

IN THE FAMILY COURT AT WEST LONDON

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

Date: 08/05/2018

Before :

HIS HONOUR JUDGE WILLANS

Between :

LONDON BOROUGH OF EALING

Applicant

- and -

- (1) AA
(2) BB
(3) CC
(4) DD
(5) XX, YY, ZZ (by their Children's Guardian)
(6) WW

Respondents

Ms Kathryn Blair for the **Applicant**
Ms Julie Okine for the **First Respondent**
Ms Ghazal Hill for the **Second Respondent**
Mr Baldip Singh Aulak for the **Third Respondent**
Mr Andrew Shaw for the **Fourth Respondent**
Ms Danielle Lewis for the **Fifth Respondent**
Ms Wing Yan Chan for the **Sixth Respondent**

Hearing dates: 30 April – 4 May, 8 May 2018

JUDGMENT

His Honour Judge Willans:

Reference in Judgment	Relationships
LA	The Local Authority
AA	Mother to all four children
BB	Father to XX and YY; brother to CC
CC	Father to WW; brother to BB
DD	Father to ZZ
WW	Child of AA and CC
XX	Child of AA and BB
YY	Child of AA and BB
ZZ	Child of AA and DD
RK	Consultant Child and Adolescent Psychiatrist
JD	Consultant Clinical Psychologist
SA	Social Worker (August-September 2017)
CC	Social Worker (September 2017 – Present)
SD	Family Finder
KG	Parenting Assessor
Guardian	Children's Guardian

Introductory points

1. In this case I am asked to make final public law orders in relation to four children, WW, XX, YY and ZZ.
2. To help me make the appropriate decision I have considered the documents contained within the digital bundle; the written and oral submissions made by the representative for each party (including for WW as a competent child directly represented), and; the oral evidence given by the following witnesses: RK; JD; SA; CC; AA; SD; DD; KG, and; the Guardian.
3. I read the statement of DD. He attended the first day of the final hearing but left after the evidence of RK. He then returned on the fourth day of the hearing to give his evidence before once again leaving the hearing. CC provided no statement evidence and did not attend the final hearing. BB provided a witness statement, did not give evidence but attended the hearing (albeit not on the first day). AA attended every day of the hearing (except submissions), provided a statement (albeit on the third day of the hearing just prior to giving evidence) and gave oral evidence.
4. I met with WW and XX on 2 May 2018 (after the Court day) in a manner consistent with the Guidelines on Judges Meeting Children. A note of this meeting has been taken and shared with the other advocates/parties.
5. In the course of the hearing I received a limited number of documents not contained within the digital bundle as follows: (a) the Guardian's final analysis; (b) AA's final evidence; (c) a refined final threshold document; (d) an email from representative for DD setting out his observations upon the threshold; (e) documents contained within a non-molestation application issued by AA against DD on 15 January 2016; (f) an email from

the Freedom Project dated 1 May 2018 relating to AA's engagement with the same; (g) a text message chain between AA and her sister dated 1 May 2018; (h) a letter dated 24 April 2018 relating to BB's engagement with the WDP Brent DIP Team (substance abuse practice), and; (i) text messages sent by DD to CC after his evidence.

6. Aside from these documents all references to documents will be to the relevant page number within the digital bundle.
7. This judgment attempts to be a focused analysis of the evidence and an appropriate explanation of the reasons as to why I have reached the conclusions I have reached. I will not deal with all issues raised or all matters in dispute. However, I have throughout borne in mind all the information placed before me.
8. I have decided to provide a written judgment. This provides the benefit of allowing the parents the chance to reflect (if they wish) upon my conclusions outside the arena of the Court. It also reduces the risk, as I view it, of disruption of the judgment.

The position taken by each party:

9. The LA seeks final care orders in respect of all four children. Their care plan is for long-term fostering of WW and XX together. They additionally seek placement orders with respect to YY and ZZ with a plan for the children to be placed for adoption together.
10. The Guardian supports the LA in their planning.
11. AA opposes the application and seeks for all four children to be returned to her care. If the children are not returned to her care then she would seek for there to be a family placement. She opposes any plan for adoption.
12. BB accepts he cannot care for the children. He supports placement with AA. He opposes YY being placed for adoption arguing that she should be placed if necessary in long-term foster care with her older sibling / half sibling.
13. CC has not put a positive case before me. I am told he supports the LA plan with respect to WW.
14. DD opposes the plan for adoption in respect of ZZ. He supports AA in seeking the return of ZZ into her care. In default he would seek for ZZ to be placed with him.
15. WW wants to return to his mother (it would seem all the children have expressed such a wish) and to live with all his siblings. Failing this he wants to be placed if possible with a family member together with his siblings.
16. Each of the parties sets out their default contact positions. I will return to this in due course.

The realistic options:

17. The following options arise for consideration (a) placement of all or some of the children with AA; (b) placement of ZZ with DD¹; (c) placement of all the children (together or not) in long term foster care; (d) placement of the older children in long term foster care with the younger children placed for adoption.

The applicable legal principles:

18. The key points upon which I direct myself are as follows:
- a. The overarching principle is that it is the child's welfare that is my paramount consideration from start to finish. In due course I will approach the child's welfare by reference to the welfare checklist. Due to the differing outcomes sought this will require me to reflect upon section 1(3) Children Act 1989² and section 1(4) of the Adoption and Children Act 2002³. It is significant that the latter assessment requires me to have regard to the welfare of the relevant child throughout his or her life.
 - b. In considering the making of a care order I must first consider whether the legal threshold has been crossed. By this I refer to section 31(2) Children Act 1989 and the test as to whether the child has suffered significant harm or is likely to suffer the same having regard to the care provided to them (or likely to be provided if an order is not made) not being what the Court would expect of a reasonable parent: "*significant harm test*". If this threshold is not crossed then a care order cannot be made. If it is crossed then I may make (but I am not obliged to make) a care order reflecting on the welfare of the child.
 - c. In this case threshold is not substantially in dispute and it is agreed as being crossed. However, to the extent residual issues of fact remain I must remind myself:
 - i. Of the need for a causative association between the allegation and significant harm⁴
 - ii. That the responsibility for proving the allegation is with the party making the allegation and that they prove it if it is established on the balance of probability. The party facing the allegation is not required to disprove the allegation. All evidence and particularly that of the parents will be relevant to deciding the issue. In assessing the credibility of a witness who has been shown to be untruthful elsewhere in the evidence I must remind myself as to what is known by shorthand as the *Lucas Direction*⁵
 - d. In making decisions as to disposal I should bear in mind the potential for my decision to amount to a serious interference in the private life of this family.

