on the conclusions reached by PH and she asserts it was not an assessment of her but rather an explanation as to why the local authority felt it was not appropriate to complete the Connected Persons Assessment of her. She contends that the assessment of PH was flawed in that it contained a great deal of unsupported and untrue information. She contends that she has not had the benefit of a fair assessment and that



she is capable of being able to care for FR. She had not been able to get legal aid to enable her to participate in the proceedings and was inviting the court to consider directing an independent social work assessment of her based on her contention that there was a good chance the recommendation would be positive and would enable FR to remain in her family.

119. In her oral evidence, MSB, said that if FR could not be placed with either her mother or father then she would want to finish her assessment and be considered as the carer for FR. She set out in detail the incident when the father at age 4 had been indecently exposed to by a 12-year-old boy with learning difficulties when they were playing together. She did not accept that was sexual abuse. She denied that she had physically chastised SB as a young child but said she had smacked him from about the age of 12 onwards. She also explained the difference between her two sons in their upbringing. She ascribed changes in the father, SB, from age 12 as a result of him having witnessed his step-father having a heart attack.
120. She said she would cooperate with professionals and had not had problems with either PH or LS. She did not know about the Facebook posting done by her son, SB, until they had been dealt with in court during this hearing. She did not agree with what he had done. She said she agreed that the local authority had been right to step in to safeguard FR based on what she had heard in this hearing.
121. She had been aware of SB's past domestic violence which she had talked to him about on countless occasions. She had never witnessed any violence between SB and KU. She had not been aware of any assault which had taken place in her home as alleged by KU. She said domestic violence was abhorrent to her and it was preposterous to think she would let that happen without intervening. She had never seen any bruising on KU. She was clear that she would have reported SB to the police if she knew he had been violent to KU.
122. She did not know why the guardian had commented about the foster carers feeling threatened by her. She had met the female foster carer for about 5 minutes and on occasions when she handed clothes she had brought for FR over to the female foster carer at contact. She had only met the male foster carer once.
123. If FR was placed with her to care for, she said she had heard enough in the hearing to be clear she would only let either the mother or the father see FR if and when they were allowed to. She considered that both parents should be allowed to have contact with FR.
124. In reply to Mr Moore, MSB said she wished to care for FR if she could not go to either her mother or her father. She considered that both the mother and the father needed help but that if given help she thought they could make good parents. If FR was to be placed with her she said that social Services could come and visit her home whenever they liked. In asking for her assessment sessions to be recorded she said she was

acting on the advice she had been given by her son's solicitor. She had always said that she was willing to care for FR if the mother and the father were considered not able. She was clear that she was willing to care for FR for as long as necessary and through to adulthood if necessary despite what she said about both the mother and the father making good parents if given the right sort of help and support.

125. Based on what she had been told by the police inspector to whom she complained about what PH had said in her Initial Screening report, MSB said that she did not consider PH had acted in bad faith or was lying but that she had misinterpreted the information she had been given. She confirmed her assertion that she thought it '*despicable*' to blacken someone's character and that was how she regarded what PH had written about her.
126. She denied that she had minimised the difficulties SB had. She had been open and honest with social services. She disagreed that her commitment to caring for FR was half hearted or that she was avoidant about whether she wanted to care for FR when she had gone to ask for the assessment to be resumed on the 27<sup>th</sup> April. She agreed that in a conversation with the guardian she had said she would need help to care for FR but denied that she had said to him that she did not want social services involvement.
127. In reply to Mr Mountain, she agreed that she had raised concerns about the care of FR with the guardian and the guardian had sent her an e-mail in response. She had never replied to his e-mail since she said he had not dealt with the issues she had raised. While she agreed that she had had several conversations with the foster mother the issues she had raised about FR's care were written in the care review. She had only met the male foster carer once and did not know why the foster mother had said she felt threatened by her.
128. She did not recall a telephone conversation with the guardian or saying anything about her age in terms of caring for FR. She denied saying to him that she was not prepared to commit the next 20 years to bringing up FR and had not said that she would not be having the social worker visiting her all the time. She denied that she had known that SB was living with KU during the early weeks of FR's life and contended that she had not known about KU's background except for what she had been told in a telephone conversation she had with her.

DU, children's guardian

129. The children's guardian, DU, has prepared a Revised PLO Cafcass Case Analysis Report dated the 18<sup>th</sup> May 2017 at D11 to D23. In his recommendations at D19 he supports the local authority application for a care order and at D23 recommends that adoption is the only realistic option for FR in the circumstances and that the placement order should be granted.

