

IN THE FAMILY COURT AT WEST LONDON

West London Family Court,
Gloucester House, 4 Dukes Green Avenue
Feltham, TW14 0LR

Date: 15/06/2018

Before :

HIS HONOUR JUDGE WILLANS

Between :

**LONDON BOROUGH OF RICHMOND-UPON-
THAMES**

Applicant

- and -

(1) ST

Respondents

(2) MT

(3-5) N, S & R

(by their Children's Guardian)

Ms Denise Gilling for the Applicant
Ms Suzannah Cotterill for the First Respondent
Ms Frances Orchover for the Second Respondent
Mr Julian Date for the Third to Fifth Respondents

Hearing dates: 4-8 & 11-15 June 2018

JUDGMENT

His Honour Judge Willans:

Introduction:

- 1 I am asked by the LA to make final care orders in respect of N, S and R. The Children's Guardian, WT supports the application. The children's parents, ST (mother) and MT (father) want all three children to come home, but in respecting the wishes of S and T only positively argue for R to be returned home. I understand they would accept a return on any legal foundation.
- 2 I have considered the documents contained within the digital final hearing bundle. I have heard evidence from N, S¹, VC (social worker), PB, CP (foster carers), RH (Chartered Consultant Clinical (Neuro)Psychologist, BS (contact supervisor),), ST, MT and WT (Guardian). I have considered both written and oral submissions from counsel for all parties.
- 3 In this judgment I focus on specific aspects of the evidence such as is required to properly determine the application. I do not refer to every aspect of the evidence or indeed every matter in dispute. I do though bear in mind all the evidence.
- 4 As will be further explained within this judgment the key matters for determination have been:
 - a) Those allegations in dispute relating to the threshold²
 - b) The placement decision for R
 - c) Contact issues
- 5 The 'realistic options' for the children can be easily identified. ST and MT continue to present themselves as joint carers for the children. The option for the Court is limited to whether the child should remain in care under a final care order or be returned to the joint care of the parents.

Legal Principles:

- 6 I must first consider whether the legal threshold for making of public law orders has been crossed. I refer to section 31 Children Act 1989. The question is as to whether the children have suffered or were likely to suffer significant harm arising out of the care being given to them (or likely to be given if the order was not made) not being that which a Court would expect from a reasonable parent.
- 7 In approaching this question I consider the threshold document relied upon by the LA. I bear in mind there must be a causal association between the matter alleged and the significance harm. I bear in mind the Court has to be accepting of a broad range of parenting styles and should not engage in 'social engineering'.

¹ Both children gave evidence following a Re W hearing. Both wished to give evidence. S gave evidence via video link from a local Court venue with the assistance of an intermediary. N wished to give evidence at Court and did so with the use of a screen and an intermediary. The questioning was consistent with the ground rules determined at the Re W hearing

² A125-134

- 8 My approach to disputed allegations must be to require the alleging party (the LA) to prove the allegation (the party against who the allegation is made is not required to disprove the allegation). They must establish it as being more likely than not (the balance of probabilities). If they succeed in this then the matter is thereafter regarded as a fact. If they do not then it is wholly disregarded. All evidence is relevant. The evidence of the parents will always be of importance given their role in respect of the matters under assessment. I will carry out an assessment of the credibility of the witnesses but must remember that a finding as to a lie by a witness should not justify writing that witness off thereafter as a witness of truth. People may lie for all sorts of reasons and context is crucial. An essentially honest witness may be shown to be dishonest in certain regards.
- 9 If threshold is established then I must consider what orders should be made having regard to all the circumstances of the case with a focus on the welfare interests of the children and the checklist found at section 1(3) of the Children Act 1989. Each child's welfare is my paramount concern. I bear in mind I am looking to establish whether the parents can provide good enough care for each child and within their timescales. Any order I make must be justified as both necessary and reasonable. It must be proportionate and be set at the lowest level of intervention consistent with the welfare interests of the children. It should not be thought that the crossing of the threshold is an automatic basis for the making of a final care order. Between threshold and final order is an important qualitative assessment of all the evidence and a continuing recognition of the need to give proper respect to private family life.

Background:

- 10 I have reflected on the social work chronology³ as setting out an overview of the LA's developing concerns in the case. I have gained an understanding of the parents' life history from the report of RH⁴.
- 11 This was a large family of 7 (MT; ST; the four children and the maternal grandmother) plus a dog living in cramped circumstances in a 3-bedroom property. The parents have some cognitive issues⁵ and the children appear to share varying levels of developmental need as set out in the papers. The chronology indicates social care concerns arising as early as 2003 in respect of C.
- 12 Matters became more serious in 2013 when S was subject to a very serious sexual assault aged 9⁶. This incident was not related to any action on the behalf of either parent. It is bound to have a profound effect on S, N and both parents with likely repercussions for the whole family. ST dates her problematic drinking to this point in time. I am willing to accept this account. It is clear concerning reports continued throughout 2013 of noise from the property and arguments being overheard. In July 2013 a third-party returned the children to find the mother in a '*paralytic state*'. In October 2013 the children (C, S and

³ C5; C76; C113 and C225

⁴ E141 (ST) and E151 (MT)

⁵ E74 and E88

⁶ C7

- N) were placed on the child protection register under categories of sexual abuse and neglect. In the ensuing period the children are variously recorded to have bruising when seen and alcohol appears to be a continuing problem for ST. In June 2014 a member of staff reported hearing screaming from the property when passing. In September 2014 both N and R is said or observed to have bruising around their eyes. The issues of bruising to the children continued into 2015 and in June 2015 the children remained on the CP register under the heading neglect.
- 13 In September 2015 the parents received an eviction notice. In November 2015 C has a black eye. In January 2016 N had bruising to her face. In June 2016 the substance misuse service offered to ST was closed due to non-engagement. The service felt ST was 'binge drinking in stages'. In February 2017 there were allegations of C having a black eye having been punched by MT. C denied the same and blamed R. In April 2017 R had a burn to his arm which he blamed on C. In May 2017 the children remained on the CP register under the heading neglect.
- 14 In May 2017 C alleges MT hit him to the eye. C later retracts this allegation indicating that his mother has told him to say this and that she had spoken of the children being put into care. In June 2017 C alleges being hit in the mouth by MT and sends a photograph of the same. C later says he does not want to be interviewed and is fearful of MT. On 5 July 2017 the parents signed a written agreement around the issue of not using physical chastisement. In July 2017 a family support worker was assigned to the family. In August 2017 an alcohol service terminated work with ST due to non-engagement.
- 15 A PLO meeting was held on 25 August 2017 and the parents were advised as to the expectations of the LA as to their care of the children. In early September 2017 the school expressed concern with respect to a call from ST when she was shouting, swearing and appeared under the influence of alcohol. The next day S alleged her mother had pulled her hair and was threatening the children being put in care. A week or so later S came to school with a scratch on her face and a burn to her hand. At around the same time R was seen with a significant bruise and the professionals received varying explanations for the same. A strategy meeting was held and medicals undertaken. Medical professionals express concern as to the children remaining in the home. That night (20 September 2017) the children are taken into emergency police protection. The circumstances of the removal appear to have been somewhat heavy handed with a high police presence. This is likely to have impacted on the children.
- 16 Shortly afterwards the LA issued care proceedings. The history of the proceedings is found in section B of the bundle. The case is now well beyond 26 weeks due to the need for an extensive final hearing and as a result of previous adjournments granted to allow further and additional assessment.
- 17 The children were initially placed together whilst in foster care. This placement could not be maintained given the continuing conflict between N and the foster carer and other children. N was thereafter placed in a separate

