

1 **THE FAMILY COURT SITTING AT OXFORD**

2 **CASE NO: OX20C00160**

3 **9TH AUGUST TO 11TH AUGUST 2021**

4 **BEFORE**

5 **HER HONOUR JUDGE OWENS**

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8 **OCC v B & V**

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11 **Ms Clelland, Counsel, for OCC**

12 **Ms Bush, Counsel, for the First Respondent Mother, M**

13 **Mr Jeakings, Counsel, for the Second Respondent Father, F**

14 **Ms James, Counsel, for the Third & Fourth Respondents A & B acting through**
15 **their Children’s Guardian**

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17

18 This judgment is being handed down [in private] on 11th August 2021. It consists of
19 24 pages and has been signed and dated by the judge. The Judge has given permission
20 for the judgment (and any of the facts and matters contained in it) to be published on
21 condition that in any report, no person other than the advocates or the solicitors
22 instructing them (and other persons identified by name in the judgment itself) may be
23 identified by name, current address or location [including school or work place]. In
24 particular the anonymity of the children and the adult members of their family must
25 be strictly preserved. All persons, including representatives of the media, must ensure
26 that these conditions are strictly complied with. Failure to do so will be a contempt of
27 court. For the avoidance of doubt, the strict prohibition on publishing the names and

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

31

32 **Introduction, Background and Evidential Summary**

33

34 This is the final hearing of the Local Authority's applications for Care Orders in
35 relation to A and B, and for a Placement Order in respect of B. M and F are the
36 parents of A and B. Paternity in relation to B was initially questioned, but DNA
37 testing in February of this year confirmed that F is his father (E6-E9).

38

39 Proceedings commenced on 30th December 2021 when the care applications were
40 issued. The children were made subject to interim care orders on 7th January 2021. A
41 is currently in the care of his paternal grandmother and paternal step-grandfather
42 where he has been since proceedings began. B is in foster care. As set out in the
43 initial social work statement (C1-24) concerns about the parents related to their
44 volatile relationship, chaotic lifestyle, substance misuse and poor mental health.
45 Initially B was placed with M in a mother and baby foster care placement. Sadly, this
46 placement broke down on 4th March 2021, at which point B joined his brother A in
47 the care of his paternal grandparents. However, this placement was not sustainable
48 and on 17th March 2021 B moved to foster care.

49

50 A psychological assessment of both parents was ordered. On 22nd April 2021 Dr
51 Shenoy reported and the full report can be found at E10-47. Dr Shenoy was asked
52 further questions in clarification and his addendum report addressing those questions,

53 dated 2nd August 2021, can be found at E61-66. M failed to co-operate with the
54 psychological assessment, but F did co-operate. Dr Shenoy's conclusions about F
55 were that he had difficulties in regulating his emotions, some features of emotionally
56 unstable personality disorder (though he did not meet the criteria for a definite
57 diagnosis), and that he continued to present with emotionally dysregulated responses
58 including angry verbal outbursts and attacks when triggered and that he thus
59 continued to pose a risk to his children. Dr Shenoy recommended that F should
60 engage in ADHD assessment, engage with Turning Point to achieve and maintain
61 abstinence from cannabis use, engage with CBT to manage his anger and emotional
62 dysregulation if these remained issues after the first two recommendations, and attend
63 a domestic abuse course. Dr Shenoy clarified in his addendum report that the work
64 that F needed to do could not be undertaken whilst the children were in his care and
65 any work would need to be completed and sustained for a period of a year to ensure
66 that effective change had been achieved.

67

68 In respect of M, Dr Shenoy gave an opinion on the papers that she had a *"history of*
69 *depressive disorder and is currently being treated with antidepressant medication.*
70 *She also presents with an avoidant and compulsive personality type, paranoid and*
71 *negative personality style, low self-esteem which will affect her interpersonal*
72 *relations resulting in loneliness and maintain her difficulties"* (E12).

73

74 Parenting assessments were also ordered, but again M did not engage with this. The
75 assessment of F is at C78-92 and concluded that it was not possible to return either A
76 or B to his care.

77

78 The paternal grandmother and step-grandfather were positively assessed as Special
79 Guardians for A on 17th May 2021 (C41-77) but were sadly unable to care for B as
80 noted earlier.