130. In his analysis of the significant harm threshold analysis the guardian observes at D13 that the father's hair strand testing results raise questions about his lifestyle and his honesty. The lack of a hair sample at the commencement of the process which the father had not been able to adequately explain to the guardian meant there was no information about any illicit drug use before January 2017. He comments that there are continuing concerns about the mother's lifestyle and observes that she

*"has not engaged meaningfully with services to address coping strategies, alcohol misuse or aggression (as recommended by Dr CI) Essentially, (she) does not agree that she needs to undertake work to address these issues."* (Para 6)

And in respect of the father he goes on to comment that he

*"greatly minimises being a perpetrator of domestic violence in past relationship. He considers this to be irrelevant in deciding what is best for FR"* (Para 7)

And that he

*"Does not trust professionals – this is evidenced by the fact he surreptitiously recorded all assessment sessions with the social worker and a recent discussion with me...."* (Para 9)

131. In his analysis of parenting capacity in respect of the father, the guardian observes that the father tried to mislead him about the Probation Services risk assessment but when challenged by the guardian after he had confirmed issues with the Probation Officer which the father had raised the father asserted that the Probation Officer was part of an 'agenda' to get FR adopted. He observes at para 15 on D14 that

*"the FWINS reveal a concerning picture of the father being controlling and abusive. The father considers 4 offences against intimate partners to be "not a bad percentage considering it was over 15 years and two relationships."*

132. He suggested the father had sought to mislead professionals about domestic violence courses he has completed. He went on to observe the father had refused to consent to his medical records being filed in the proceedings. In respect of his failure to engage properly with drug testing the guardian considered that one was left with no alternative except the drawn negative inferences.

133. In respect of the mother, the guardian observes that

*"What strikes me about the recent social work assessment of the mother is that it reflects many of the same concerns which were present in relation to the proceedings concerning her older children, JU and CU."* (Para 22)

And at para 23 in discussing the information about the relationship with JW he observes that

*"(she) told me JW was 'a good lad'. She disputes the information obtained by the local authority that he is a perpetrator of domestic violence in a previous relationship and that he had had his own child removed (and subsequently*

*placed for adoption). The mother appears to have unquestionably accepted JW's self-report in relation to his past."*

134. He deals with a number of lifestyle issues in respect of her accommodation and goes on to say at para 30 that
- "she believes all her difficulties will be resolved by moving away from the area in which she currently lives. She does not consider that she needs children's services involved in her life."*
- He considers her to be an emotionally vulnerable woman whose relationships with her own family have completely broken down.
135. He concurs with the negative outcome of the assessments undertaken by the local authority in respect of the parents and the paternal grandmother having undertaken his own enquiries. He asserts that
- "FR would be at risk of significant harm if she was placed in the care of either parent because the risks would be unmanageable given the parents' respective histories, minimisation of the concerns, lack of acceptance to engage with services to bring about change and due to their current presentation, lifestyles and behaviour"* (para 39)
136. In his oral evidence, he confirmed that the evidence he had heard including the evidence from MSB had not changed his recommendations. He acknowledged that both parents clearly love FR but the mother had not been able to address the concerns raised by Dr CI in the previous proceedings. The mother had produced no evidence to support her contentions as to what she had done. The mother had not addressed issues in respect of her relationships with men and he was concerned that she had continued involvement with men who were not supportive of her case. She had accepted JW's story at face value. Her continuing use of alcohol when she knew the spotlight was on her was of concern.
137. He had real concerns about the father's lack of honesty. In the course of the father's evidence it had become clear that he had lied to everybody and that included the professionals involved in the case, his own mother, his GP, his friends on Facebook, the drug testers and the court. The guardian had no confidence that the father could be trusted by any of the professionals. Added to that there were issues about his hostility to professionals, his drug use and his propensity for domestic violence. The father's hostility and the focus on his entitlement based on what he asserted were his '*human rights*' would have a significant impact going forward. The guardian considered it would make the local authority job impossible if FR were to be placed with the paternal grandmother since the father would not abide by any working agreement or adhere to any conditions imposed by the court since he believed that his right to have involvement with his own daughter overrides everything else.
138. In respect of the paternal grandmother, the guardian said it was not right when she says she had only become aware of the issues in the case during this hearing. She had

been present when he had first met and talked with the father in January 2017. Although not present throughout the whole conversation with the father he considered that she was aware of the whole of the conversation. He had investigated complaints she had raised about the care FR was receiving from the foster carers and had responded to those by e-mail but she had not replied to him.