placement in which she has settled and in which she wishes to remain. Post-removal of N, S and R have appeared to settle into the care of their foster carer.

- 18 In December 2017 R made allegations against his father. In January 2018 N and S made allegations. The children were ABE interviewed as per the Court bundle. MT was police interviewed in relation to these matters. No charges have been brought against MT.
- 19 Post-removal the children had contact with both parents on a regular basis. There are contact notes within the bundle setting out the children's experience of contact. At a point around January 2018 the children expressed a wish not to see MT in contact. The LA obtained the father's consent not to pursue contact during the proceedings subject to the children's wishes.
- 20 The question of the children giving evidence was canvassed before the Court (S and N). At a Re W hearing all parties agreed it was in the interests of justice for the children to give evidence. They wished to do so. I conducted a grounds rules hearing which the advocates subsequently complied with. The structure and form of questioning was agreed in conjunction with the advice of intermediaries. I approved the questioning and allowed all requested questions without modification. All questions were asked and answered at the hearing. The children's ABE interviews were accepted as their evidence in chief. The children were examined by only two of the four advocates and breaks were allowed and message cards used. S gave her evidence by video-link whereas N gave evidence in Court using a screen. Follow-up questions were permitted using an agreed mechanism.

Impression of Witnesses:

- 21 I deal first with the children first.
- 22 I consider there was a marked difference between S and N as to their demeanour and what additional benefit I could gain from them having attended the hearing. The combination of the video-link and the format of the questioning meant that S's examination did not have the same sense of pressing importance to it as was the case with N. She was asked and answered all questions but I was not left with the sense that I had a fundamentally different understanding as to the weight of her evidence compared to if she had not attended at all. In contrast I felt N was very much affected by the process and was really aware of how important the Court process was. Both children answered all questions and were essentially unmoved in their evidence. The examination was able to identify areas of contradiction. It therefore had benefit for the parents.
- 23 I approach the evidence of both children with caution. I must bear in mind the potential that they might lie as a result of fear as to what might happen if they admitted they had not been telling the truth previously. However, in the case of N my sense was of a young girl who was really struggling with the emotion of being in Court but was doing her best to answer the questions. She did not give the appearance of someone who did not appreciate the significance of

what she was saying or who appeared unappreciative of the importance of being truthful. She was plainly under real stress in giving her evidence. I feel the process did give a fair chance for her evidence to be tested. I was less impressed in the case of S but as a result of the process rather than due to anything in the presentation or demeanour of S. She appeared to understand the importance of the process and stuck by her account.

- 24 I formed a positive view of RH. She gave expert evidence in a clear professional manner. Her opinions were evidenced and she kept at all times within appropriate professional boundaries. She made appropriate concessions and gave careful and helpful evidence.
- 25 My overall view of PB and CP was of sensible and experienced down-to-earth foster carers. It is plain to me that they have put a lot of effort and love into the care they have given to the children. I have no doubt neither wished to come to Court and give evidence. They were properly challenged as to their questioning of the children and in my assessment properly accepted some of the criticisms. I accept some of the criticism (largely directed at PB) but at the same time acknowledge that any errors arose not out of any wish to corrupt the process but out of a wish to ensure the voices and experiences of the children were recorded. On the evidence neither foster carer set out to probe the children but instead responded when the children began to speak to them. To an extent they were placed in an invidious position.
- 26 My overall view of VC was as a genuine and helpful professional witness. She returned to the witness box to correct aspects of her evidence. I do not view that as justifying any criticism of her. To an extent (as she accepted) there were aspects of her involvement in questioning which could have been improved. However, this is not a case in which I find there to have been any collusion or coaching on her part. To the extent errors arose this was in the context of a wish to ensure reporting was clear and full. Whilst a particular criticism is made of the post-ABE questioning on balance this has not significantly impacted on the assessment of the case. Aside from this issue I found her a clear and cogent witness who addressed all the issues with care and in a professional manner.
- 27 WT is an experienced Guardian. I have made observations as to his meeting with the children in January 2018. Subject to that point I found his evidence reasoned and helpful. I appreciate the criticism made as to his limited involvement with the parents but I question whether this would have enhanced his understanding of the case given the circumstances of the case. Overall, I found him a reliable witness.
- 28 Both ST and MT gave consistent evidence and unmoved evidence and this is an important consideration. They did so in a polite and engaging manner despite their cognitive difficulties. It is sad this case has had to focus on their alleged deficits in parenting as I am sure they have more rounded personalities than this limited enquiry would show. Both parents answered all the questions put and ST showed elements of humour despite the very difficult circumstances. It was clear to me they found the whole process very hard and

their appropriate emotions were evident throughout the case. I bear this in mind as I do their cognitive problems.

- 29 Despite their consistent evidence there were features which caused me to reflect. I agree with the Guardian as to being puzzled by evidence as to MT being wholly unaware of the eviction process concerning the family home until the Court Baliff arrived. Equally, it seems most unlikely that he would have been unaware of evidence of ST drinking throughout an extended period given its impact on finances, the likelihood of physical proof of drinking and the emotional and physical impact on ST. I had the sense MT was distancing himself from these issues consciously or sub-consciously to spare himself from the obvious questions and criticisms that might follow.
- 30 I also found ST somewhat lacking in reflection in giving her evidence. She believed nothing had happened despite there being evidence of MT regularly being very angry because the children would have told her if this had been the case. My sense was that ST was structuring her evidence as to the morning routine so as to avoid the reality of MT being left alone with the children (as he had stated in police interview).
- 31 Overall, I felt there were aspects of the parents' evidence which caused me to pause and wonder as to whether I was being given a full account.