¹ I have included this within the range of options notwithstanding the modified position taken by DD in his evidence

² In the case of WW and XX

³ In the case of YY and ZZ

⁴ Re A (A Child) [2015] EWFC 11

⁵ Namely that such a witness must not be taken or assumed to be generally untruthful. I must have an eye to the context and circumstances of the proven lie and guard against drawing an over easy inference against the individual

Consequently, I must subject my assessment to a test of proportionality and ask whether the proposed order is reasonable, necessary and lawful. I should also remind myself that the standard of parenting required is not of perfection or anything like it. The test is *good enough parenting* and no more. Associated with this principle is the important reminder that the Court must accept a broad range of parenting styles and skills within this category of *good enough parenting*⁶.

- e. In being asked to make a placement order I am asked to act at the extreme of family interference. Such a level of interference requires particular justification having regard to its obvious and draconian implications. Consequently, I would have to ask myself whether to coin a phrase “nothing else will do”. Furthermore, the question of a lack of parental consent would arise. I would have to consider dispensing with this lack of consent and would only do so if the welfare of the child required me to do so.
- f. In carrying out my analysis I must confront the realistic options for the child. In this case having regard to the mix ages of the children there is perhaps a broader range of realistic outcomes than might typically be the case. I should consider each in turn weighing the benefits of the option against its detriments. I should then take care to weigh each option against the other options taking a holistic rather than a linear approach. It is only by this form of careful analysis that the Court can be confident the welfare of the children and the tests of proportionality are met.

My impression of the witnesses:

19. At the start of the hearing I reinforced to the lay parties that I would in due course be required to form some impression of each of them when making my decision. I explained that presentation in Court (both when giving evidence and not giving evidence) was an important part of this assessment. This should not have been a revelation to them as I recall making the same point at earlier hearings⁷.
20. In this case I (and the parties) have the distinct benefit of continuity of Judge. I conducted the EPO hearing; the ICO hearing; the CMH and IRH hearings and the Final Hearing. This is an important feature in permitting me to have a broader impression of each party.

AA

21. AA describes herself as a passionate individual when matters turn to what is best for her children. She explains her behaviour within these proceedings as reflecting the antagonism of DD taken together with the attitude of the LA towards her.
22. I have little doubt that she is passionate about her children. All the evidence tells me that this is a mother who very much loves her children and who in calm moments wants the very best for them. There is plain evidence of pockets of good parenting. Before turning to my concerns, I would first express my view that when giving evidence she was considerably calmer and controlled in her behaviour. I feared she would struggle to give

⁶ Re L (Care: Threshold Criteria [2007] 1 FLR 2050

⁷ In particular the IRH in January 2018

her evidence but she retained her composure and to her credit bravely dealt with the issues put to her. In doing so I could begin to form a sense of the person who exists under the thick skin of armour which I have formed the opinion she has chosen to wear to protect her from the emotional rollercoaster that has been her life to date. In my assessment she is not a person who lacks any potential to change.

23. However, for most of the proceedings she permitted her poor emotional control and decision making to obscure her better qualities. At every hearing prior to final hearing she had to be regularly cautioned by me to quieten and address her concerns through her representative. Sadly, she demonstrated a complete inability to so act. When discussion turned to potential outcomes which she did not wish she became wholly disruptive of the Court process. As an example, at the IRH discussion naturally turned to kinship options. The Court was obliged to consider paternal family care. AA was incapable of maintaining her composure and was disruptive expressing her intentions in such regard (“over her dead body” or words to that effect). Towards the end of the hearing AA made to leave Court and on exiting the Court physically struck DD⁸. At the final hearing there was further evidence of her inability to manage her emotions. There was the suggestion she has spat in the face of DD prior to the hearing on day 1. At the hearing she would interrupt evidence and speak over it when she found it unacceptable to her. In a case in which emotional dysregulation was relevant she did herself no good.
24. It is clear to me that this approach was not restricted to the Court room. I must have regard to the strong emotions that arise out of proceedings of this sort. Lay individuals have to cope with real anxiety and it is perhaps natural that on occasion emotional control can be lost. I of course bear this in mind. However, the poor control can be plainly seen to extend well outside the Court room regularly intruding into professional meetings and the like.
25. Further to the above it is clear to me that AA is rigid in her responses. She struggles to engage with challenging issues and is very sensitive to criticism. This was demonstrated by her response in walking out of the meeting with RK. I very much suspect that this is at the heart of her failure to fully engage with most of the assessments ordered in this case: the parenting assessment; the Hair Strand Testing; the psychiatric assessment.
26. Turning to her evidence. Whilst I note her improvement in presentation I was left with the real sense that she has poor insight into these proceedings (both as to their cause and process). I am not sure she has sought to deliberately mislead me but I have formed the view that I should treat her evidence with some caution. In particular she asks me to make findings on issues such as substance abuse (or not) and parenting capacity and ability to change whilst at the same time having taken from me the very evidence that would have permitted me to evaluate the same (in not complying with the assessments).

DD

27. There was some significant similarity between the presentation of DD and that of AA. Whilst he was more controlled than AA in his pre-evidence presentation he also showed a tendency to be disruptive and incapable of controlling his moods. He spoke of his relationship with AA being toxic. He is correct in this assessment. He accepts

⁸ She has since been convicted for assault

contributing to the assault at the IRH by acting in a provocative fashion. At the final hearing he was disruptive of RK's evidence and after the Court had risen for lunch it is clear he spoke in a wholly inappropriate manner about RK. Outside of Court he has shown a capacity and willingness to be verbally abusive to those charged with assisting the children.

28. However, as with AA his actual evidence showed a significantly different approach. He was also calmer and more measured and was far more accepting in respect of his own responsibility for what had gone wrong than previously. He demonstrated insight, for example in recognising the challenges he now faces. As with AA I consider it a great shame that he was not able to maintain this approach through the process.
29. In considering his evidence I share the caution expressed by the Guardian as to whether there is a potential for this more measured approach to reflect DD's more recent supportive stance in respect of AA. I also bear in mind that aspects of his evidence remain concerning. Overall, I take a similarly cautious approach to his evidence and I consider on balance that there is a greater potential for him to have been tailoring his evidence.