139. He had spoken to her on the telephone on the 21<sup>st</sup> April 2017 and discussed the delay in her assessment as a carer for FR. He had explained the reasons to avoid delay. He recalled her saying that she was almost 60 and had done her parenting and could not commit her next 20 years to caring for FR. She had said she would do the further assessment but subject to conditions and not having the social worker checking on her and she would need the support of the father. He had observed the paternal grandmother at contact with FR and it had been a positive experience.
140. FR was settled and thriving in her placement and was a happy and contented child. In respect of the chromosomal disorder recently identified by Dr K, the guardian did not consider that this was something which would hold her back in terms of her development.  
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141. In response to Mr Lord for the mother, he agreed that her presentation at court during this hearing was different to her demeanour at previous hearings which was positive. It was also positive that she had made a positive improvement in her relationship with the foster carers which was to her credit. However, her relationship with the father remained complicated based on what he had observed throughout this hearing.  
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142. He confirmed that the mother's relationship with JW caused him concern based on what was known about him. He confirmed he had spoken to JW in the course of making his enquiries. Although he acknowledged that the mother appears to present well in terms of her mental health, the guardian remains concerned about her vulnerability and that she continued to mix with the wrong people and referred to police involvement and the issue of the forced entry to her property.  
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143. In reply to Ms Healing, the guardian confirmed that he had had his own discussions with the paternal grandmother as well as considering the local authority's assessment and he was not just relying on the local authority's views. Her comments to him on the 21<sup>st</sup> April 2017 led him to conclude that she saw her role as a carer for FR as an interim role. He was not clear about her commitment to the assessment. He said that if there was a realistic prospect of an assessment of her being positive he would not stand in the way. However, she had had ample opportunity to challenge the local authority and he did not think that there was a prospect of success.  
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144. He accepted that if the assessment of the paternal grandmother had been restarted in April as she had requested then it could have been completed in time for this hearing.

He concurred that MSB had a stable life but that there were a lot of unanswered questions. He considered that the delay of the assessment had been as a result of her frustrating the process. He agreed that any further delay was a matter for the court and that the question of her ability to protect was a matter which would require an in-depth assessment.

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145. He agreed that the father loves FR and had demonstrated a commitment to his assessment and had been appropriate in his behaviour save for his recording of sessions without permission. His contact with FR had been positive and his commitment to care for FR was clear. However, his inability to work openly with professionals called into question his ability to do what is right for FR. He had demonstrated that he was less than honest. While a lot of support could be made available if FR was placed with him under a care order nobody could have any confidence in anything the father said and the guardian considered the local authority would not be able to safeguard FR. The guardian was sceptical about the availability of domestic violence courses for the father when he did not see himself as a risk or a perpetrator and would be seeking to try and attend as a means to an end.

## Discussion

### *Threshold Criteria*

146. No issue has been taken by either the mother or the father as to the threshold criteria being made out by the local authority. The threshold is to be found at pages B10-11 of the bundle in the local authority's C110A application. On the basis of all the evidence before me, I am satisfied that the threshold is crossed and am content to accept and adopt the basis as set out in the application.

### *Honesty & Credibility Issues*

147. Before going to consider any specific welfare checklist issues it is important to give some consideration to issues of honesty and credibility in light of the evidence of the parents. The evidence shows that both the father and the mother have manifestly failed to cooperate openly and honestly with the court and the other professionals within these proceedings. The most obvious example of this, and which both have acknowledged in evidence albeit with some attempt to minimise the implications, is in respect of their failure to comply openly and honestly with the alcohol and drug testing requirements which were clearly spelt out for them. The significance of this was underlined for the father when DJ Berkley recorded on the face of the order made at the IRH at B55c "*that the lack of honesty from the father on something as significant as drug taking will have implications for the final hearing. The court noted the father has fallen well short of being frank and the extent to which this damages his credibility will be an issue for the final hearing.*"

148. Both the mother and the father have conceded that they lied to professionals about living together in breach of the Working Agreement when FR was just weeks old. The mother also admitted that until she disclosed the physical abuse to her support worker at the Women's Centre in November 2016 she had previously lied about the abuse to which she had been subject by SB.
149. In his oral evidence, it became clear that the father had lied to everybody which included the professionals involved in the case, his own mother, his GP, his friends on Facebook, the drug testers and the court. It seems to me that he had done so without any scruple or regard for the consequences if he considered it to be for his advantage. The extent of his dishonesty was quite staggering and shows that he is a man who simply cannot be trusted by any one. This has significant implications in terms of any capacity to safeguard FR.
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150. The scale of the parents' dishonesty is such that I find that there quite simply is no basis on which any of the professionals involved can trust what the parents will say or do. Their dishonesty fundamentally undermines any scope for an open working relationship between the parents and the local authority to promote rehabilitation of FR to their care.
151. Each contends that the other is lying about the issue of domestic violence in their relationship. The mother says she was subjected to violence and abusive behaviour which she described in her statement to the police which she made in January 2017 at F255. The father replies by saying none of it is true and that the mother had falsified the evidence by producing a photograph from another incident where she had suffered an injury in a drinking session and that she had falsified conversations by using his phone to send messages to herself to get at him. Given the level of their dishonesty about other matters it might be thought difficult to determine where the truth lies. I am, however, satisfied that the mother's version is more likely to be true than the father's and find that there was a significant level of domestic abuse perpetrated by the father throughout their relationship which culminated with the assault by the father on the mother on the 26<sup>th</sup> November. I make that finding since there is corroboration to be found to support the mother's allegations in the altercation at the Core Group observed by the Probation Officer, KJ; that the social worker, PH, had seen bruising on the mother's face on her phone back in September 2016; and the father's removal from a Core Group meeting on the 30<sup>th</sup> September 2016. Importantly, in my judgement, in considering this issue is that the mother's evidence about the alleged assault in November 2016 was more compelling and believable than that of the father since her account was given without any sense of exaggeration or embellishment.