Threshold / Fact Finding:

- 32 The parties agree the threshold is crossed as set out at A122⁷. It can be seen a significant feature of this concession is ST's misuse of alcohol and the consequential impact upon the children.
- 33 Notwithstanding threshold is agreed a series of important matters remain in dispute⁸ as follows:
- a) Physical harm: By MT physically and verbally abusing all the children using his hands and implements. By ST pulling N's hair and failing to protect the children from MT despite being aware of his actions.
 - b) Neglect: In allowing the children to attend school in an unhygienic state and in allowing R to witness adult sexual intimacy.
 - c) Emotional: In silencing the children from reporting the matters at home; in experiencing the chastisement referred to above; in witnessing parental domestic violence (DV), and; in N being subject to parental language that has left her feeling unwanted.
- 34 This hearing has focused principally on matters of physical abuse. In my assessment there is a close relationship between the matters identified within the physical and emotional categories above such that they are appropriately

⁷ Modified to a very limited extent by a document dated 13 June 2018

⁸ These are now found in a modified threshold document provided by the LA with the amended date 13 June 2018

considered together (save for the allegation of silencing which I consider below).

35 I can deal with the items of silencing and neglect in relatively short order. I do not find these allegations proven. My reasons for so finding are as follows:

Were the children silenced?

- i) The evidence as to the children being silenced or coerced into withholding information is scant to say the least. Plainly such a finding would be dependent on my finding as to physical abuse in the first instance. However, even if I am to make such a finding there really is little foundation for making a consequent finding of this nature. The primary evidence appears to be limited to (a) the inference of VC that reports have not been made due to coercion⁹; (b) the acknowledgment made by ST of threatening the children that they will be put into care, and; (c) S in ABE interview when asked why she had not said anything before saying; “*cause I thought I will get in trouble*” and when asked who told her this replying “*my dad*”¹⁰.

I draw very little from point (b) as there is really no evidence of any causal link between abuse and the threats. Indeed the chronology first raises words of this sort in a different context. Point (a) is a fair assumption to make but it is an assumption and one of a series that could be drawn in such circumstances. The children may not have reported concerning matters because they would get into trouble or because they were embarrassed to do so or fearful of the consequences. None of this requires an operating coercion from either parent. I have no basis for finding the social worker’s inference more likely than any of the other inferences that might have been drawn. That leaves me with the limited words in ABE interview. On balance I am not satisfied that isolated sentence considered in the context of the interview justifies the finding sought.

Unhygienic presentation?

- ii) The evidence as to the children attending school in an unhygienic state is found within school letters for each child¹¹. I have considered these letters but they fall far short of proving this allegation. They essentially report much improved presentation since removal into care. R is in ‘*clean well-fitting school uniform...with clean hands and a clean face. This is a marked difference for R who previously did not consistently arrive at school clean or in a clean, or fitting uniform*’. S’s “*personal hygiene is much improved, her skin appears clear and clean and her hair is always clean and brushed*”. N “*has seen a vast improvement...since being in foster care. Her appearance and hygiene is impeccable*”.

⁹ C28

¹⁰ I185

¹¹ R: F177; S: 180; N: 181

However, there is no evidence of any association between this presentation and bullying as alleged in the threshold and WT in evidence confirmed there was no such evidence. Further it appears agreed there was no communication as to these issues between the school and the parents prior to removal albeit matters may have been discussed at child protection meetings. My sense is that the children very likely did on occasion leave home with clothes which were not clean and with faces and hands that were not as clean as they should have been. This seems likely given the home environment is agreed by the parents as being unclean at times and appearing like a “squat”. However, I am being asked to conclude that this caused significant harm to the children. I agree that persistent poor hygiene does have such a potential but the evidence I have received falls far short of establishing this as a matter of fact. This is an allegation which runs the risk of offending the principle of social engineering expressed by Hedley J. in Re L.

Loose sexual boundaries?

- iii) The evidence as to loose sexual boundaries was initially found within a category under the heading of sexual harm. The LA appropriately removed this allegation. I have heard no evidence to suggest either parent has in any conscious way sought to cause sexual harm to their children. On occasion their physical interactions have appeared unusual in the context of the age of the children. However, in my assessment there is nothing to suggest any sexual connotation to this contact and I must bear in mind not only the permissible range of parenting approaches but also the developmental delay experienced by the children. What is left is an allegation that the parents have permitted the children (and R in particular) to be aware of their sexually intimate moments.

I have considered each of the relevant references. C156 does evidence sexualised behaviour on the part of S but it must be borne in mind that this incident occurred close in time to a sexual assault perpetrated upon S and as such this has an obvious alternative cause. C120, 139 and 150 are in fact references to the same report. The difficulty with this report is the manner in which it was taken by PB. For the purpose of this judgment I refer to C139. I do not intend to analyse the general manner of questioning at this stage in my judgment but will return to the same below. In any event I rely upon the observations below. R was being questioned about an incident at school¹² when he acted in a sexualised manner. His initial account as to why he had acted in this manner was to refer to interactions with N and C. S then came into the room and was herself asked where R would have got this from. She then said it had come from him seeing his parents engaged in sexual activity and in the presence of R indicated parts of the body which he was said to have reported seeing MT touch ST. R was then asked what he had seen and in essence confirmed what his sister had said saying he had seen

¹² Incident on 6 February and conversation with PB on 23 February 2018

“kissing, humping and touching [and he pointed to the parts of the body S had just pointed to”.

I do not consider this evidence provides a fair basis upon which to make the finding sought. In my assessment it falls short of meeting the appropriate threshold. The evidence is in my judgment undermined by the manner in which it arose. R had not provided a previous report but was in essence being asked to confirm what his sister had just said in his presence. As a suggestible child¹³ there is a real risk that he simply repeated what S said. His mimicking of her physical description (of parts of the body touched) adds to this concern. There is a danger he has simply agreed with his sister. Her evidence is secondary evidence in any event and thus of weaker value. I further have concerns as to the level of understanding of R given his developmental needs. What does he mean by “humping” was the touching he referred to over clothes or naked? Was the “kissing” appropriate adult behaviour? What do I make of the suggestion that the dog was in the bed at this time? I don’t have a satisfactory answer to any of these questions¹⁴. In this regard I heard clear evidence from the parents disputing such behaviour occurred. On the balance of evidence, I prefer their denials. I do not find the allegation proven. For the avoidance of doubt, I do not find that S made the allegation up, but this does not mean the matter evidences behaviour causing significant harm.

Physical Harm?