BB / CC

30. Neither father gave evidence. At points in the proceedings I have seen both fathers. BB attended the hearing as described above. My sense of them both is as being individuals who care for their children and want the best for them but are wholly unable to act beyond the limits set by their chaotic substance effected lives. I am sure they each regret this reality. To their credit they appear to do so by the approach they have taken within the proceedings.

WW / XX

31. I met with the older children. I was struck by the Guardian's evidence as it mirrored the independent view I had reached on meeting the children. I was surprised by their presentation and their quiet confidence with which they engaged with me. They had an obvious sense of humour and were plainly likeable children. I agree this says something positive about AA and her care of these children. The children were able to explain what they wanted in a clear and sensible manner. It was clear to me that they feel a strong bond to the younger siblings and I agree with the Guardian that these are not children who have any sense of more limited relationship arising out of their mixed paternity. I thought WW seemed resigned to an outcome contrary to his wishes.

The professional witnesses

32. I intend to deal with these witnesses as a group as I formed a common view as to their presentation. They were in each case professional in their approach and balanced in their assessments. I found nothing in the evidence of RK to suggest he was engaged in a character assassination of DD. I felt his evidence was fair and measured in both tone and content. He explained how he had reached his opinion and properly dealt with all points put. Whilst it is right he appeared to take a modestly less encouraged view with respect to DD than JD this did not, in my judgment, undermine his evidence. JD was a witness of similar quality. Again, professional in his approach and lacking in any sense of

dogmatism. He cast his opinion based upon his assessment and provided an evidence based foundation for his conclusions.

33. SA; CC; SD, and KG. This evidence comprises the social work evidence in the case. I formed an overall positive impression of the social work witnesses. I did not find the criticisms of them well aimed. My sense of SA and CC was of individuals doing their level best to work with the parents despite the significant issues this brought. It is quite clear they have had to conduct meetings at which the parents have been willing to engage in a verbal onslaught against them. I do not find them to have lost focus on the welfare of the children as being the key objective. They dealt with the questions put to them in an appropriate manner and were not evasive. I found their answers sensitive and balanced. I consider them to be reliable historians supported by the corroborative records. SD was an uncontroversial witness of whom little complaint was made. She appeared to be a genuine witness doing her best to be helpful. Similarly, no real criticism was made of KG. She is an experienced assessor and there was nothing within her evidence which caused me to have concern for her as a witness.
34. The Guardian. My experience of this Guardian is of a professional witness who is willing to support parents where the circumstances justify the same. In this case he had formed a clear view contrary to their case. I note he came to the case late⁹ but he had a clear understanding of the issues in the case and of the children and parents effected by the proceedings. I found his evidence clear and succinct. He gave proper focus to the real issues in the case and reasoned through his recommendations in an evidence based manner.

My review of the evidence:

35. I received the following oral evidence which I summarise in a somewhat short hand fashion:
- a. RK supported contact with WW/XX at 6 times per year. He made clear it would need to be subject to review in the light of emotions being managed. He supported contact outside the contact centre but supervised. He supported sibling contact post-adoption (at 2 times per year) and letter-box contact for parents post-adoption. AA disengaged with his assessment for no good reason. DD engaged and was courteous but a bit hyper. He felt AA would attend contact. An adoption order would be difficult for her. The key question was managing the balance between the benefits of relationship with the older children against the risk of instability of mother presents poorly. He did not accept the issue for AA was only DD. Matters had come to a head with DD but there were issues that should have been managed previously. There was a difference between AA being passionate and intemperate. It was unclear as to drug misuse given the lack of testing but it could be an emotional unstable personality. There are good aspects to AA and she is not beyond hope but the issues are multiple including drug use; emotional stability and an environment free of domestic violence. This is a not a fine case. It is very clear the children would be returning to an unstable home. AA has little or no insight and has a long way to go. There is a need for multiple resources including drug testing; parenting programme and CBT. She needs to

⁹ In about January 2018

acknowledge the need for the same. There is a long way to go and this is outside the timescales of the children. DD engaged with the assessment. The issue of criticism of the foster carers is a minor issue. He is a loving father who wants the best for his daughter but cannot provide this on a daily basis. His issues are his behaviour including anti-social behaviour; drugs and domestic violence. He has all the risk factors and his daughter cannot wait for him to put things right. His recent engagement is positive but he needs to complete the programme and then have 6-9 months of maintenance. There is a high risk of relapse. It would be foolhardy to put a vulnerable 3-year old into his care. He is not solely to blame for what has happened. He would not recommend post-adoption contact. WW has some resilient factors and is loyal to his mother. We should take a broader approach. WW and XXX provide mutual emotional support. Supportive of contact with the older children and inclusive of community contact. Supportive of sibling contact and should seek a placement which will accommodate this. It will be a grieving process for the children and CAHMS should be considered. WW would be able to understand this is for the best for the younger children.

- b. JD confirmed his view had not changed. Neither DD or AA took responsibility and lacked insight. The work suggested for AA would require commitment on her part. Not shown evidence of wish to engage. There is evidence of control by DD but also of a reciprocally volatile relationship. There are positives but AA has not demonstrated sufficient change at this time. Her emotional stability is an intermittent issue flowing from emotional functioning. There is an underlying pre-morbid issue exacerbated by the children being removed. Has she moved on since seen? She has started the Freedom Programme and this is positive but it is insufficient. With respect to DD there are two main issues, controlling behaviour which may or may not be linked to actual violence; and provocation and mutual escalation around anger management and communication difficulties with alcohol and drugs. His engagement with RISE suggests an intention to change. This looks like a 12-month process. It could be reviewed at 3-4 months but he would be cautious as there are three separate issues to address. Neither DD or AA could care for the children at this time.
- c. SA told me she was allocated for a 6-week period until the making of the ICO. AA did speak of seeking for supports to be put in place but when SA took steps in such regard she did not engage. She was abusive to professionals and made it clear she distrusted professionals due to her own history in care. Both parents' engagement was sporadic. Their relationship was volatile. The Freedom Programme appears to be working for AA but there is further work to do beyond this. SA could not think of a structure that would enable them to work with her whilst managing her mood. DD did not have insight into his role as perpetrator. His acknowledge of substance abuse was sporadic. It was not appropriate for AA to respond as she did to the information about DD being re-housed. DD's mother confirmed she had spent the night in the hotel he attended and took ZZ due to her concerns about him. At the incident on 29 August 2017 the children were affected with her parting observations being in the presence of the children.
- d. CC confirmed the LA's contact plans. She explained the efforts recently made in respect of AA's sister. She had received a message from AA's sister relating to calls received from AA and was now less sure about caring for the older