#### Welfare Checklist Issues

152. The threshold having been established and observations made in relation to honesty and credibility now requires me to consider whether orders should be made and, if so,

what orders. That requires consideration of the realistic options and an analysis of the arguments for and against each relevant option. In carrying out the balancing exercise the court must treat the child's welfare as paramount and inform its decision by consideration of the welfare checklists in section 1 (3) of the Children Act 1989 and section 1 (4) of the Adoption and Children Act 2002 since the care plan for the child is one of adoption.

153. I have had the benefit of receiving written submissions from all four advocates for which I am grateful. I am also grateful to all the advocates for their assistance throughout the hearing which was sensibly and sensitively handled by them. I have deliberately recited the evidence in the detail set out above to ensure that the lay parties have as full a record of all the issues put before the court as is possible. I hope it might give them a better understanding at how the court has made its determinations and reached its conclusions.
154. Reflecting on all the evidence I have read which includes the statements and assessments prepared by PH and NG coupled with the evidence I have heard from the local authority witnesses, leads me to conclude that this is a case which has been well prepared and well presented. I was impressed by all four of the witnesses called by the local authority who gave their evidence in an open and straightforward manner and who were fair in making concessions when challenged in cross-examination. I have no difficulty in accepting their evidence and saying that where there is any conflict between them and the mother or father that I have no hesitation in preferring the evidence of the local authority witnesses.
155. The guardian, DU, is a very experienced, competent and well respected practitioner who is well known to the court. He was an impressive witness who gave his evidence well and who had clearly thought through and analysed the issues in a comprehensive way as set out in his reports and amplified in his oral evidence. I have no hesitation in accepting his evidence and saying that where there is any conflict between him and the parents and the paternal grandmother I prefer his evidence.

*Capacity of parents or any other person of meeting the child's*

156. While it is clear that in contact with FR since the proceedings commenced both the mother and the father have demonstrated a capacity to meet FR's basic care needs within the limitations of contact and show FR their obvious love and affection, the sad reality is that neither has demonstrated any capacity to address the areas of their lives which have been repeatedly spelt out by the professionals as causes for concern.
157. The mother has failed to comply with directions of the court with regard to her engagement with community health services and failed to produce her GP records as well as failing to undergo a hair strand test. All these were fundamental issues of importance given her past mental health issues as identified in the previous proceedings when she was assessed by Dr CI. The recommendations Dr CI made for therapeutic and other interventions and support to enable the mother to be considered



as a carer for any child were primary issues for the mother to act on. There is no evidence that the mother has addressed the issues or acted on the recommendations made by Dr CI. The absence of any medical or mental health report is a serious issue which significantly undermines the mother's case.

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158. As Mr Lord acknowledges in his submissions, the mother accepts her history of poor decision making and erratic behaviour when drinking and has not been able to produce evidence of abstinence. She has not been compliant with medication and admits having smoked cannabis on a daily basis to manage her feelings and help her sleep. Her relationship with SB has exposed both her and FR to significant harm.

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159. The evidence shows that despite being in a settled home her lifestyle has continued to be chaotic with reports of rent arrears and anti-social behaviour coupled with incidents in the home requiring police intervention. Significantly, the mother's relationship with her current partner, JW, and her refusal to accept the concerns raised in respect of him by the local authority reveals, in my judgement, a continuing lack of insight and understanding of abusive relationships.

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160. My analysis of the evidence before me shows that the mother has not demonstrated any significant change in her lifestyle since her two older children were made subject to placement orders in 2013 and within these proceedings she has been unable to evidence any change. This, sadly, leads me to conclude that I can have no confidence that the mother could provide a stable and safe environment within which to care for FR. Additionally, I consider that the mother, in view of her own lack of insight and understanding of relationships, lacks the capacity to meet FR's emotional and social development needs in a way which would safeguard her in the medium to long term.