- 36 I turn now to the allegations of physical harm / related emotional harm and parental domestic violence.
- 37 All parties have relied upon the chronology of reporting in support of their respective cases. I consider it necessary to set out the chronology so far as I have come to understand it. In the table below the date is given for each key stage with a short narrative of what was reported and the bundle page reference. In addition to the matters below there have been a number of short reported matters which relate to the allegations but which are not required for the purpose of this chronology:

DATE	REF	REPORT
8.12.17	C82	R makes allegation to PB that his father has hit his mother and him
13.12.17	I130	R undergoes ABE interview. No substantive allegations ¹⁵
13.12.17	¹⁶	VC and PB speak to R on exiting ABE. Allegation made against father
26.12.17		Boxing Day contact between all children at father’s foster parents (parents not present)
1.1.18	C97	N makes allegation to CP of physical abuse by MT and C
3.1.18	C95	S makes allegation to PB of physical abuse by MT
18.1.18	E186-191	WT has separate meeting with all three children. All make allegations of physical abuse against MT. Allegations also made of MT assaulting ST.

¹³ See evidence of RH

¹⁴ R did not give evidence and did not address these matters in ABE interview

¹⁵ He does indicate his mother pinches and punches him but then qualifies this report saying it was once and was soft

¹⁶ Loose case record handed in during hearing

22.1.18	I160	R's second ABE: R wants to say 3 things (1) R and the other children were hit by Dad with a hammer in R's bedroom; (2) he doesn't want to go home; (3) he wants his mum and dad to stop fighting all the time.
22.1.18	I176	S's ABE interview: S alleges physical abuse and DV against MT.
22.1.18	I118	N's ABE interview: Alleges physical abuse and DV against MT.

- 38 The parents dispute any physical chastisement or domestic violence within the home. They contend the allegations are false and that the children have in some way been coached or encouraged to make up the allegations. They suggest it is possible that N may have in some way caused her siblings to make the allegations they have. They put forward some explanations for why this might have been done. They criticise the interactions with the children around the reporting as being such as to have likely impacted upon the credibility of their reporting.
- 39 In contrast the LA and WT submit the accounts are essentially true and that neither the timing nor the manner of reporting undermines the truth of what has been reported. They argue the children have provided consistent and maintained allegations of physical abuse and have at no point withdrawn the allegations.
- 40 The resolution of this dispute is fraught with difficulty being entirely dependent on my weighing of the evidence given by the children against that given by the parents in circumstances in which they are diametrically opposed on the key issues. The LA has not called independent medical or third-party evidence supporting the allegations. It places no particular reliance on extraneous documentation. The parents equally call no independent evidence or third-party evidence. They offer no alibi to the allegations. In relation to the physical abuse of the children the dispute is stark. There is no room for confusion as the parents claim nothing happened whereas the children allege behaviour which the parents would be bound to remember. It seems clear one side of the debate is giving truthful (or essentially truthful) account whereas the other side is not. In relation to the domestic violence (alleged assault by MT on ST) the position is subtler as there is agreement for instance that ST had a black eye but it is disputed as to the cause of the same. There is agreement that at Christmas (2016) ST was crying but there is dispute as to why this was the case.
- 41 Having assessed the evidence there are matters which I reflect upon in favour of the parents' case:
- Expert evidence as to the children: It is agreed the children all suffer to some extent with developmental delay. The impact of this in terms of their evidence was considered by the expert, RH. She agreed the children (a) might struggle to provide reliable evidence as to timings and as to quantum of events, e.g. how often they were hit; (b) this might be exacerbated in the event of matters being repeatedly recounted by the children with the suggestion that unreliable information crystallises, and; (c) were suggestible (particularly R) and easily led. The danger being that they might be vulnerable to being coerced or encouraged into repeating an untruthful account. I believe she agreed that suggestions of reward for giving information (or for having given information) might further complicate the assessment of truth. I take all of this into account.

- It is suggested that a significant part of the questioning of the children in this case has been inappropriate and unhelpful as to timing. Criticism is particularly made of; (a) the manner PB questioned R when he spoke to her on 8 December 2017; (b) the follow-up questioning of R by PB/VC post-1st ABE; (c) WT's meeting with the children on 18 January 2018 just prior to their ABE interviews. It seemed to me each of PB; VC and WT accepted this criticism to an extent. I consider they were right to do so. PB's questioning was not open and caused R to venture into new territory. The decision to speak to R after his ABE is likely to have arisen out of his failure to repeat in ABE those matters which had reported to PB in early December (see the rationale for PB prompting R). As such it was bound to be dangerous territory. However, in reality it ended up producing no more by way of information than that already existing out of the earlier report and as such was only confirmatory in nature. I agree WT should have recorded some account of the questions asked of the children as without that one is left wholly unclear as to the quality of the questioning (open or otherwise). There was also potential danger in the timing just prior to the meeting with the police as it might raise the prospect of the children being viewed as primed for the interview. I will return to this point below in my conclusions but consider it cannot and should not be overlooked as a consideration.
- There is the potential for rewards to have skewed the reporting. I have noted myself how R when interviewed for the second time is plainly ready to tell "*three things*" and that "*PB said me have tell the truth us go to McDonalds lunch*". Elsewhere there are aspects of subtle rewarding and supporting words which have the potential to encourage a line of reporting. To an extent (although not excessively) there are elements of leading questions within the questioning. I bear this in mind.
- The parents rely upon the coincidence of timing as to the inherent reliability of the reporting. R makes his allegation on the 8 December 2017; the children spend Boxing Day together and then both S and N follow up with allegations within 2 days of each other in early January 2018. The parents suggest that this is not coincidental but rather suggestive of the children likely communicating, putting their heads together and producing a common but untrue account.
- The parents point out that the children have had the opportunity to talk at contact; on Boxing Day; whilst holidaying at Easter 2018 and at a trampolining day out arranged by the foster carers. On such occasions they were likely to discuss the case and their allegations and this gave N (potentially) the chance to reinforce a common untrue account. This (the fact of meeting) is of course correct. I will return to its relevance below.
- The parents point out that there is general evidence of the children lying or exaggerating. Counsel for the parents extracted plain contradictory evidence between what PB said as to the conduct of N towards the other children when in her care and what N was willing to accept. I was also taken to evidence of N exaggerating an occasion when PB caused a door to bang into S and then threatening to make up stories about the foster carer "*starving the children*". This was plainly untrue yet N was willing to make the threat. More specifically when giving evidence N alleged her mother had "*kicked and punched her*". This was a new allegation

and when challenged about it she appeared to accept it was not true. As counsel for ST argued if she lied about this could she not be lying about other matters. Another example of exaggeration/lying is when R spoke of MT hitting all the children and his mother with the hammer in his room¹⁷. No-one else supports this allegation.