81

82 M put forward her mother as a possible alternative carer at the IRH on 21st July 2021
83 before a District Judge. As a result, the Local Authority carried out a viability
84 assessment of the maternal grandmother, D. The results of that assessment were
85 negative (C157-C167), and the assessment served upon the maternal grandmother on
86 6th August 2021. At the commencement of this final hearing, M sought to advance a
87 case that the maternal grandmother should be subject to a full assessment. As a result,
88 the start of the final hearing was delayed to permit her to file a statement from the
89 maternal grandmother setting out why D disputed the conclusions in the viability
90 assessment and why D had not sought to put herself forward earlier as an alternative
91 carer.

92

93 In the course of this final hearing, I have read the Bundle and heard evidence from the
94 allocated social worker and maternal grandmother.

95

96 **Parties' Positions**

97

98 The Local Authority seeks a Special Guardianship Order (SGO) in respect of A in
99 favour of his paternal grandparents. They seek a final Care Order and Placement
100 Order for B. They amended their final care plans (D67-76 for A and D77-85 for B) to
101 allow for the Guardian's recommendations about contact and to reflect the fact that

102 their carers will be encouraged to develop their sibling relationship by promoting face
103 to face contact even if adoption is the outcome for B.

104

105 Both parents have made the brave but no doubt difficult decisions to accept that they
106 cannot care for either A or B themselves. However, their cases about B are different.

107 M agrees with the making of an SGO for A and agrees with the contact that is
108 proposed in the final care plan for him. In respect of B, she wants placement with the
109 maternal grandmother to be explored further with a full kinship assessment by the
110 Local Authority. She also wants a friend to be assessed as a potential carer for B.

111

112 F also agrees with an SGO for A. He does not accept that the maternal grandmother
113 should be assessed as a possible kinship carer for B. He accepts the final care plan for
114 B, a decision which is also very brave and no doubt very difficult for him, but for
115 understandable reasons cannot consent to the making of a Placement Order.

116

117 The Guardian supports the making of an SGO for A, does not support any further
118 assessment of D, or another alternative carer at this late stage, and also recommends
119 that B should be subject to a Care Order and Placement Order.

120

121 **Relevant legal considerations**

122

123 In addition to considering section 31 (2) of the Children Act 1989 regarding threshold,
124 I have considered the welfare checklist in section 1(3) of that Act and had regard to
125 the article 8 rights of the parents and the children. I have also had regard to the article
126 6 rights of all concerned, not least in relation to the wholly remote hearing that I

127 undertook by consent of all concerned to conclude this case. I have also considered
128 the options for the children applying the considerations set out in *Re B-S (Children)*
129 *[2013] EWCA Civ 1146*. As there is an application for a Placement Order in respect
130 of B, I have also had regard to the welfare checklist set out in section 1(4) of the
131 Adoption & Children Act 2002 in considering that application.

132 **Findings**

133

134 The threshold findings sought by the Local Authority dated 10th August 2021 are set
135 out at Appendix A to this judgment and are agreed between the parties. I have
136 considered the unchallenged evidence in the Bundle regarding threshold and agree
137 that these findings are made out on that evidence and therefore adopt the threshold
138 document as my threshold findings in this case.

139

140 All parties are also in agreement with the proposed Special Guardianship Order for A
141 in favour of his paternal grandparents, and those paternal grandparents also agree with
142 this and the proposed SGO support plan (C112-127). Again, having reviewed the
143 unchallenged evidence filed in the Bundle in relation to A, I also agree that an SGO
144 meets his welfare needs and is necessary and proportionate so will grant that order.

145

146 The issue in dispute is one of welfare, and specifically whether adoption is the only
147 realistic option remaining for B and whether his welfare demands that the consent of
148 his parents to the making of a Placement Order be dispensed with. The case advanced
149 by M is that adoption is not the only remaining realistic option for B because her
150 mother, the maternal grandmother, cannot be ruled out and should be subject to a full
151 kinship assessment as I have noted earlier. M is therefore asking me to adjourn this

152 final hearing so that D can be subject to a full connected persons assessment. At this
153 final hearing, M also asks me to adjourn to allow a friend of hers to be assessed. She
154 has not put forward this person earlier in the proceedings, and the explanation she
155 gave for this is that she has felt reticence about discussing her situation with anyone.