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161. In her submissions, Ms Healing acknowledges that the father accepts being the perpetrator of domestic violence and violent offences in the past but asserts that the father now states that he is a reformed character. He denies being violent to the mother but, as I have set out above at paragraph 151, I have made a finding that he was the perpetrator of domestic abuse against her throughout their relationship. The evidence before me overwhelmingly demonstrates that not only is he a high-risk perpetrator of domestic violence as assessed by KJ but also, in my judgement, based on my evaluation of his own evidence he has no insight or understanding of domestic violence and abuse issues. Whatever courses he has attended whether in full or in part and any other work which has been done with him sadly appears not to have given him any true insight or understanding given his assertion that he viewed his domestic violence as '*historical*'. It was clear that he had no understanding of how serious the consequences are for children who have the misfortune to be part of a family where domestic abuse occurs. I consider that he would make a very poor role model for FR and, in my judgment, based on the domestic violence issues alone lacks the capacity to meet her emotional and social development needs in the medium to long term.

162. However, his admitted dishonesty coupled with his antecedent criminal history simply reinforce for me his inability to provide any sort of a proper role model for FR. This is aggravated, in my judgement, by his arrogant and aggressive attitudes to professionals and others when he is challenged which was evident when giving his evidence. Equally worrying, I thought, was his focus exclusively on his own rights in relation to family life with a total disregard for the welfare and interest of others including FR.  
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163. This has been demonstrated by his conduct in the proceedings since he also failed to cooperate with a hair strand drug test in the early stages of the proceedings and denied the court and other professionals any evidence to confirm or rebut illicit drug use prior to January 2017. He refused to agree to disclose his medical records or provide a report from his GP. He only produced a letter from his GP on the 11<sup>th</sup> July 2017 in response to questions agreed between the parties by which time it was too late for anyone to check the information given which raised other questions of concern. That letter had been first directed by the court six months previously. He told me he thought it was his prerogative to refuse to disclose his medical records. He also refused to disclose to the guardian the address at which he was living.  
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164. Reflecting on the evidence and the impression which the father made on me led me to conclude that he was mistrustful of and hostile to professionals with the capacity to act aggressively or in an intimidating way especially if challenged. His hostility to professionals and social workers was apparent in his Facebook posts. He failed to show any remorse for any of his actions but in particular the Facebook posting in which he had disclosed personal and hurtful information about the mother. His concluding assertions that the local authority had not worked in partnership or given him any help or support simply revealed his arrogance and sense of entitlement and that he believed himself to have been the victim in these proceedings. All these factors which I have recited above taken together simply underline, in my judgement, his lack of capacity to care for and nurture FR and to safeguard her throughout her childhood.  
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165. I am bound to consider the capacity of the paternal grandmother to meet FR's needs based on the information before the court in light of her request to be properly assessed as a carer for FR in the event that neither the mother nor the father is considered able to care for her. Although the court has the Initial Screening Assessment done by PH and the Connected Persons Assessment report from LS together with the statement of MSB and her various lengthy e-mails referred to above, there is little information about her ability to care and provide for FR. There is no completed assessment before the court. The only reference to any contact between MSB and FR which I have seen relates to a contact visit in her home on the 31<sup>st</sup> August 2016 when both the mother and father and the social worker, PH, were present and which was to explore the possibility of MSB being involved in supervising contact. It was a difficult contact in which MSB reported that she had felt uncomfortable and "*like walking on eggshells*" around the mother. MSB had limited

interaction with FR because she had a cast on her arm. My understanding is that MSB has been attending contact with FR together with the father. So far as I am aware no concerns or criticisms have been raised in relation to her handling of FR. She has brought up her own two children without any involvement from children's services. FR is her first grandchild and I accept that she has a deep love and affection for her and would like the best for her. It seems likely then that she has the capacity to meet FR's day to day physical care needs. She has a good home and has no criminal convictions recorded against her. However, there are wider issues which also need to be considered.

166. The position of MSB and her wish to be assessed as a carer for FR has been before the court since the earliest of the case management hearings in December 2016. Her extensive criticisms of the Initial Screening Assessment properly led the local authority to agree to undertake a full Connected Persons Assessment which was timetabled by the court on the 13<sup>th</sup> January 2016<sup>7</sup> to be filed and served on the 21<sup>st</sup> April 2017 in readiness for the IRH. As described above by LS the Connected Persons Assessment was never completed because MSB asked for it to be put on hold on the 27<sup>th</sup> February 2017. The local authority was mindful of its difficulties in being able to comply with the court timetable as a result of MSB's position and invited the court to consider the position which it did at the hearing subsequently arranged on the 7<sup>th</sup> April 2017. The court agreed to extend the time for filing the assessment but made it clear in its recordings and directions that "*(MSB) would be invited to consider that decisions must be taken in the course of proceedings in accordance with the timetable for the child*" and "*the delay is due to (MSB) seeking to put her assessment on hold which is not something which the court timetable permits.*" (B67-69) MSB did not attend at the IRH to which she had been invited and her application for party status was not issued until the 6<sup>th</sup> July 2017.
167. Although one can have some sympathy for the reasons she gave for asking for the assessment to be put on hold, it is difficult to understand why she failed to pursue the resumption of the assessment until late in April when she had been written to in explicit terms by the father's solicitors on the 21<sup>st</sup> March and advised to contact the social worker immediately (C385). She offered no explanation for the delay or for not attending at court until this hearing despite the previous invitations to do so. For a woman who had proved herself adept at communicating immediately with the local authority and other parties by lengthy e-mails to challenge issues relating to the assessment of her and the treatment of FR when she received documents, I found her lack of any explanation for the delay and not responding to the court process quite puzzling especially when it was clear that she had access to some help and advice from her son's solicitors.
168. I am concerned that, as with the parents, there is an issue about MSB's openness and reliability. She professed not to recall a telephone conversation which the guardian had with her on the 21<sup>st</sup> April when he spoke to her about avoiding delay in the assessment or saying anything to him about her age in terms of caring for FR. She