children. WW has recently been more forthcoming about his mother's part responsibility for the situation. He is showing maturity and greater insight. He does want to go home but appears accepting of the likelihood of a long-term care. Accept the majority of the allegations are against DD. AA is vulnerable having regard to her history. AA has been unwilling to engage and accept criticism. There has been an improvement in engagement this year. Work needs to be done around relationships as all her relationships have been abusive. The email from the Freedom Programme is positive but we are at an early stage as only one step has been taken. Given the lack of engagement we cannot consider it safe to return the children to her. There has been supports within the proceedings but she has failed to engage. What package could be put in place given AA's volatility and her refusal to engage. Contact beyond 6 times per year would not be appropriate as it would destabilise the placement. There needs to be clarity for the children. It is too late for AA within the proceedings but not in respect of her life. DD has been polite and engaging. But CC has heard him make threats about others. DD or his lawyer could have equally been more proactive around further testing. CC waited at Court for an hour to discuss this with him. DVIP would not work with him within proceedings. Of the parties he has had the highest level of commitment to contact and to the assessment. There have been issues though with his mood. She set out the position as to contact and the efforts made with respect to various family members – none of which ended positively. The IRO supports the plan. We would ideally want to place all the children together but this is not realistic and one has to have regard to their differing ages. The current placement for the older children will end in July. Want to assess the aunt and wish to make the right decision with respect to the next placement.

- e. AA denied being pregnant. She associated her anger in the proceedings with DD's role in the same. She recalled being upset when she heard he was being assisted with housing but denied alleging she would stab him or sign her children over to the LA. Within this relationship she viewed herself as victim whilst accepting she could have done more to control her anger. She was already seeing the benefits of the Freedom Programme and was willing to work with other resources. She felt RK was not professional and accepted being abusive to the LA workers questioning whether they were working properly. Contact is positive and has tried to engage with the foster carers but they are cold. She can't help bringing treats to contact as the children are her life and she misses them. She opposes the LA's plan and particularly the placement application. She was upset when she heard about her sister and believed she was being nosy. She felt her sister would make it harder to see the children but would want what the children want. She had limited recollection as to the DV elements of the pre-DD relationships. She acted against DD by seeking a non-molestation order. She accepts part of the responsibility for the proceedings by not taking effective action against DD. She questioned the detail of the incident with the police that led to the children's removal. The house has limited amenities due to her difficult financial situation. She had a moment of madness in picking up the knife. The proceedings have been a rollercoaster of emotions. She could not remember being negative about the foster carers in contact or picking on XX. She denied any meaningful abuse use and said she only used cannabis recreationally. The failure to take a HST was due to the amount of hair that would need to be cut. She said the relationship with DD was initially good. She had not been the violent

one. DD has only limited engagement with ZZ when they were together favouring his social life. He is a fantasist about them having a relationship late in 2017. She did not blame him fully as she was partly to blame. She took the Guardian through a hazy timeline of her relationship history over the last 20 years with BB; CC and DD. She agreed to having a tendency to form abusive relationships. She questioned whether WW would have a memory of the difficulties at home and commented that he was not in the room. She agreed she has a foul mouth and needs to control it but it does not harm the children. RK had not been sensitive to her and was accusing her of child neglect. She had engaged with the social workers but they had not engaged with her. She is ready now and has done a fabulous job up to this point.

- f. SD gave evidence as to the prospects of placement. The majority of the likely adopters would support sibling contact. They would propose indirect parental contact post-placement. They are proposing a search over 6-9 months before considering separation of the younger children¹⁰. They are optimistic and their timescales are not materially affected by YY's age. At the time of the final decision consideration would be had as to risk issues around contact.
- g. DD confirmed he had been intimate with AA in late 2017 but stated his beliefs as to her being pregnant (and him being the father) came from rumours he had heard. The intimacy in late 2017 was a one-off. His first choice for ZZ was AA. He had acted out on the first day of the hearing as he felt he was being written off. It was stupid to send the messages to the social worker. He said something about RK as he was leaving the Court. He accepted he needed to engage with his anger issues but he is not aggressive or violent. He was critical of the LA's failure to engage with him following the hearing on 26 January 2018 and their failure to promote referrals. He was previously drinking heavily and taking class A drugs. This stopped in November/December 2017 time when he engaged with RISE. At the moment he is using cannabis and drinking to a limited extent at the weekend. He would like direct contact in the event of a placement order. He explained his behaviour at the LA offices on 19 September 2017 and at contact in December 2017. The relationship with AA was a 'two-way street' in which they were both violent and controlling. He explained an incident when he had removed ZZ from his own mother's care late at night. He had not been served with the injunction. He was critical of the LA's liaison with his mother about the risks from AA. AA is a good mum and if she took more interest in the house she would be an excellent mum. The younger children are inseparable. He agreed the relationship with AA was 'toxic'. The incidents of misbehaviour put to him were considered unacceptable. He has a 13-year old child but has not seen him for a number of years. He agreed he had told lies about AA but he did not like the fact she was going out with friends. He denied having ever perpetrated violence against AA. There was an incident when he had her in a headlock but this was in self-defence. The incorrect detail relating to the incident which brought the children into care has inflamed his emotions. He accepted he needed to make changes before he could care for ZZ and felt this would take around 6 months. He would want to meet adopters.