- There is evidence of contradictions within the evidence of the children.
- There is evidence of behaviour which runs counter to the children being victims of abuse. Whilst contact continued with MT their interactions with him were warm and indicative of a relationship of quality. On one occasion a child volunteered to ST to tell MT she loved him. It is said this natural action is a better indication of the quality of the relationship and suggests the allegations made have no reliable basis.
- The parents have given a consistent account of there being no violence as alleged. Despite robust examination they have stuck by their accounts. ST was able to give a personal account explaining why this did not happen. She told me if it had she would have filed for divorce or MT would have been “6 feet under”. MT and ST gave consistent common evidence in this regard and at no point appeared to be tripped up by the examination.
- Neither parent has a criminal conviction or caution and are entitled to be regarded as individuals of good character. This would suggest they are less likely to have acted in this manner.

42 Against this I have borne in mind the following matters in support of the LA’s case:

- The children have separately and independently raised their complaints.
- When S¹⁸ initially made her allegation, she did so not wanting the same to be shared with the social worker. This does not readily fit with a concerted attempt to cause trouble.
- Despite the stress of the process N and S have resolutely wished to give their evidence. They came to Court to give evidence against their parents knowing they would be present at Court.
- Notwithstanding the criticisms the children have not in fact withdrawn any of the key allegations.
- The allegations have been made at the same time as expressing a wish to return to their mother’s care. This capacity to discriminate and maintain this position is indicative of an underlying cause motivating their wishes.
- The possible explanations given by the parents for the allegations to be made do not hold water. It does not make sense for N to make the allegation as she is angry her mother has not left her father as without a basis for the allegations why would she want her mother to leave her father? Why would the children focus their criticism on the father when in the counter-factual world in which the allegations are not true it would be the mother who with her drinking issues the children would

¹⁷ I169: 18

¹⁸ C95

need protection from? How can the scratch card win supply an explanation for false allegations when it appears R made the first complaint before the children were likely to have known about the winnings?¹⁹

- There is as much detail in the picture painted by the children of the allegations as there is in the denial by the parents. Examples would be of R in interview suggesting that his father needs a punch bag and of one of the children saying they want their father to ‘get help’ or in R in an aside talking of having a ‘STOP’ sign on his door if he goes home to prevent his father hitting him.
- The absence of a retraction is also said to be relevant given the substantial obvious impact it is having on their wish for a return to their mother.
- The inherent implausibility of making such allegations were the home circumstances to be as described by the parents.
- Whilst the children have had a chance to talk the evidence of actual opportunity to talk secretly and plan the allegations is rather limited.
- The evidence of both RH and WT that the children despite their developmental issues have the inherent capacity to maintain an essential truth and as a result of their developmental needs would be unlikely to be able to maintain a wholly incorrect account throughout the proceedings as they have done.
- That there is within the evidence supporting evidence of MT’s strong emotional response to the children when being awoken by them in the morning.

43 In reaching the conclusions below I have borne in mind all these features; I have reflected on the impression I formed as to the witnesses, and; I have brought into my assessment the matters set out below in respect of the allegations of parental domestic violence. I was urged to approach the case with a holistic attitude of mind. I intend to do so and to ‘*stand back and review the scene as a whole; each fact as a contour to the landscape*’²⁰.

44 On balance I favour the evidence of the children and have reached a conclusion that the children have experienced physical abuse when in the home. I find the abuse has involved both verbal and physical abuse at the hands of the father. The force used has been excessive in causing bruising on occasion and is certainly beyond that which must be accepted within the range of permissible parenting. I find the abuse has been such as to cause the children both significant physical and emotional harm. I find all three of the children have been hit. In my assessment whilst I do not find daily abuse I do find the incidents have occurred with sufficient regularity to appear a part of daily life within the home. On the evidence available I do not specifically make findings as to the use of a hammer but I do find a hammer has been wielded on at least one occasion during one of the heated incidents. I am not satisfied the bruising on R (the TV incident) has been established as being for other than accidental reasons. I accept the children have had their mouths covered but I do not find the use of a cushion. I

¹⁹ Post judgment the parties note the children were aware of the winnings at the end of November.

²⁰ U v G [2017] EWHC 449 (Fam) per Cobb J. at paragraph 60

find there have been incidents around the top of the staircase during which N has feared her father is trying to push her down the stairs in the heat of the moment. On balance I am not persuaded there is evidence of ST hitting the children but I do find she has been aware of what has been taking place, and although this is unlikely to have been on each and every occasion, it has been sufficient to have a full understanding of the abuse suffered by the children.

- 45 I should explain how I have come to this decision.
- 46 I have found the consistent evidence of the children highly persuasive. On balance I reject the notion of them having put their heads together or having been coached or coerced. It is inherently implausible that either the social worker, foster care, teacher or other professional would have set about to create such a story. There is no logical reason for them to do so. Whilst I am critical as to the format of questioning in my judgment this does not undermine the inherent truth of the allegations and in my judgment is most unlikely to have both stimulated an untrue account and thereafter maintained its telling.
- 47 In considering coaching or coercion I have found unlikely the suggestion that N has in some way brought about the allegations. First, I struggle to find a plausible reason for her to make up these allegations. The suggestions made by the parents do not hold water. It is simply illogical for N to turn on her father in circumstances where he has done nothing apart from shout and in which her mother is problem drinking. Second, I do not consider there has really been the opportunity suggested for N to both establish and then maintain an account on the part of her siblings. I reject the notion that she might have managed this plan within contact which is closely supervised and in which the parents were present and involved. No-one has pointed to a note which might support such a suggestion. It is unlikely N created the account when the children were initially placed with PB. This was a time in which the children were oppositional to placement and were engaged in a substantial level of internal dispute. It is unlikely N would at the same time have coached R and S into the account subsequently given. Thereafter the difficulty is that alternative opportunities appear to post-date R's complaint. I have considered whether the girls' complaints might have arisen out of the Boxing day contact. I find this most unlikely as this was contact with the father's family and is likely to have been fully engaging of the children. I find it most unlikely they would all have had the opportunity to secretly meet and discuss these matters during this contact.
- 48 My assessment of the evidence does suggest the children are suggestible and might have been susceptible to influence. However, I have struggled to find evidence or opportunity for the same. Moreover, the expert evidence in my judgment strongly suggests a collusive false storyline would have fallen apart by now in the hands of children with the needs of these children and in the context of two of the children expressing a clear wish to return to their mother's care. Were the story to be simply untrue then I judge it likely one or other of the children would by now have expressed a contrary storyline.
- 49 I have reflected on the timing of the complaints. On balance I consider it likely R has spoken to the girls about the fact of his police interview/allegations whilst

at the Boxing Day contact or to S (and possibly N) in the days following his police ABE and prior to Boxing Day. It is clear from the second ABE that he was excited about being at the police station and was intending to tell his friends. It is highly likely that both N and S became aware of these events. In such circumstances I consider there is a likely relationship between the reporting but not out of a collusive plan. It is more likely the girls have reflected on what has happened to R and in the light of the same come forward to make their own allegations. As such the timing of the reports are related but this is not of itself grounds for suspicion.