156

157 There are some initial factual disputes raised by D in relation to the viability
158 assessment of her. The first of these is how long the social worker spent with D
159 undertaking the viability assessment, and therefore by implication whether the
160 negative conclusion is as a result of not being thorough enough in this initial
161 screening assessment. D's evidence, both in her written statement (C169 para 2) and
162 in her oral evidence to me, was that the assessment took between 30-45 minutes. She
163 did not agree with the social worker's oral evidence to me that she spent around an
164 hour and 10 minutes with D for the assessment. I found the social worker to be the
165 more credible witness about this. She gave me clear and compelling evidence about
166 the time that she had intended to arrive for the appointment (namely 10am), that she
167 got lost and was late arriving but didn't message her manager to say she had finished
168 until 11.30am. She also told me that the amount of information recorded in the
169 assessment itself was an indication of how long she took with D, something that is
170 also clear to me. Whilst I have no doubt that perhaps D felt as if the social worker
171 could have spent longer with her, I am satisfied on balance of probability that the
172 social worker did spend around an hour and 10 minutes conducting the viability
173 assessment and that this in turn gave ample time for all of the issues that need to be
174 covered in such an initial assessment to be covered.

175

176 The second issue is around whether D could and should have come forward earlier to
177 be assessed as a possible kinship carer for B, and this links to her understanding about
178 whether she could do this. Of course, this also links to the fact that M had an
179 obligation to put forward any alternative carers that she wanted to be assessed, just as
180 the Local Authority in care proceedings has a duty to explore alternative kinship
181 carers as far as it is able. In this case, it doesn't seem to be in dispute that in
182 December 2020 social services were refused access to D's house during a visit by
183 them to try to assess where A would be sleeping and how she would manage if A
184 were to be placed in her care (C19 initial social work statement). What D said about
185 this in her oral evidence (her written statement doesn't address this) is that it was due
186 to Covid that she didn't want people in her house. In her written statement she said
187 that she did put herself forward to be assessed at the beginning of these court
188 proceedings but that she was told by the then allocated social worker that she couldn't
189 be assessed as she *"had too much on my plate already looking after (her partner) who*
190 *was terminally ill so I thought I couldn't have an assessment then. I always said that*
191 *I wanted to be assessed"* (C169 D statement). D's oral evidence about the visit in
192 December 2020 was also slightly bizarre in that she told me that the local authority
193 would want two social workers *"and maybe the police to do an assessment on me"*.
194 She then made reference to there being TAF (Team Around the Family) meetings
195 taking place after that and that she put herself forward to care for B at those meetings.
196 I do understand that D was caring for her terminally ill partner and that her concerns
197 about his risk from Covid may well have meant that she was very concerned about
198 anyone coming into her property. What is strange is that, despite this, she did not
199 pursue any contact with B after 31st March 2021 when she agrees that she last saw B.
200 I know that dealing with her partner's illness and subsequent death on 3rd May this

201 year will have been incredibly difficult for her but, allowing for this, there is simply
202 no credible evidence that she either pursued assessment between the visit in
203 December 2020 and the IRH when M put her forward or pursued maintaining a
204 relationship with B through contact with him. On balance, I found the social work
205 evidence about her having refused entry and refused assessment to be more credible in
206 light of this. It may well have been driven by the other competing demands on her
207 time and emotions caused by her partner's illness and caring for her other three
208 children living with her but, in my view, this calls into question how committed D
209 actually is to being a carer for B. It also means that she has no relationship with B at
210 present.

211

212 There is also the issue around whether D understood that the viability assessment of
213 her was negative. D's evidence about this was that she didn't understand that she had
214 "*failed*" the assessment, though she accepted that the social worker had hand
215 delivered the assessment and a letter explaining the outcome by hand to her on Friday
216 6th August, as well as a list of solicitors and suggested that she consider seeing a
217 solicitor. I'm afraid that D lacked credibility in her evidence about this since it was
218 clear that she had had several sources of information about the outcome of the
219 assessment – the assessment itself, the accompanying letter, and the social worker
220 herself – but still said she thought she was going to be fully assessed. In addition, the
221 social worker was credible when she told me that what D said on 6th August to her
222 was that she accepted the outcome and would not be going to see solicitors as a result.
223 As the social worker told me in her evidence, this does make one wonder if D was
224 subject to some pressure from M about her decision over the weekend.