¹⁰ It was later confirmed that the LA would seek a joint placement for 6 months following which they would, for 12 months, parallel plan to include separate placement with a further review after 12 months if not successful

- h. KG confirmed her recommendations. AA has positives. For a considerable period of her life she has appeared to manage well. But things have become significant over the recent period. Her acceptance of the threshold may indicate insight. It is early days and an intervention is not a protective factor alone. It requires a change of behaviour. It is difficult to form a view on AA as she did not engage. It is not about her basic parenting. We don't exactly know what the issues are. This was the purpose of the assessments. DD requires supervision due to his anger and substance abuse. There are positive indicators but his anger remains. If he could control his anger then he would be much closer to being a safer parent. He needs a DVIP course rather than the Freedom Programme. He requires a package of intensive work as his difficulties are entrenched and longstanding. He engaged well and was polite and showed some insight. His work will take at least 12 months. She hadn't seen anything to suggest AA was significantly further on. It is hard to know where her anger management issues come from. This will likely require 12 months plus.
- i. The Guardian confirmed his recommendations. He supported assessment of the sister on a robust basis and supported community contact on a review basis. He did not support post-placement direct parental contact as this would have little meaning for the children and would likely destabilise the placement. He had heard DD speak of stabbing and RK. He didn't foresee a problem with placement of the younger children. Having met with the children he could see no complicating factors and did not feel YY's age was in itself a stumbling block. He was surprised when he met with the older children as to their being well adjusted. There was evidence of ZZ having language delays on receipt into care. He agreed the relationship between AA/DD was toxic. AA has a lot of issues to address and is volatile and avoidant. She has a history of unstable relationships. She needs to break this pattern but has only made a start. It is uncertain whether she will continue. He did not see BB as a strong reliable figure in YY's life and his contact has been sporadic and inconsistent. He did not support direct contact with DD. The proposed contact would be for identity purposes alone and would not be for the benefit of the child. It could be equally met by indirect means. DD is starting to shift but the question is as to the sustainability of change. This was a toxic mix involving combined emotional dysregulation. DD does shoot from the hip but there is evidence of actual violence. He has not helped himself. WW has a level of maturity and has resilience. AA would need to deal with the range of issues before one could conclude the possibility of a stable and secure placement with her. The child protection plan proved insufficient to protect the children.

Is the legal threshold crossed?

36. This is not in dispute. It is agreed the threshold has been crossed based on the document placed before me by the LA. Only one allegation remains in dispute¹¹. Having heard all the evidence, I find on balance the allegation is made out. I do so as I prefer the evidence of the social worker as to what happened at this meeting over that of the AA. AA agrees being upset on this occasion and I have seen her limited capacity to control what she says

¹¹ Item 7(a)(vi)

when she is angry. Although she challenges as to whether she would have uttered the words in question I do not agree. The words are entirely in keeping with how she expresses herself at such moments. It should not be thought I am finding the mother to have intended to stab DD or to sign her children over the LA. But I do find she acted in this manner. For the avoidance of doubt nothing turns on this finding and my ultimate decision in the case would have remained the same irrespective of this finding.

37. The reality is that this is not a marginal decision. The pattern of behaviour found in the threshold has continued during the proceedings. Examples include:
- a. I find DD did express words to the effect “If I see RK in the street I will stab him”. I do not find he intends to so act but this was serious misconduct. Whatever his feelings to threaten in such a manner a professional witness who had in Court expressed some level of concern for his safety is unacceptable. I make this finding as I accept the broad evidence of the Guardian and CC as to what was said. It fits with how DD acts when he is under stress. To his credit he could come close to accepting what he said and the inappropriateness of such words.
 - b. At Court on 26 January 2018 AA did without justification assault DD during the hearing. This is a matter of fact pursuant to conviction.
 - c. During the final hearing on 30 April 2018 AA did, almost immediately on being informed of her sister’s possible willingness to care for the older children¹², leave Court and proceed to message her sister in a wholly inappropriate abusive fashion. This is not in dispute save that AA failed to accept fully the abusive quality of the messaging. The same is self-evident.
 - d. During the final hearing on 30 April 2018 DD did, having just threatened RK, leave Court and send insulting, abusive and in my judgment threatening messages to CC. I have seen the messages and in my judgment, there can be little doubt as to the meaning.
38. I am asked to put all of this into some context. These are two parents with anger management difficulties who struggle at times of stress. The Court process is by its very nature highly stressful and the Court should permit an appropriate accommodation to recognise the inherent human infallibility in such circumstances. I do recognise the same and I of course have sympathy for the lot of parents faced by proceedings of this sort. Both parents need to understand that whereas they may shoot from the hip they cannot expect professionals to treat such shots lightly. DD has convictions for serious violence and has spent time in prison. AA has demonstrated a capacity to assault another person during a Court hearing. I can fully understand why professional individuals tasked with the job of working with the family may have felt significantly inhibited by this behaviour. These professionals come to work, they can expect their jobs to include periods of stress and emotional upset but they have an entitlement to feel safe.

My analysis of the case:

¹² And specifically, at the request of WW

39. The heart of this case is AA's difficult childhood in care and the likely impact this continues to have for her as a parent to her four children. She has shown herself to repeatedly form abusive relationships in which DV and substance abuse are key features. Whilst the source of her own emotional dysregulation remains unclear it is highly likely that this will have been a continuing issue in the light of the surrounding difficulties.
40. I have had regard to the chronology of significant events¹³. I consider the chronology suggests a greater level of DV within AA's relationships than she was willing to accept in evidence. The evidence supports the conclusion that both BB and CC were physically violent to AA although AA struggled with this history. It cannot be overlooked that both BB and CC were substance abusers and I find it most unlikely that AA would not have been aware of the same and that this feature would have further complicated the home life.
41. The position was further complicated on AA's formation of a relationship with DD. DD is a man who has demonstrated a tendency to verbal outbursts and actual physical violence. Notwithstanding the same he wrongly portrays himself as the victim of such relationships. It is not lost on me that he limits his responsibility for the violence against his previous partner which led to a significant custodial sentence¹⁴; that he suggests he was acting in self-defence in relation to the incident at the Notting Hill Carnival (for which he pleaded guilty), and that he distances himself from responsibility for giving AA a black eye and for kneeling on her. In saying he has not been violent to her he grossly understates the reality. It is a further feature of his character that he is controlling in relationships. The incident with his own mother is a prime example. He inappropriately turned up at her home at a late hour and in a substance effected mood because he was unhappy AA had gone out without him. I have no doubt this was a recurring feature of the relationship.
42. This emotional dysregulation continues to date. I find he did talk in terms of stabbing RK if he saw him on the street. He was abusive to the social worker in text messages in the course of the hearing. These responses were simply not justified. His suggestion that he had been written off misses the point that he had not even given his evidence at that time. Having considered all the evidence I have reached the view the 'pregnancy allegation' is itself a form of provocation to AA and in all likelihood a response to what AA perceived as AA's role in removing his mother as carer for ZZ. I am unable to form a view on the evidence as to the truth of the allegation of intimacy (given the caution with which I approach both parents) in late 2017 but I am confident the allegations of pregnancy are not warranted on the information available to DD.
43. It is said for AA that there was a period of calm between 2015 and 2017¹⁵. Having heard the evidence, I find it difficult to agree with this proposition. In early 2016 AA sought and obtained a non-molestation order. The order was based upon her developing concerns as to DD. The statement does not support a period of calm. I am unpersuaded this was ever served on DD and in fact it is agreed they thereafter resumed their relationship.
44. However, whether together or apart they have continued to share what can only be described as a 'toxic' relationship. They both suffer from anger management issues and