explicitly denied saying to him that she was not prepared to commit the next 20 years to bringing up FR or saying that she would not be having the social worker visiting her all the time. The guardian's evidence about this conversation was clear. He also recollected her agreeing to do the assessment subject to conditions and not having the social worker checking on her and saying she would need the support of the father.

169. Less than a week later, on the 27<sup>th</sup> April, MSB had gone into social services to ask for the resumption of her assessment. In that meeting, which is reported at C244, MSB is said to have appeared avoidant when asked directly whether she wanted to care for FR and made reference to "*being nearly 60 years of age*" and raising FR "*with the assistance of her son...who should be able to live in the home.*" She disagreed that she had been avoidant in that meeting but did not dispute what she said. There is a remarkable resonance in what was said in this meeting and the report of the guardian's telephone conversation. So far as the conflict between MSB and the guardian is concerned, I have no hesitation in saying that, knowing the guardian as I do in his professional capacity for several years, I prefer his evidence to that of MSB.
170. There is, in my judgement, a very real concern, when considering MSB's capacity to meet FR's needs, about her ability to work openly in partnership with the local authority since she has a distrust of the local authority as is observed in LS's report at C245. The assessor at C243, rightly in my view, questions the barriers which MSB put in the way of progressing the assessment and whether MSB could develop a trusting relationship with the local authority. The assessor also comments on MSB's e-mail of the 14<sup>th</sup> March in which she minimised the domestic violence issues in respect of the father and continued to demonstrate allegiance to the mother but also undermined FR's fostering experience. The assessor questions whether the request by MSB to put the assessment on hold was simply a further attempt to put barriers in place and comments that she has failed to complete and attend a medical. This leads the assessor rightly, in my judgment, to call into question MSB's commitment to the assessment process and to FR.
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171. The question which now arises in considering MSB's capacity to meet FR's needs is whether, having heard the evidence, there is any basis for the court now saying it is appropriate to adjourn the proceedings to permit an assessment of her as a carer for FR by an independent social worker. This, as Mr Mountain (alone among the advocates I might add) has helpfully outlined in his submissions, requires me to consider the requirements of section 10(9) of the Children Act 1989 and other considerations identified by the Court of Appeal in *Re B (A Child) [2012] EWCA Civ 737* and *KS v Neath Port Talbot County Borough Council v LG v S v M [2014] EWCA Civ 941*.
172. MSB has an ongoing relationship with FR as her first grand daughter which has been developed in the contact she has been party to during the proceedings this year. The local authority plan for FR is that she should be placed for adoption predicated on the basis that it does not consider that either of the parents or MSB can be regarded as

suitable carers. That plan is not agreed by the parents both of whom would wish to support a placement with MSB if she were to be favourably assessed as a carer at this stage. Undoubtedly, if the proceedings were to be adjourned at this stage for an independent social work assessment that would involve disruption to FR's life because there would be a delay in securing permanence for her when she is now 12 months old. If an assessment of MSB were to be positive that may not matter and no real harm would flow from the delay which I would anticipate would realistically mean 16 or so weeks. That total is based on allowing 10 weeks for an independent social work assessment (that being the timescale which I allowed for an independent social work assessment in another case I dealt with just over a week ago) for which a medical and renewed police checks would be required with 4 or 5 weeks for evidence in response with a view to a hearing early in December. If successful, a placement with MSB could be made under an interim care order to ensure proper support and contact arrangements are put in place with a view to the proceedings being finalised in late January or February 2018. However, if the assessment were to be negative that is likely to mean a further contested hearing in December. That would mean a delay in starting the process of family finding for FR which I suggest is likely to be detrimental to her wellbeing at this stage of her life.