225

226 The next aspect I have considered is whether a full kinship assessment of her is
227 justified to fill any gap in the evidence about realistic options for B and would
228 therefore be the sort of purposeful delay that Ms Bush on behalf of M submitted
229 would be required in B's welfare interests. The Local Authority and the Guardian
230 point to the concerns about D identified in the viability assessment and her oral
231 evidence to me as reasons to conclude that a full kinship assessment would be likely
232 to have a negative outcome. Those concerns are as follows: practical considerations
233 about her housing including over-crowding and stability issues; health issues;
234 minimisation of previous concerns about her adult children; failure to understand the
235 risks posed by her older children towards children in her care including B if placed
236 with her; lack of understanding of the impact on the children living with her of having
237 B live with them; and on top of this her absence during the proceedings leading to
238 questions about her commitment to caring for B.

239

240 The viability assessment of D is not wholly negative. There are some clear strengths
241 or positive aspects noted about D. It is noted that D is close to all her grandchildren,
242 expressed clear commitment to caring for B into adulthood (C158), was clearly aware
243 of practical safety requirements in the home (C160), as well as the need to promote
244 development and learning for children (C160). It was also noted that D was in the
245 process of rehoming her dog as this could pose a risk to small children due to it being
246 very "bouncy", and that her neighbourhood seems to be one that offers lots of shops
247 and services nearby as well as being relatively quiet (C161). It was also noted by the
248 social worker that "*D engaged well with me during this assessment. She was open*
249 *about her current involvement with children's services and reflective on the impact of*
250 *the children's father passing away on her family's current situation...Her responses*

251 *remained very child-focused throughout our session. D was mindful of the impact of*
252 *M and F's relationship on emotional well-being of the children, and keen for that to*
253 *never take place again" (C164).*

254

255 The question for me is whether these positive aspects are outweighed by the concerns
256 identified to the extent that it makes it unlikely that a full assessment would be
257 positive. If the answer to this question is that a full assessment is not likely to be
258 positive, then there is no gap in the evidence and the delay in obtaining that full
259 assessment would not be purposeful delay in this case.

260

261 It was acknowledged by Ms Clelland on behalf of the Local Authority and Ms James
262 for the Guardian that the issues around housing were not insurmountable, similarly
263 that the concerns around D's health were also not themselves a barrier to considering
264 her as a potential kinship carer for B. However, as Ms James rightly pointed out, they
265 are part of what seems to be a far from straight-forward picture about D and form part
266 of the overall concerns about her.

267

268 More fundamentally, the issues around D's understanding of the risks posed by her
269 adult children and her acknowledgement and understanding of historic concerns about
270 her parenting, are the real concerns, I find. It was painfully clear from what D said in
271 the viability assessment, as well as from her written statement and oral evidence, that
272 she simply does not acknowledge or understand why her older children were subject
273 to Child Protection Plans for about two years. She told me that they were only on the
274 Plans for as long as they were because of frequent changes of social workers and
275 because of her former partner smacking them. However, that completely ignores the

276 fact that she also told me that the frequent complaints of physical abuse by their father
277 that her children made, as well as complaints of domestic abuse, arose simply because
278 the children were “*fighting with their father*” and “*did it to get their own flat*”.
279 Given the lengthy history of significant concerns about the family, many of which
280 were also about the lack of ability on the part of D to protect the children from
281 domestic abuse inflicted by their father, the social work and Guardian’s assessment of
282 this as minimisation is an accurate one, I find.

283

284 The complete absence of any acceptance by D of her own responsibility for any of the
285 abuse that her children were subjected to as a result of her decisions as a parent is also
286 striking. Given the significant concern about domestic abuse in relation to M and F in
287 this case, any potential carer for B should not be starting from such a lack of insight
288 about this, I find, because they would be therefore less likely to be able to protect B
289 from any domestic abuse as a result. D also failed to disclose this history of domestic
290 abuse to the social worker during the viability assessment (C162). D tried to say that
291 she had not been asked about this and the history of social services involvement or not
292 asked enough follow-up questions. Yet the social worker provided clear and
293 compelling evidence about attempting to explore this with D at the time, as well as
294 noting D’s answers to the questions. D also gave me very concerning evidence about
295 her former partner only “*smacking*” the children in the past although also
296 acknowledging in her written statement that he could be very controlling of her
297 (C170). D told me that there were large files on her held by social services which the
298 social worker should have looked at – a curious abdication of responsibility on D’s
299 part in my view and one that also highlights how extensive her history is with social
300 services. On balance, I am afraid I have to conclude that the reason D did not go into