- 50 I have had regard to the evidence of the children lying but consider this is not a highly probative feature of the case. The evidence of generalised lying is not of itself a basis for rejecting the children's evidence. Most children lie but this does not mean they are not also capable of telling the truth. I distinguish between the prospects of lying about everyday matters and lying about these significant matters relating to their parents. Whilst it is likely N may lie about hitting S this really tells me very little about the prospects of her making up a story against her parents. I have borne in mind the allegation against PB but note the threat was never carried through. I have borne in mind the allegation against ST made in the course of N's evidence but it is noteworthy this (in contrast to the other matters) was speedily withdrawn when challenged.
- 51 I take into account the evidence of warmth between the children and their father in contact. I do not consider this fundamentally undermines the reliability of the allegations. I am in no doubt that MT loves his children and that they each love him despite the troubled nature of their relationship. My sense is that their anger is exacerbated by the complexities of the relationship. He is someone who means a great deal to them and it is thus more damaging when he is abusive towards them. But it is not surprising that they at times of contact in a safe setting engaged with him in a positive manner. Children (indeed all individuals) are complex in their emotions and are perfectly capable of holding emotions of love / anger and fear in respect of the same individual.
- 52 I have borne in mind the contradictions in the evidence but I consider these are more than balanced by the consistency of the evidence and the maintenance of the allegations despite the emotional wish to return home. I find it probative that the children have expressed their concerns in the mixed manner in which they have. Not wanting the social worker to know and for Dad to have help is not something I would expect from these children were the story to be a fabrication. These children taken individually and collectively simply do not have the sophistication to create, dress with detail and maintain such a story.
- 53 In reaching my conclusions I was struck by the agreed evidence as to MT's moods in the morning. It is clear to me that this was a home in which the morning routines and MT's return from a long overnight work shift did not mix well. It is telling that nearly all the reports are clearly related to MT's response to the children when tired in the mornings. This was plainly a crowded noisy house every morning. The children were up early and the space was limited. On the evidence I have read the relationships between all the children (including C) was problematic with regular squabbling and fighting. Into this context is

introduced MT returning tired from work and trying to sleep on the living room sofa as the morning rush hour continues around him. Both parents spoke plainly about his high anger when being woken by the children. He would shout and swear at them. I was curious as to what happened when the children didn't listen or continued to fight. I found MT's response incredible in telling me that he would then calmly separate the children or discipline them. Rather I consider it highly likely his anger would continue and then would translate into physical abuse. I very much doubt he was capable of simply reigning in his anger in such a context. This is implausible. In my judgment there is a strong association between the chaotic morning routine and the abuse in this case.

- 54 In this regard I found the evidence of MT and ST unconvincing. I was left with the sense ST was consciously setting the morning routine in such a way as to ensure MT was not seen as being left with the care of the children. This ran contrary to the account given by MT to the police of being responsible for the children when ST left for work. That being said it is clear to me ST was well aware of MT's explosive response to being woken by the children. I am persuaded that she has been present on a number of occasions when this has happened and it is likely she has on occasion experienced MT resorting to force when verbal anger will not resolve the situation. This being the case she must have been aware of the continuing risk on occasions when she left for work with MT responsible for the children.
- 55 In my judgment there is a likely relationship between ST's drinking and the difficulties during the morning routine. The evidence persuaded me ST has been drinking at a high level²¹ most nights and has likely impacted on the family preparation for schooling the next morning. In such a context it is highly likely matters were poorly prepared each morning and it is likely ST would on regular occasions be affected in her mood by her heavy drinking from the night before. This is a further complicating addition to the morning routine and is likely to have heightened tensions when the children were noisy, squabbled or misbehaved.
- 56 Turning to specifics it is clear to me that MT has been verbally highly emotional at such times. On a consistent basis this has caused significant emotional harm to the children. It is bound to have left them scared and wary as to what would follow. I find he has resorted to physical force when his verbal outburst has not resolved the situation. On such occasions he has hit out and this has on balance involved all three children depending on which child has been the source of the outburst. The force used has been excessive and has caused the children pain and likely bruises on occasion. This amounts to significant physical harm. I accept the evidence of the children having their mouths covered. I do not find this to be an attempt to suffocate or anything of the sort. Rather it is likely to have been a poorly chosen strategy to deal both with their response to being hit. On balance I do not find the evidence supports the allegation as to a cushion being used. I do not consider the incidents would have been restricted to the living room. As MT indicated on occasion the noise would be coming from the upper floor. I find it likely MT would have pursued the issue upstairs and in the

²¹ Conceded at between 1-3 bottles on at least 4 nights per week

heat of the moment I find it both plausible and likely that N may have had a sense of her father trying to push her down the stairs. As a matter of fact it is not alleged he actually did so.

- 57 On balance I am not persuaded a hammer has been used on the children (or R in particular). Having considered the evidence, I remain unclear as to whether R in interview was repeating his explanation as to how he came to bruise himself by falling on the furniture. I do accept and find that on this occasion MT likely responded and on balance I find it likely he wielded a hammer in a threatening manner as described by one of the girls in evidence. However, I am not persuaded R was hit although the emotion of the moment and his subsequent bruising has come to be interlinked. I note in interview R suggested being hit on the shoulder in any event and there is no evidence of bruising as one might expect to that part of his body.
- 58 I am not on balance persuaded as to the bathroom allegations. Having considered this evidence it is clear the room was not locked for the reasons given. On this matter I preferred the evidence of the parents as to bath time segregation. This had the ring of truth about it notwithstanding a degree of discrepancy as to the timing of the introduction of the policy. My overall sense was that bath time was a source of anger in the morning and there may have been angry exchanges surrounding it but I am not persuaded S was hit whilst in the bath. Equally I am not on balance persuaded by the allegations relating to S's hair. I consider there is real room for misunderstanding in this regard and that forceful brushing has been misdescribed by the child. I have not found the assault on the way to school proven. The evidence I heard suggested such an assault was perpetrated by C if anyone (I make no finding).
- 59 As noted above I find ST was aware of the physical abuse. On balance the evidence does not persuade me that she has hit the children in a manner that can be said to have caused significant harm to them. I make no finding as to physical abuse on her part. The evidence was limited and there was a lack of consistent reporting from the children in such regard.
- 60 In reaching my conclusion on physical abuse of the children I have reflected on the related question of parental domestic violence. I have considered the points below and reached the conclusions set out below.
- 61 The position is equally stark. The children report seeing their parents fight. They report seeing MT hitting ST. N reports seeing ST with a black eye and relates an incident at Christmas (probably 2016). The parents dispute the same. They agree they argue and on occasion this can be loud with associated swear words. However, there is no violence save for an isolated incident the best part of 16 years ago (and hence prior to the birth of the relevant children) when ST hit MT in circumstances which are no longer recollected.
- 62 In a case in which so much is fundamentally in dispute it is in my judgment sensible to focus on matters where there is at least some intersection of accounts to form a sense of where the truth lies. I intend to do so in respect of the black eye /Christmas incident. Following all the evidence it is clear this is a subject

where there is a form of agreement which allows a clearer analysis than other allegations which are general in character and wholly denied.