173. I do, of course, have to regard these issues in the context of recognising that I am bound to consider whether "*nothing else will do*" given the local authority's plan for adoption. I also have to give consideration to the arguability of MSB's case which should be considered within the framework of the proceedings and the timetable for the child. I have identified above the positives and some of the negatives in relation to MSB's position as it has emerged in the evidence before the court. What is abundantly clear is that the only reason there is no assessment before the court is because she herself obstructed that process in circumstances where the consequences of doing so were clearly spelt out for her not only by the local authority but also the father's solicitors. The court has done all that it could to properly accommodate her being fairly assessed but she has failed to respond to the opportunities given to her until this hearing. The timetable for this child has already been extended to 34 weeks to accommodate this hearing but to extend it to 50 weeks would, in the circumstances, be unconscionable when I consider the prospect of a further assessment being successful as being very unlikely given the observations I have already made above. I am, in the circumstances, satisfied that it would be wrong to direct any further assessment of MSB.

*Wishes & feelings and physical, emotional needs*

174. So far as other 'welfare checklist' issues are concerned, FR at age 1 is a young child who is not capable of expressing her wishes and feelings. She has the needs of any young children for a safe, stable and settled family life and to be provided with appropriate physical care with love and affection and encouraged to develop to her full potential in a safe and secure environment. She is a healthy child who is developing well although she has recently been diagnosed as having a chromosomal abnormality. A report from Dr K at D32 indicates that the "*abnormality may have no apparent*

*implication or negligible implication for her future*". The Adoption Team has provided an e-mail in which it says that it will not impact on family finding. FR is settled with her foster carers.

*Effect of any change of circumstances*

175. The change in their circumstances of making the orders sought by the local authority will mean that her contact with her parents and the paternal grandmother will be reduced in accordance with the local authority plan. While that will involve a loss it is not one which is likely to be meaningful for her at her tender young age. She will remain in her current placement until an adoptive placement is found. If she was to be returned to the care of either of her parents then, in light of the findings made above, it is likely that she will be exposed to the significant risk of further instability and neglect of her emotional and social developmental needs.

*Harm suffered or at risk of suffering*

176. FR is not known to have actually suffered any harm and the proceedings were brought on the basis that she was believed to be at risk of suffering significant harm in terms of some risk of physical harm and impairment of her emotional development and through neglect based on the parents' histories which included issues in relation to domestic violence, the mother's mental health difficulties and issues relating to alcohol and drug use. The evidence before the court demonstrates that neither parent has been able to effectively address the issues of concern and that FR would be at risk of her emotional and social development being impaired and of her suffering neglect were she to be placed in the care of either of her parents.

*Likely effect on child throughout her life of having ceased to a member of her family and becoming an adopted person*

177. The likely effect on FR of having ceased to be a member of her original family and becoming an adopted person is, in my judgement, unlikely to be an issue of great significance for her at this stage in her life given her age. The only significant family relationships which the child has is with her mother, father and her paternal grandmother. Those relationships will be lost save for being maintained through indirect contact arrangements.
178. By becoming an adopted person FR will be provided with a permanent substitute family who will provide a family life for her and who will be legally responsible for her. The family chosen will have been through a rigorous and thorough assessment process to determine their ability to care for the child and make a lifelong commitment to her and will be matched to meet FR's identified needs as best that can be done. Adoption would mean that FR children would be free from any continuing monitoring or oversight by the local authority which would be inherent in the continuance of care orders with regular LAC reviews.

*The relationship which the child has with any other person in relation to whom the court considers the question to be relevant*

179. Although both the parents and the paternal grandmother are willing and anxious to care for the child they do not, in my judgement, based on the findings I have made on a range of issues above have the capacity to do so and meet the child's needs. No other relatives have been identified as willing and able to care for the children.

*The range of powers available to the court*

180. The court has available to it the full range of orders including public law supervision and care orders since the threshold is established. It is a case where on any view of all the evidence there is a need for an order or orders to be made. In light of the findings made in relation to the capacity of the parents and paternal grandmother and the other issues which have been addressed only a care order will enable FR to be safeguarded by the local authority to ensure that her welfare needs are met. There is quite simply no prospect of FR being rehabilitated to the care of either of her parents or being placed with the paternal grandmother based on my findings.
181. The local authority plan for FR is predicated on her being placed for adoption in the event of a care order being made. Given her age and clear need for permanence this is the only realistic option to provide her with stability and security throughout her childhood and beyond.
182. Given the plan for adoption and the placement application which is before the court, consideration has to be given to FR's welfare throughout her life as the paramount consideration as set out in section 1 (2) of the Adoption and Children Act 2002. Consideration has also to be given to the relevant additional welfare checklist issues set out in Section 1 (4) of that Act. Those factors have been addressed above. In view of section 52 of the Act, a placement order can only be made without the parents' consent if that consent is dispensed with where the welfare of the children requires it to be dispensed with.