301 detail about previous concerns was not because she was not asked about them and
302 given opportunity to disclose relevant information but because she thinks that her
303 older children “*exaggerated*” (C16 and in oral evidence to me), does not accept that
304 she was herself subjected to domestic abuse if her partner was controlling, and simply
305 does not acknowledge the reality of what happened in her home whilst her children
306 were in her care and that of her partner.

307

308 In addition, there is the very troubling aspect about D’s adult son C and any insight
309 she has about risks that he may pose to any child in her care. It is not in dispute that
310 she told the social worker during the viability assessment that C was not allowed
311 inside her house and had to ring her before coming over to the house (C159), nor that
312 during the assessment he came into the house unannounced. What was very striking
313 about D’s evidence on this aspect was that she really could not see the apparent
314 contradiction in saying on the one hand that C was not allowed into the house but
315 clearly was able to simply turn up and go into the kitchen to help himself to a drink of
316 water and then go back outside, but on the other that he was not allowed to go into the
317 house at all. What the social worker described was C being completely comfortable
318 with going into the house, something that makes D's evidence about him never being
319 allowed in less credible.

320

321 It was also striking that D accepted in her oral evidence to me that, despite knowing
322 about C’s own mental health issues and that he “*can get angry and shout*” (C170
323 *para 8*), she is very clear both in her written statement and to me that it is social
324 services who think he is a risk, but she really does not see him as a risk. Combined
325 with the finding that she is not really able to keep him from going into the property,

326 this leads me to conclude that the social worker was right to record this as a legitimate
327 concern about D's ability to protect any child in her care from C.

328

329 As was submitted by both Ms Clelland and Ms James in closing, D would also have
330 to be able to act to ensure that neither M nor F posed a risk of harm to B. It was said
331 by Ms Bush in closing that of course D does not fully understand the concerns about
332 M and F because she has not been privy to all the documents in these proceedings. It
333 is true that she certainly will not have had this detailed information, but she of course
334 knows both M and F well, has seen their behaviour with each other and with other
335 people and had the opportunity to discuss these issues with the social worker during
336 the viability assessment too. I am satisfied that her failure to grasp the risks posed by
337 M and F is not due to any lack of knowledge but rather due to lack of insight on her
338 part about the risks that they pose. In turn, this would make her ability to safely
339 manage contact between B and M and F questionable to say the least. On top of
340 which, as Ms Clelland for the Local Authority explored in her cross examination, and
341 the social worker pointed out in her evidence, there are likely to be concerns about her
342 ability to promote contact between B and his parents due to her history of falling out
343 with them (see also for example C18 in the initial social work statement noting the
344 sometimes very fraught relations between M and her maternal family including D).

345

346 The third area of significant concern is about the impact on D's household of B
347 potentially being placed in her care, and what this may mean for B's welfare as a
348 result. It is not in dispute that D is caring for 3 other children who range in age from
349 10 to 15 years old. One of those 3, E, has an enhanced level of need and, as D told me
350 in her oral evidence, "*sometimes he will shout or slam a door. We are working with*