¹³ C8-24

¹⁴ G202

¹⁵ C9

poor emotional control. They each know how to push the other's 'buttons' and do so at the slightest provocation. Again, the chronology demonstrates their inability to co-exist and to co-operate with professionals. When put together they fight and abuse each other¹⁶. They each have told me that the children were not present when their arguments occurred and that they were thus spared harm. This indicates a complete lack of understanding and empathy for the emotional needs of the children. For these children to hear the very likely shouting; screaming and threats that would surround such fights would be as damaging as witnessing the same. I have no doubt these children have 'witnessed' far more than DD and AA are willing to accept. There is good evidence (which I accept) of the children being 'present' at the LA offices when A has vented her anger against DD and the LA. I accept the social worker's evidence of ZZ crying and the older children appearing embarrassed.

45. Post relationship the problems continued¹⁷ leaving the children in a plain position of emotional harm. The chronology suggests an increasingly fraught relationship.¹⁸ The problems culminated on 14 September 2017¹⁹ with the police attending the property due to concerns about the presence of an unrelated third-party male. During this incident (and without justification) AA lost her calm and ended up holding a knife and ZZ. She only desisted when the police targeted her for tasing. This feature is indicative of the concerns felt by the attending police as to the safety of the child.
46. It is therefore clear that the family structure had reached a breaking point by this time. Neither DD or AA were placed to care for the children or subjugate their own needs to those of the children. Neither BB or CC were placed to care for the children at all.
47. The period since that date has amounted to a period of nearly 8 months in which the parents have had the opportunity to show an ability to meet the needs of the children. Sadly, they have been unable to demonstrate such commitment. AA has shown positives in maintaining contact but has failed to engage with the necessary assessments identified by the Court. She walked out of the assessment with RK for, in my view, no good reason. She did not properly engage with KG and has failed to properly engage with the social work team. She has refused a hair strand test for no good reason. She has been abusive and disruptive in Court and assaulted DD in the middle of a hearing. She has chosen to respond to the assessment of her sister in an abusive and destabilising manner. She has simply failed to properly engage and chosen to show her worst features to the Court. Whilst there are features of progress this has the very strong impression of being too little and too late. It is now likely that she faces at least 12 months of work before being in a place to care for the children. That is if she changes her recent approach and co-operates fully. I share the Guardian's caution in this regard, how can I not on the evidence I have received. A real concern for me is simply not clearly understanding what it is that prompts AA to act as she does. Is it a personality disorder as suggested by RK? Is it caused or aggravated by drug abuse? The lack of clarity simply feeds into a less optimistic and longer timescale for change.
48. DD has engaged at a better level but he remains at an early stage. He continues to struggle with his emotional management: see the threat to RK; the text to the social worker and

¹⁶ C13 2 August 2017

¹⁷ See C14: 7 August 2017 – an account which I accept and C16: 18 August 2017 – which I also accept

¹⁸ C21: 12/ 13 September 2017

¹⁹ C22

my finding as to the provocative use of the pregnancy allegation. As with AA he has a range of issues to confront which when taken cumulatively will require a timescale for change outside of those of the children. I am of the view he requires at least 12 months to be anywhere near a position to be able to care for ZZ. At this point I consider he continues to minimise his role and will require intensive work to address the same. As with AA I cannot be confident he will carry through such work to a successful completion. The difficulty is the longstanding imbedded nature of the difficulties.

49. BB and CC realistically limit what they can provide by way of care.

Welfare Assessment:

50. WW and YY have met with me and told me what they want. They (WW in particular) are mature and I found them to be engaging children. They deserve to have their views taken into account. They want to live with the siblings and AA. They want to maintain a full relationship with their siblings in any event. At the same time they have grown up in an environment which is damaging to their welfare and may have a misplaced sense of what is best for them and what is acceptable ordinary life.
51. All of these children have clear emotional needs for a settled and secure home life free of inappropriate discord and verbal and physical anger. The home they have shared with AA and DD/BB/CC has been far from satisfactory. I am cautious as to whether I can take too much from WW/XX's well-adjusted character. They are yet to enter adolescence and there is every reason to be concerned as to the likely long-term effects upon their life chances of continued strife at home. Such emotional stability will lie at the heart of their educational achievements. It is vital that they receive consistent and predictable care giving. I struggle to see how this has been provided in recent times during periods of discord between DD and AA.
52. If WW/XX were to remain in foster care then this would be contrary to their wishes. I sense there is a level of resignation to this outcome. However, it will bring home the stark change in time with their parents and siblings. This will have a real impact upon them akin to grieving. However, to return home at this stage would be to an unpredictable environment in which the most likely outcome would be a return to upset and instability and consequent emotional harm.
53. For ZZ/YY there would be profound implications of ceasing to be a member of their birth family. There would be the legal change arising on such an order. Moreover, they would suffer the emotional loss of their parents and the equally profound reduction in relationship with their siblings. This would have the potential to cause life-long harm if not properly managed. I am confident it could be managed with skilled care and appropriate life story work. However, this is a challenge that should not be understated.
54. I have nothing specific to add at this point by reference to the particular features of each child.
55. I have identified the threshold being crossed in this case. This has been a case in which there has been a longstanding high-level of emotional disfunction in the home. Comprising physical, verbal and emotional outbursts I have no doubt it will have had a

significant impact upon each child. To return the children would be to accept a return to that environment.