63 Having considered this issue I am persuaded this was an incident in which MT perpetrated domestic violence on ST causing her the injury in question. I have reached this conclusion for the following reasons:

- I bear in mind that N gave consistent evidence in this regard both to the police and to the Court in oral evidence. She did not withdraw the allegation. It is an allegation which is supported by the detail supplied by N. N suggests her father gave her a black eye at Christmas and her mother went to the bathroom and was crying.
- I consider the allegation is supported by the manner in which the parents responded. This was a clear instance of the suggested domestic violence being alleged by a child of the family. Yet neither parent dealt with the allegation in their written evidence. It appeared this allegation was being fundamentally disputed as with the other matters. However, in her oral evidence ST (whilst making no mention of the black eye) responded to the allegation of her crying by saying this was simply happy tears in the light of the generosity of the children in the gifts to her. MT made no mention of the incident in his written evidence. In his oral evidence he repeated what the mother said as to her tears but then commented that she had had a black eye but this was due to a third-party assault upon the mother when she out of the home.
- I found the timing of the response and the detail unpersuasive when compared to the evidence of N. In my assessment it is difficult to reconcile the child's account of the mother crying with that of it simply being happy tears. Despite their developmental needs I find it difficult to see how the two could be so markedly confused.
- Further, I found the evidence of MT as to the assault raised more questions than it answered. On his case he was approached by his children asking how mum had got a black eye. He then spoke to her and she told him she had been attacked (I think when returning from work). That appears to have been the end of the matter and no report was made to the police. This is all rather odd. I struggle to understand how it came to pass that MT only found out from the children. Surely his wife would have at least informed him by phone if she had been attacked. I consider it highly unlikely it would fall to the children to raise this with him. Secondly, it is an odd response to have taken no steps in relation to an attack of this nature. The absence of any detail to the surrounding circumstances and the failure of ST to mention this incident adds to my scepticism.
- Having considered the evidence I prefer the account of N which links the two points rather than that of the parents.
- I also bear in mind the surrounding home circumstances as found above. I have found a somewhat chaotic home life in which ST was drinking to excess and MT was tired and prone to losing his temper. I have found an inability to restrain his anger on occasions. In my assessment these are circumstances which are likely to be associated with a heightened risk of domestic violence.

- I bear in mind all three children have made such allegations. In my view there is a marked distinction for children of these ages and developmental needs to falsely allege violence between two other people (both of who might deny the event) and to allege violence towards themselves. These children would not have the sophistication to appreciate that the Court may extrapolate in the manner I have above. Rather they would likely have a natural concern that their lie would be readily found out by both individuals denying anything took place. In my judgment this is a relevant consideration.
- I also bear in mind the evidence dotted through the reporting of the concerns of the children as to the mother being safe from the father and their concerns for her. Their mixed approach to their parents and N's anger to her mother for not leaving her father also fits comfortably with this conclusion.

64 Having reached this specific finding I have further reached the conclusion that this was not an isolated incident but part of a more general pattern of domestic violence in the home including highly charged and emotional verbal arguments and occasions (perhaps limited in quantum) when MT has hit ST. In my assessment this has come to be part of the children's experience when growing up and has been significantly harmful to their emotional wellbeing.

65 I last deal with the allegations of particular verbal assaults and words used. I am persuaded the angry outbursts have included words such as those identified within the threshold. This allegation does have an external support²² albeit this is directed at ST. The parents agree angry outbursts have included poor language. I consider it likely in such moments of outburst the language has been unrestrained and aimed at causing maximum effect. In the case of N this has been to use an area of particular sensitivity for her in being called an 'extra'²³ and other related terms. I consider both parents are likely to have acted in this manner.

66 In summary I make the following findings for the purpose of threshold:

- The children have suffered physical harm in that
 - The father has used excessive physical force against all three children on a more than occasional basis
 - This has involved hitting the children with his hands and threatening them with implements
 - The children have as a result suffered bruising on occasions
 - He has covered their mouths as part of the assault
 - The mother has been aware of the physical abuse but has not taken steps to protect the children
- The children have suffered emotional harm in that:
 - They have experienced both parents shouting at them and have been called inappropriate names and threatened with being placed into care

²² C8 chronology entry 23 July 2013

²³ Reflecting her twin status

- They have witnessed their parents fighting and shouting and have seen their father assaulting their mother on a number of occasions
 - They have experienced physical abuse and witnessed their siblings suffer physical abuse
- To this must be added the matters conceded.

Welfare Analysis:

67 I turn to the welfare checklist.

68 All three children have expressed a wish not to return to the joint care of their parents. Whilst N wishes to remain with her foster carer S and R would want to return home to the sole care of their mother. But this is not an option on the table. Within the proceedings an opportunity was given for ST to be considered alone²⁴ but this opportunity was not taken up²⁵. Whilst I appreciate the likely emotions surrounding the decision I am left in little doubt this resolution to remain together continues. I bear in mind that ST says she will separate if I make a finding against MT but I treat this suggestion with real caution. I enquired of ST as to what would change in respect of her understanding of the allegations were I to make a finding against MT? This must be understood in the context of my finding that ST was aware of what was taking place. I simply do not consider it likely the couple will separate.

69 The parents accepted the wish of the girls not to return home. They are right to do so. It is to their credit that they accept the girls views. Given the age of these children it would be emotionally harmful to force them to return contrary to their wishes (with or without the findings made above). In the light of the findings it would be perverse to compel their return to a place in which they have not felt safe. I accept their views may change over time. But they deserve respect.

70 R has expressed a similar view. As with the girls I must have regard to his level of understanding and maturity. His developmental delay impacts on the weight to be given to his views. However, as his views are shaped by what has happened to him and as I have accepted his account it is appropriate to place significant weight on his wishes. R is plainly grappling with a very difficult decision. His resolution of wishing to return to his mother demonstrates an appreciation of the risks in the case.