351 *Respectful Families and Safe about that. E does get physical at times, sometimes he*
352 *will hit, sometimes he will hit his little sister. I do think that might pose a risk to a*
353 *young baby. The impact on (him) of having another baby in the house, I think that*
354 *will be positive, every time he sees my other grandchildren it is always positive". It is*
355 not disputed that currently D is meeting the needs of the 3 children living with her.
356 However, as the social worker noted in the viability assessment this is with the help of
357 Early Help Services (C164-C165). The social worker's oral evidence to me about this
358 also pointed out that D is the single mother of 3 children and requires the support of
359 the Local Authority to meet their needs. Whilst this doesn't in itself mean that she
360 couldn't potentially meet the needs of B too, the social worker pointed out that B is a
361 very young baby which in itself brings additional pressures because that alone would
362 mean that D would need to spend a lot more time attending to his needs. She was also
363 very clear that, in her view, D had not adequately considered the implications of B
364 joining her household in terms of the additional pressures upon D and what this would
365 mean for her other children and for B. Having read the viability assessment, D's
366 statement and heard her oral evidence, I am afraid that I have also concluded that D
367 has not really thought about the implications of B coming to live with her and her
368 other children. She very clearly wants to prevent B being placed outside of his family
369 if possible, and it is very clear that family means a lot to her (she frequently talked
370 about how supportive she was of her whole family, and this is not a disputed fact in
371 this case). However, the evidence about E's behaviour at times, the level of support D
372 requires at present from the Local Authority to meet the needs of the 3 children
373 currently living with her, and the fact that she had earlier struggled with the
374 understandable pressure of coping with her terminally ill partner on top, does lead me
375 to conclude that there would be significant potential risks around B's needs not being

376 met if he were to be placed with her. He is a very young baby who would be wholly
377 dependent upon his care giver, as both the Local Authority and Guardian rightly point
378 out. He would be joining a household with at least one child with enhanced needs
379 whose behaviours would need very careful monitoring to ensure that B was protected
380 from physical harm, aside from the impact on B of what sounds to be E's
381 unpredictable and volatile shouting and door slamming. On top of which, D has her
382 own health needs which, whilst they alone would not prevent her from potentially
383 caring for B, would mean that when she was periodically ill, she would be dependent
384 on others to care for B. The care that B would require from those others would also
385 be a greater commitment than for her other children because they are older and more
386 able to take care of themselves too, another potential vulnerability in this placement.
387 It is also significant that one of the 3 children living with D is her carer because of her
388 health needs, another pressure in an already pressurised situation for the household, I
389 find, and one that adds to the complex picture of concern about this as a placement
390 option.

391

392 Taking all the above into account, I find that a full connected persons assessment of D
393 would be very likely to be negative. The viability assessment was a thorough and
394 balanced screening assessment to determine whether there was merit in a full
395 assessment and has shown that the concerns identified outweigh the positives and this
396 is reinforced by the evidence of D herself. Delaying the conclusion of these
397 proceedings to carry out a full assessment is therefore not likely to be purposeful
398 delay and would therefore not be acceptable delay for B whose welfare is my
399 paramount concern.

400

401 In addition, the application to adjourn to allow a viability assessment of her friend is
402 one that cannot be in B's welfare interests, I find. M has had ample opportunity to
403 provide details of possible alternative carers since these proceedings commenced in
404 December last year. Whilst I understand how difficult it would be to discuss things
405 with friends and family for M (and I am mindful of the provisional assessment of her
406 by Dr Shenoy (E12)), this alone is not sufficient justification for prolonging
407 proceedings further for B. Very little information has been provided about this friend
408 even at this late stage, and it therefore also gives me very little assurance that this
409 would be purposeful delay in B's welfare interests either. Of course, in saying this, I
410 am very mindful of the fact that endorsing a care plan which proposes adoption for B
411 is a very draconian step and would mean that B's links with his birth family are
412 severed. I have therefore next considered the welfare checklists with regard to B in
413 light of the evidence to date, and also as a result double-checked that there is no gap
414 in the evidence about realistic options for B.

415

416 B is too young to be able to articulate his wishes and feelings. As the social work
417 evidence and that of the Guardian acknowledges, "*it is reasonable to assume that he*
418 *would want to be cared for in the manner he is used to, with love, nurture and*
419 *consistency in a safe environment*" (E56 Guardian's Final Analysis). There are no
420 current concerns about his development, and his needs are being met in his current
421 foster care placement. He will need to move to a new placement at the conclusion of
422 these proceedings and will need to transfer his attachments as a result.

423

424 Both parents accept that they cannot meet his needs, and the evidence of the viability
425 assessment and the oral evidence during this hearing shows that it is unlikely that D

426 would be able to meet B’s needs in relation to safety in particular, and also potentially
427 in relation to his emotional needs if she is unable to promote his relationship with his
428 father. It is noted in the final social work statement that *“In B’s life story there are
429 strong themes of rejection, which began following his conception and continue to this
430 day, with birth mother not attending supervised contact, paternal grandparents not
431 being able to look for B, and wider family putting themselves forward as A’s carers. B
432 and A have been separated in the permanency plans. B has already suffered a
433 significant loss in his life of relationships with his immediate and wider family,
434 including the loss of a potential relationship with his brother” (C132)* and that *“B will
435 need a carer who can support him as grows and develops in order to understand and
436 process his life story” (C138)*. This evidence clearly addresses the likely effect on B
437 throughout his life of having ceased to be a member of his birth family and become an
438 adopted person, as well as noting that he may have particular needs arising from this.