56. It has been clear to me that both AA and DD are not exclusively negative individuals. AA has brought up the two polite children I met at Court. It appears agreed her basic care is not the issue in the case. She very much loves all her children. DD has committed to contact and is starting the process of change. He loves his daughter. However, there are significant gaps in their parenting skill set around the question of prioritisation of their children's needs. Each is far too willing to permit extraneous matters to cloud their better judgment with the consequence that the needs of the children become lost. They both need to engage with and complete significant work to put themselves in the position of being able to provide consistent good enough parenting.
57. In this case there have been a number of kinship assessments. All have proven negative. It is clear there are family members who want the best for ZZ and YY but there are no family members (now or in the foreseeable future) who have the ability to provide each or either of them with a secure environment in which they can develop. The LA are keeping an open mind as to Vicki but she is not an option for the younger children.

Comparative analysis of realistic options:

Placement with AA

58. This is the outcome sought by the older children. This is an important positive feature in favour of the option. It is the only option which would permit all four children to retain family life together. It would avoid the need to separate the children and would further avoid the very serious severance of family life arising on placement. In placing the children with a biological parent, it would provide the children with a clear understanding of their identity which would, other things being equal, enhance the prospects of secure emotional wellbeing. It is the outcome sought by all the biological parents.
59. The downside to this option relates to the risk of history repeating itself. Absent identification of AA's issues and work being done in respect of the same there must be a likelihood of events repeating with a risk of domestic violence and emotional disruption. AA has suffered with multiple harmful relationships and has a continuing difficulty in managing her emotions. Why would this change if the children were returned to her? The situation is complicated by the lack of understanding as to the underlying cause of her behaviour and the lack of clarity and timescales for change. If the children were returned to her care prematurely then they would remain at risk of significant harm. It is difficult to identify the support package that could work with AA given her attitude to the LA. The children need permanence now and waiting for AA to do the work would be a risky approach given the lack of confidence one has as to timescales and ultimate outcome.

Placement with DD

60. This is no longer an option as agreed by DD within the next 6 months. On my finding this is more realistically not within the next 12 months. Pending such work being done the downsides of placement (risk of harm) would far outweigh the benefits (the maintenance of family life).

Long term Foster Care

61. This would provide the benefit of removing the children from the immediate risks. The most recent period has shown improvement in ZZ's communication skills. It would provide a safe environment in which the children could retain family links via contact. It would permit rehabilitation should this be appropriate in due course. It would avoid the likely severance of placement. It would enable any remedial work to be undertaken with the children and might enhance the prospects of the parents maintaining their commitment to positive work.
62. In contrast it would tend to stigmatise the children by leaving them looked after and subject to the continuing involvement of the state. It would not permit the long-term stability and permanence of a forever home. It would not permit the children to all live together although it would permit relatively generous contact. It would not be the first wish of the children or that of the parents.

Placement

63. This would permit the younger children a forever home and a place of secure and safe care. It would enable the children the chance to grow up out of the institutional care of the LA. It would be the closest to a natural home life environment with the benefits that this can be assumed to bring. The carers would have chosen to care for the children and would want to provide life-long primary care. The risk of changes of carer would be reduced as compared to long term foster care. The placement would not be subject to the possible disruption arising out of familial upset or of unmerited applications to discharge. It would likely permit a level of inter-sibling care.
64. But such a placement would sever the fundamental relationship/bond between the children and AA/CC and DD. It would substantially impact on their relationship with WW and XX. It could potentially store emotional difficulties arising out of separation from family and identity. These children know their family and will have a sense of grieving if the relationship is lost. It is highly likely the children would not continue direct contact with their parents.

Conclusions

65. In my assessment DD is not placed to provide care for ZZ within ZZ's timescales. To his credit DD all but accepts this reality. In my assessment DD is at least 12 months away from being able to offer care to ZZ and I share the cautious position as to the experts as to whether he will in fact be placed to do so at that point. His difficulties are multiple touching upon anger management; anti-social behaviour; substance misuse and domestic violence. On any approach he is at only the earliest stages of progress and as shown by his outbursts during the hearing any progress made to date must be viewed as limited. I accept he has positive intentions but the work to be undertaken will be challenging and the attitudes are engrained. I agree with RK that it would be foolhardy to place a vulnerable 3-year old into his care.
66. Neither BB or CC offer an option for care for their respective children. They plainly wish their children the best but their chaotic lifestyles are the antithesis of the nurturing care

required by these children. To their respective credit they acknowledge that this is the sad reality.

67. Turning to AA it seems she is of the parents best placed to provide a home for the children. I have however reached the sad conclusion that she is not placed to meet the needs of the children within their timescales. In reaching this conclusion I accept the unanimous judgment of all the professionals in this case. By her non-engagement AA has significantly impaired my ability to identify the work she needs to do to provide good enough parenting and in doing so has robbed me of the information that would properly enable me to calculate the likely period in which she might make real changes. My lack of understanding has been compounded by her continuing inability to regulate her emotions. I simply don't have the material to fully understand the underlying features which have placed her in this position. However, it is clear to me that she needs to engage in a package of significant work to be better placed to care. The information suggests this will be a package of long term work measured over many months. Unfortunately, I can only have limited confidence that will in any event carry through to a successful conclusion given the very clear difficulties she has in engaging with challenging situations. My assessment is that these features taken together place AA outside of the children's timescales.
68. I have therefore reached the conclusion that I should make final care orders with respect to each child. I have considered the placement options for the children and reached the conclusion that the children cannot be placed together as a single unit. The evidence tells me that the prospects of such a placement are low and certainly less than likely and no-one sought to challenge this proposition. As such I am bound to depart from WW/XX's wishes²⁰. I agree with the evidence that despite their issues (from time to time) it is very much best for WW and XX to continue to be placed together. They are closely bonded and benefit from their mutual support and affection. I endorse the efforts that will be made in respect of assessing the sister (if she agrees to the same). But I also endorse the need for this assessment to be robust to ensure that any placement has stability and duration. It would be a disaster for the children to have to be removed from the sister's care. In my judgment the appropriate outcome is a plan for long-term foster care with continuing contact. Reflecting upon the sister I note the important need for AA to show maturity and place the children first if this is to have any chance of being successful. However hard it will be for her, she must try and remember that both WW and XX told me that **they wanted** a chance of family life. I know she loves her children and I ask her to reflect upon this.
69. I turn to the younger children. Again, there are many obvious benefits to ZZ and YY being placed together. Whilst they are too young to be able to express clear views I have no doubt that they would want the chance to grow up together. Their parents share this wish and this is a further important consideration to be borne in mind. I have regard to their ages. Unlike WW/XX they have the option of a permanent adoptive placement. I have weighed up the benefits of long term care against adoption. I have reminded myself of the significant distinctions between the two identified by Lady Black in Re V²¹. In my judgment the balance comes down clearly in favour of placement (adoption). They deserve the benefits that will come with adoption; the emotional sense of place in the