Conclusion & Orders#

*Care application*

183. This is not a case which is in any sense finely balanced. The evidence against the mother and the father is overwhelming and clearly determines that there is no prospect of FR being placed in the care of either of them either now or at some time in the future. Given the determination I have made in respect of the paternal grandmother, MSB, means that the exclusion of any extended family member from consideration as a prospective carer leaves the local authority, the children's guardian and the court with only one truly realistic option for consideration which is a care plan to achieve permanency by adoption given FR's age, her health and development and current circumstances.
184. In the circumstances, bearing in mind that I have to treat FR's welfare as paramount throughout her life, I have no hesitation in saying that I approve the local authority's plan for her to achieve permanency through adoption. I have considered the local

authority's proposals for contact which in the circumstances I find are entirely appropriate. Accordingly, I will grant the care order to the local authority. The making of the care order is, in my judgement, given the circumstances of FR as set out above necessary to protect and safeguard her interests and is a proportionate response to her circumstances. That then requires me to pass on to deal with the placement application.

Placement application

185. I have read and considered the relevant documents in respect of the application for a placement order. The children's guardian supports the application for a placement order. I have of course given specific consideration to the welfare checklist as it applies to the Children Act 1989 in approving the local authority's care plan for adoption for FR. I have in addition, as is clear from what is said above, also already had regard to the checklist in respect of section 1 (4) of the Adoption and Children Act 2002 and the issues which are relevant. I do not intend to repeat myself.
186. I am satisfied that, on all the evidence before me, adoption is in best interests of FR. There is no other realistic available option and the reality is that, having ruled out the mother and father as potential carers and there being no extended family members to consider, nothing else will do so far as she is concerned. Her mother and father understandably, in the circumstances, do not agree to her being placed for adoption. I must therefore consider whether their agreement can be dispensed with on the basis that FR's welfare requires it. Having reached the conclusion that adoption is in her best interests then, in my judgement, it follows that I must dispense with the agreement of both the mother and father to adoption in accordance with section 52 of the Adoption and Children Act 2002 because FR's welfare requires it. I, accordingly, dispense with her agreement to adoption.
187. Although the issue has not been canvassed on behalf of any party, I am conscious that it might be said that the making of a care or placement order may be a disproportionate interference with the Article 8 rights of both the child and her parents. I have borne this in mind in my consideration of the issues before me since the making of a care order and a placement for adoption order is unquestionably a substantial interference with a parent's right to respect for family life. In my judgement, such a step could only be regarded as interference in the child's right to respect for family life if there was a real prospect of her being successfully rehabilitated to the care of a parent or parents within an acceptably short timescale. That is not the position for FR and consideration of her Article 8 rights leads to the conclusion which will override the rights of her parents which I regard as a necessary and proportionate response to the circumstances in which FR now is.

Orders

Care Order

188. The orders which I make and will confirm on the 17<sup>th</sup> August 2017 in relation to the local authority application under section 31 in respect of FR are –



- (a) The paternal grandmother's application for party status and assessment by an Independent Social Worker is dismissed.
- (b) The child, FR is placed in the care of Tameside Metropolitan Borough Council.
- (c) The local authority may disclose copies of relevant documents in the proceedings to the prospective adopters with whom it is proposed to match the child, FR, for adoption.
- (d) The local authority solicitor shall provide a copy of this judgment to the Independent Reviewing Officer for FR.
- (e) The father's solicitor may provide a copy of this judgment to the paternal grandmother, MSB.
- (f) There be no order for costs save for detailed assessment of the Public Funding Certificate costs of each of the assisted parties.

Placement order

189. In respect of the placement application in respect of FR, I will make the following orders –
- (a) I dispense with the consent of the mother and the father to adoption on the ground that FR's welfare requires it.
  - (b) The local authority may place the child, FR, for adoption.
  - (c) The local authority solicitor shall provide a copy of this judgment to FR's adopters.
  - (d) There be no order for costs save for detailed assessment of the Public Funding Certificate costs of each of the assisted parties.
190. I should in conclusion deal with the outstanding issue of the father's contempt as identified by DJ Berkley on the hearing of the 6<sup>th</sup> July 2017. Whilst it is abundantly clear that the postings made by the father on Facebook are communications to the public of information relating to the proceedings and almost certainly amount to a significant contempt of court, there is no application before the court for committal to enable me to deal with it. I do not in the circumstances propose to invite any party to pursue it or to hold any further hearing to enable it to be properly dealt with in accordance with the current Practice Direction. It was a shameful act which in many ways simply revealed all the worst characteristics of the father and demonstrated a complete disregard for the welfare and interests of others including the mother and FR. I am assured that the postings have been taken down and this should be an end of it.
191. This concludes the judgment.