439

440 Looking at the other relevant welfare checklist headings, the evidence shows that
441 there is a clear risk of harm to B arising from the threshold factors, as well as the
442 conclusions about potential placement with D. B has no current relationship with D
443 as I have noted, having last seen her on 31st March 2021. M’s attendance at contact
444 has been sporadic at best and she has not seen him since April this year. D told me
445 that she and her children had seen B regularly on the doorstep during January this year
446 whilst he was in placement with his mother, and that they therefore had a relationship.
447 I’m afraid that since he was incredibly young at this point, and the fact that this would
448 only have been for a relatively short period some time ago and most of his life has not
449 involved D or her children, it is hard to see how he has any relationship with D’s
450 children at this point. The value of these relationships continuing is therefore

451 academic at this point, and sadly the same also applies in terms of B's relationship
452 with his sibling A as he has also spent the majority of his life apart from A too.
453 However, the Local Authority do accept that it would be appropriate to encourage
454 both A and B's carers to support direct contact between the siblings and have
455 amended the final care plans to reflect this. Given my findings above about the
456 likelihood of a negative assessment of D, the fact that no paternal family members are
457 able to care for him, and the evidence about parenting capacity in relation to D, M and
458 F which is before me, I have to conclude that no relative or other carer has the ability
459 to provide B with a secure environment in which he can develop and otherwise meet
460 his needs. There is thus also no gap in the evidence about this. F's wishes and
461 feelings are that, with great sadness, he accepts he cannot care for B and that B cannot
462 safely be cared for by D either. M and D clearly want B to be cared for by D, but as I
463 have already detailed in this judgment, sadly this is not something that would be in
464 B's welfare interests. The friend that M has put forward at this hearing is also
465 identified so late with no real justification, and with so little information about them,
466 that it is also not in B's welfare interests to further delay concluding proceedings
467 (which have already continued slightly beyond the statutory maximum at this point).

468

469 Overall, I am satisfied that the only remaining realistic placement option for B is
470 adoption and that the final care plan is therefore in his welfare interests. As a result, I
471 also conclude that it is in his welfare interests for the consent of his parents to the
472 making of a placement order for him to be dispensed with.

473

474 **Conclusions**

475

476 I have already acknowledged the very brave and no doubt difficult decisions taken by
477 M and F to accept that they cannot care for A and B. It is also impressive that the
478 paternal grandparents have cared for A to such a high standard and are willing to
479 become his special guardians. They are going to need support with this, especially
480 when dealing with the challenges around contact, but the special guardianship support
481 plan addresses this. Sadly, there is no realistic option for B apart from adoption. I
482 will therefore dispense with the consent of his parents to the making of a placement
483 order for him, and grant both a final care order and a placement order for him.

484

485

A handwritten signature in black ink, appearing to read 'A. Dew'.

486

487

11th August 2021

FINAL AGREED THRESHOLD DOCUMENT

488

489 Oxfordshire County Council (the “Local Authority”) asserts that the relevant date for
490 determining the Threshold criteria in respect of A and B is the 30th December 2020,
491 when the Local Authority issued proceedings in respect of these two children.

492

493 The Local Authority asserts that the children were at that date, suffering or likely to
494 suffer significant harm pursuant to Section 31(2) of the Children Act 1989. Such
495 harm, and likelihood of harm, is attributable of the care given and/or likely to be given

496 if an Order is not made, not being what would be reasonable to expect the parent to
497 give to them.

498

499 Insofar as the Local Authority seeks to rely on factual matters transpiring, subsequent
500 to the relevant date of the initiation of protective arrangements for each of the
501 children, it will say, following Re G (Care Proceedings: Threshold Conditions) [2001]
502 3FLR1111, that it is entitled to do so as relevant to the situation then pertaining.