²⁰ In reality this would have only be possible with a return to AA and sadly I could not prioritise the children's wishes and feelings over the other factors which suggested this would not be a safe placement for the children

²¹ [2013] EWCA Civ 913

world and value that will come from a permanent family. In my judgment it is much better for them to grow up with a similar home life to their peer group: free from regular looked after reviews; the right to travel without permission; the right to enjoy sleepovers without needing a friend's parents to be DBS checked; the chance to avoid the stigma that comes with being a looked after child. It is fortunate (and important) that this will not mean the likely severance of all family life. The LA are committed to a search for adopters with a willingness to foster sibling contact. I endorse this approach. It is forward looking in that it will tend to reduce the risks of instability within the placement if managed with care and sensitivity. I acknowledge there is a risk of the younger children being separated if the search for a joint placement fails. This does not cause me to alter my judgment. Having heard the evidence, I accept the chance of the same is relatively low. Nonetheless if it becomes necessary then I expect the LA to continue to approach the situation with care. In the event of separate adoptive placements then there should be a focus on looking for placements that will allow regular sibling contact. If YY cannot be placed (on balance the most likely alternative to joint placement) then real effort should be had to see whether he can join his older siblings. However, on balance I expect this conditional planning to prove unnecessary.

70. WW and XX will have contact with their parents. I agree with the proposed starting point of 6 times per annum. On balance this is about right although I appreciate why the LA approached the level with a little more caution. It clearly is a level of contact that must be kept under review. Despite their difficult lives BB and CC do not pose a principled risk to the children at contact. When they have contact it is positive, warm and child focused. I agree thought should be given to community contact given the age of the children and the limited risks. The key issue around contact will be the predictability of attendance of the fathers. However, I would be loath to suggest that contact should be significantly reduced on non-attendance. The children are old enough to have a sense of their father's fragilities and can cope with occasional failures without themselves wanting contact to be reduced.
71. The position with respect to AA is more complex. On my assessment the children need this contact more than they do from their fathers. AA is far more meaningful to their lives. They want to see her every week. But AA may continue to struggle with her emotional containment. Much will turn on how she responds to these orders. The children will not be able to cope and any placement will be undermined if AA turns up and is emotionally disruptive. There are benefits for AA of being compliant with contact. If contact is settled then I consider thought will have to be given to an increase in due course. If AA can turn her life around then a time may come when she can apply to the Court to discharge the orders relating to WW and XX. For the time being I consider contact at 6 times per year is appropriate. Until the post-care situation can be assessed I feel contact will have to be supervised. But if AA shows a willingness to work with the order then the LA should not be slow to develop the contact to include a community aspect.
72. I have been asked to consider the contact with ZZ and YY post-placement. The plan is for 2 times per annum contact with their older siblings. I agree. I do not support the notion of a placement that must permit parental contact post-adoption. This would likely lead to a failure to place the child causing harm to both children. Parental contact must be a matter for the adopters. Some time was taken up in the hearing considering the information that the LA should give to the adopters vis a vis contact with AA; DD and

CC. In my judgment the LA are obliged to provide information to the adopters to permit them to make informed decisions. This may mean they have to point to the risks associated with DD/AA which have been identified within this hearing. To do otherwise would likely amount to a breach of duty of care to the adopters. I consider it is unhelpful for me to engage in the debate as to whether this equates to a recommendation or not for contact. I would prefer to say that I would expect the LA to inform the adopters as to a resumé of the parents but would expect this to be an up-to-date resumé. If therefore either/both parents show progress then this should be part of the picture painted for the adopters. To do otherwise would be to mislead the adopters.

Outcome

73. I make a final care order with respect to all four children.
74. I make a placement order with respect to YY and ZZ. In doing so I dispense with the consent of AA; CC and DD as the children's welfare requires the same for the reasons given above.
75. I approve the modified care plan as set out above. In doing so I approve the plan for contact between parents and WW/XX. I approve the proposals with respect to post-adoption contact between the children and letter-box contact with respect to the parents.

His Honour Judge Willans

Letter for WW and XX

Dear [.....]

It was nice to meet you last week at Court. I was very impressed with how brave you were not only to come to Court but also to speak to a Judge about what you wanted.

I have now listened to all the information that everybody wanted to tell me about you and the younger children. Most importantly I have listened to what your mum wanted to say.

You should know that having listened to your mum and read other information about your dads I have no doubt they all love you very much. Sadly, your dads have things they need to deal with that make their lives harder and mean that whilst they want to see you they can't look after you. This does not mean they love you any less.

I thought very hard about whether your mum is able to look after you. Like your dads she loves you lots and really wanted you to come home. I have decided there is work she needs to do and she has told me that she wants to do the work that will make her a calmer better mum. Having thought about what everybody told me I have decided that it would not be best for you to return home to her at this time. As I told you it is my job to make the best decisions for you and this is such a hard decision but I believe it is the one that will be best for you. I understand you probably won't agree with me but that is OK. I have decided that you should see both your mum and dads but that this should be every other month to give you the best chance of settling into a new home together. If things go well then this can be looked at again. You told me that you wanted people to think about whether your aunts could look after you. The social workers have told me they will look carefully at [your Aunt's]'s situation to see if it might work.

I know you will be worried what will happen to [ZZ] and [YY]. I have decided the best thing for them would be to be adopted. They can't return home at this time and need a permanent home given they are little. They can't wait for things to get better. This means that you will see them less but I have agreed it is important you continue to see each other at least every 6 months. Having met you I know this will make you very sad. I am sorry that I have had to make this decision but I want you to know that I haven't made it because either of you did anything wrong. You really did everything you could.

I hope you will feel able to read this letter and that you will keep it so that you can read it again if you want when things have started to settle down. I wish you both the best in the future with your school and life generally. It is very important that you remember how valuable your relationship as brother and sister is. I am sure [ZZ] and [YY] will continue to enjoy seeing you and it will mean so much more to each of them if you are happy when you meet up.

Regards

Judge Willans