71 Each of the children need a stable, predictable home free from the anger and instability / chaos present prior to their removal. In my judgment they have demonstrated an ability to settle and make progress when provided with consistent and reliable care. Given their developmental needs there is if anything a heightened need for consistency and calm. The children have a range of needs which are not best managed in an environment of anger and

²⁴ B106: 12(2) / B107

²⁵ See CMO 9 April 2018

- disruption. My sense of the evidence is that the children have modelled what they have experienced and that their problematic relationships are a response to what they have grown up seeing around them. This is highly damaging. N has a need to be a child. There is good evidence of her taking on a role beyond that of a child in relation to the other children. Whilst I have heard the suggestion that this is positive modelling of her mother's care I consider it more likely a response to necessity in the context of her mother's drinking issues and emotional and at times physical unavailability.
- 72 I have been asked to consider returning R to his parents alone. On my findings this would likely increase his anxiety levels given the absence of any protective influence from either sister. How would R come to understand being believed but being sent back alone?
- 73 As to a change of circumstance it is right to note that both S and R will need to move in any event by about October as their current placement will not be available long term. I struggle to see how a return to their parents at that time could be anything other than a highly disruptive move. It would be contrary to their wishes and bound to leave them feeling unsafe and worried. It is likely to create profound emotional turmoil. In contrast a move in foster care will also come with emotional turmoil. Children do not seek out change and these children are likely to particularly benefit from consistency. However, such a move can be managed in a structured way to alleviate upset and will benefit from not being surrounded by the concerns as to safety.
- 74 I have considered the children's personal circumstances throughout this judgment.
- 75 I have set out my findings as to safety above. The children have experienced significant harm in the care of their parents and absent fundamental change are likely to continue to do so. In many ways this has the sense of being close to a magnetic feature in the case,
- 76 I turn to capacity of the parents. This judgment reads as a strong criticism of their parenting style and it is bound to do so given its focus on the fact-finding aspect of the case. However, I would not wish to lose sight of the fact that despite their real difficulties both of the parents do love their children. They are a hard-working couple who have struggled to succeed in difficult financial circumstances. The contact notes generally point to the bond of love and warmth between the mother and children. On my assessment of the evidence the children are also emotionally attached to their father and love him too. These proceedings with their focus on his conduct have fractured the relationship but I do not consider it is a relationship which is not worth working to repair. In the right circumstances the children can and should have the opportunity to rebuild their relationship with both parents.
- 77 The difficulty is that both parents continue to face the challenges which underpin these proceedings. On my findings (and to an extent on his own admissions) MT has real anger management issues which need to be addressed. To re-establish his relationship with his children he needs to accept

what he has done and offer them an appropriate form of apology. They need to know this is genuine and that he wants to and will try very hard to change. Trust needs to be rebuilt and this will take time. ST has a continuing alcohol issue which needs to be addressed. It has added to the difficulties in the home. It is likely to have underpinned the loss of secure housing. This has not been addressed and given its chronic nature is likely to require time. ST has failed to provide the hair strand test recently ordered by the Court but she admits to continued drinking. Both parents require intense parenting work but they need to commit to the same. They pulled out of a Court appointed parenting assessment and so there is a gap in knowledge. The result is that there remains a real and justified concern as to the parenting capacity of the parents to provide good enough parenting for the children.

78 As to orders I might make the options are for a final care order or for a return home to the parents under a supervision order or without order.

79 There are identifiable benefits of the children returning home. The obvious benefit is that it would allow them to maintain and continue their natural family life. It would allow them to share a home with both parents and with their sibling C. It would be an outcome which did not interfere with their family life. It would allow the parents the opportunity to put things right and to show the children that they love them. It would allow the highest level of contact between parents and children. The difficulty for such a return is that it would run counter to the wishes of the children and would likely return them to a situation of potential harm pending meaningful change. It is difficult to envisage a support structure that could adequately reduce the risks to an acceptable level short of live-in support.

80 In contrast the making of a final care order would leave the children in foster care. To date such a placement has allowed the children to settle and make progress. It is a setting of safety and is likely to provide the consistency they require. It is consistent with their wishes when viewed against return to both parents. It will permit contact and the maintenance of family relationships. The downside for such an outcome relates to its impact in severing the family unit. Further I must bear in mind that it comes with a certain level of stigma and impact on the children of being cared for by a statutory parent. Having said this these are children for whom there is likely to be ongoing agency support and as such this might not seem as stigmatising as would otherwise be the case.

Conclusions:

81 In my judgment there is sadly only one real option in this case for all three children. Their pressing need is to be kept safe. Their wishes and feelings are closely interlinked with this feature. The only appropriate option is the making of a final care order in favour of the LA.

82 Both parents now need to reflect on my decision. I do not consider the situation can simply be resolved by ST separating from MT. She would need to then demonstrate a sustained change in her own behaviour. On balance it is likely they will retain their relationship. MT must now reflect on what has happened

and I agree he must be ready to acknowledge the same if he is to make real progress with the children. There is a lot of work ahead for these parents. I hope very much they take this judgment as a starting point for change.

83 The children do need to see their mother. It is possible they will change their view as to contact with their father knowing they are now to be settled into foster care and knowing that the issue of the allegations has been determined. If their view changes then I would expect the LA to be led by these views. Pending such change however it is right that the children's wishes should be respected and I make the section 34(4) Order sought by the LA. I understand MT accepts it would be wrong and indeed counter-productive to seek to force contact in these circumstances.

84 As to the contact with ST the advice from the LA, WT and RH is of monthly contact with weekly telephone contact. My understanding is that the telephone contact is agreed and I approve the same. ST would seek more regular contact with S and R on a fortnightly basis at least. In expressing this view, she relies upon S's response to being told of the plan for monthly contact that this did not seem very much. She also relies upon evidence of S indicating she feels settled in response to the suggestion that a period of settling is required.

85 It is acknowledged N is currently seeing her mother once every 3 weeks or so and N indicated she was happy with a monthly routine. As to S and R it seems to me they will be moving in the course of this year and there will be issues of settling in to consider. There will also be the need for some reflection on the outcome of this hearing and there is the real potential for some emotional disruption as the outcome sinks in. I consider there is merit in the argument as to allowing the children to settle in and come to terms with the outcome of the Court process. Part of this is understanding a final order has been reached. On balance I approve the contact proposals of the LA supported as they are by the other professionals. They must of course be kept under regular review by way of the LAC process and the LA must be alive to the potential for too little contact to be as disruptive as too much contact. They are also bound to reflect on S's age and her wishes in the light of that together with the emotional impact on R were he to understand that his sister was seeing his mum more than he was.

86 I therefore approve the care plan.

87 I have considered the interference this amounts to in the private family life of this family. I consider the orders I make are proportionate as they are the lowest level of interference consistent with the welfare of the child. Any lesser order would leave the children at risk of continuing significant harm. As such they are reasonable and necessary. The orders are lawful.

His Honour Judge Willans