503

504 The Local Authority asserts that the Threshold criteria is satisfied as follows:

505

506 1. The parents' mental health and cannabis misuse:

507

508 i) At times, both parents struggle to regulate their emotions and provide a
509 calm and stable environment for the children. Both A and B are at risk
510 to exposure to the couple's volatility, as well as arguments with the
511 wider family.

512 ii) Due to the non-engagement of the mother, Dr Shenoy was unable to
513 complete the Psychological Assessment ordered, but did indicate that
514 the mother has a history of Depressive Disorder and also presents with
515 an avoidant and compulsive personality type, paranoid and negativistic
516 personality styles and low self-esteem, which affect her inter-personal
517 relationships, resulting in loneliness and maintain her difficulties.
518 These findings have not been corroborated by an exploration of the
519 mother's past and current life experiences, due to non-attendance.

520 iii) The father presents with difficulties in emotional regulation and some
521 features of Emotionally Unstable Personality Disorder, although does
522 not meet all the criteria to make a definitive diagnosis. (E12). The
523 father also presents with a history of substance misuse (cannabis and
524 cocaine). The father is attempting to reduce his cannabis use.

525

526 2. The parents' Volatility and Domestic Abuse:

527

528 A has been exposed to situational couple violence between the parents, with
529 verbal altercations:

530

531 i) On 22 April 2020, there was a referral to Housing about arguments
532 between the parents (C7)

533 ii) On 22nd May 2020, there were two separate reports from neighbours that
534 the mother was staying with the father. They reported that there were
535 several adults, all in the garden smoking cannabis, and they were
536 screaming and shouting. It was alleged that A was in the baby bouncer,
537 and one man allegedly shouted in his face "Shut the fucking noise up."
538 (C7).

539 iii) On 26 May 2021, there was a referral from a member of the public,
540 reporting shouting and domestic violence at the property for at least 6
541 months (C8).

542 iv) On 23rd May 2020, there was a report to the Police at 01.31am that the
543 parents were "fighting in the road and trying to snatch the baby off

544 each other.” A was exposed to emotional abuse and was at risk of
545 physical abuse as a result (C7).

546 v) On 25th May 2020, the Police were called, and A was reported to show
547 no emotional response to the parents arguing, even when the mother
548 was shouting, screaming, and crying. The Police were called to the
549 father’s home, in response to a third-party report of a female (the
550 mother) inside, shouting and screaming, and smashing things. The
551 mother and A were inside the bathroom and she refused to engage
552 (C7).

553 vi) On 17th July 2020, the father contacted the Police, due to the mother
554 making threats to smash up his house and making threats to end her
555 own life. The mother was upset and hysterical and shouting and
556 screaming at the caller, and A was present throughout. A was exposed
557 to emotional abuse as a result (C8).

558
559 vii) A was exposed to emotional abuse as a result of domestic abuse and
560 repeated serious arguments between the parents.

561 3. Neglect:

562
563 i) A lacked stimulation by being unable to play on the floor with toys,
564 and as a result has suffered some developmental delay. Mother has also
565 missed Health Visitor and Community Nurse appointments to support
566 her understanding of A’s developmental needs. A has been neglected
567 and suffered developmental delay as a result (C8,9,10).

568 ii) In respect of B, the mother did not register with the midwife until twenty
569 weeks' pregnant, despite telling Children's' Services that she had
570 registered and had a scan. The mother had previously had pre-
571 eclampsia and should have been seeking ante natal care, and medical
572 advice. As a result, B was born a few weeks prematurely, due to pre-
573 eclampsia (C9).

574 iii) Both A and B were at risk of homelessness, despite the mother having
575 full support of her Supportive Housing Officer and Social Worker to
576 complete the relevant paperwork but refused to engage (C8). This put
577 the children's basic care needs at risk.

578

579 4. Violence:

580

581 i) On 18th October 2020, the father was "jumped" in the street outside of
582 the mother's house. The perpetrators later threatened to harm the
583 mother and A, threatening them with knives. The cause of this attack is
584 unknown. (C10). There is concern that A was at risk of actual physical
585 harm as a result.

586 ii) On 30th November 2020, C (brother) refused to give the mother's house
587 keys back and threatened to smash her windows (C11).

588

589 A and B are at risk of emotional, and possible physical harm as a result of the
590 above.

591

10th August 2021