

IN THE LIVERPOOL FAMILY COURT  
ON APPEAL FROM A DISTRICT JUDGE

Neutral Citation Number A Local Authority v A and Others\_[2023] EWFC 34

Case No. LV21C02552

35 Vernon Street  
Liverpool  
L2 2BX

Monday, 23<sup>rd</sup> January 2023

Before:  
HIS HONOUR JUDGE PARKER

B E T W E E N:

A LOCAL AUTHORITY

and

A & ORS

MS CROWELL appeared on behalf of the Guardian  
MS HEALEY appeared on behalf of the Local Authority  
MS DALE appeared on behalf of the Respondent Mother  
MS FREEMAN appeared on behalf of the Child B

JUDGMENT

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



HHJ PARKER

1. This is an oral judgment from notes. This is an appeal against the case management decision made by District Judge Z on 23 and 25 January 2023. The case involves six children; B aged 13, C aged 11, D aged eight, E aged five, F aged three and G aged two. The appellant is the Children's Guardian, H represented by Ms Crowell. The Local Authority is represented by Ms Healing. The mother is A who is represented by Ms Dale. The child B is separately represented by Ms Freeman. The father I has elected not to participate in the proceedings.

**The nature of the appeal**

2. The Guardian sought and obtained permission from me to appeal against three decisions made by the learned District Judge :
  - a) His decision to direct a further updating PAMS assessment of the mother by the author of the original PAMS assessment, J. The original report had been prepared on 16 May 2022 with an addendum dated 4 July 2022.
  - b) His decision to adjourn the mother's application for psychological assessment of C.
  - c) His decision to direct an intermediary assessment of the mother.
3. The Guardian was given permission to appeal by me following a permission hearing on 31 January 2023. At that permission hearing, counsel then representing the Children's Guardian, Ms Edmunds, and I were unaware of an email that had been sent by K who had performed a cognitive assessment on the mother dated 13 October 2021 in answer to a question posed of him as to whether the mother would require an intermediary assessment. That email was sent by L, his office administrator in which he said:

“K is of the view that unless A is required to provide oral evidence to the Court, then an intermediary is not required. Were she required to provide oral evidence and be cross-examined, then an intermediary would be necessary”.
4. That email was not in the bundle and I received a copy of the email the evening before this appeal hearing from counsel for the mother, Ms Dale. The Children's Guardian no longer seeks to appeal that part of the case management order in-light-of the discovery of the email and therefore I dismiss that limb of the appeal.

## **Background**

5. The family had been known to Children's Services since 2017 and during this time had been subject to pre-proceedings and child protection planning under the category of neglect. Care proceedings in respect of E were initiated due to his mother's reluctance to accept assistance offered by the Local Authority to help with E's medical condition. E has a diagnosis of severe obstructive sleep apnoea, and this has a significant impact on his general health and development. Other issues surrounded the mother's ability to manage his condition and engage with medical professionals involved in treating E, but also her ability to meet the needs of the other children given the impact of his care needs and her own mental health, neglect of the children, domestic violence between the mother and the father and illicit drug use by each of them.
6. The mother has been reliant on cannabis as a means of managing her mental health. She received significant support from family intervention services since 2017 but no positive long-term change had been achieved and she required continued intervention. The mother has extremely low cognitive ability and struggles to implement advice given by professionals.
7. On 10 September 2021, the father subjected the mother to threats of physical harm and verbal abuse. On 14 September 2021, he broke into the family home and stole household items. The family had to relocate as result of his behaviour.
8. The mother received threats of violence to herself and to her property in August 2021 from drug dealers due to the father's outstanding debts; the mother paid the debt. The father has not actively engaged with the Local Authority and failed to address substance misuse. He was arrested in March 2020, due to his being found caring for E and F whilst under the influence of illicit substances.

## **The agreed chronology of proceedings**

9. On 26 August 2021, the Local Authority made an application for a care order in respect of E.
10. On 27 August 2021, the first directions hearing took place before Recorder Y. On 27 August 2021, an interim care order was made in respect of E.

11. On 2 September 2021, there was a further case management hearing before District Judge Z. The Court directed that the matter be listed for a further case management hearing on 25 October 2021; C, B, D, F, and G were all placed in the care of the Local Authority by way of interim care order until 4pm 25 October 2021. The Court directed that an interim report be filed by 14 October 2021.
12. The Court granted an application in the face of the Court with permission to instruct a psychologist to undertake both a cognitive and full psychological assessment of the mother. K was identified in respect of the cognitive assessment and M, for the full assessment for the filing dated 15 October 2021. Other evidential directions were made in terms of drug and alcohol testing.
13. On 25 October 2021, at a further case management hearing before District Judge Z, the case was set down for an issues resolution hearing on 28 March 2022. The Court extended the 26-week timescale to week 31, in order to accommodate the PAMS parenting assessment of the mother. The Local Authority was directed to file an application for public law orders in respect of B, C, D, F, and G. The Court had granted an extension for the mother to file her initial statement, drug and alcohol testing report, medical records, and a report from N, the treating clinician in respect of E.
14. The Court granted an extension for the mother to file her initial statement, drug and alcohol testing report, medical records, and a report from N. The Court directed that the Local Authority, by 6 December 2021 file and serve a statement from the allocated family social worker that would specifically address the work identified by M following her psychological assessment of the mother. The Court directed that M should file an addendum report by 6 December 2021, specifically addressing the mother's medical records and the results of the hair strand of blood alcohol testing.
15. The Court extended the time for the filing of the parenting assessment of the mother following the PAMS model to 24 January 2022. The Court directed that the Local Authority should file and serve its final evidence including a sibling attachment assessment and final threshold by 14 February 2022. Final evidence of the parent by 28 February 2022 and the Guardian's final analysis by 14 March 2022.
16. The Court also made placement directions on this occasion along with separate orders in respect of the outstanding medical records from the GP surgery and Alder Hey Children's Hospital in respect of E.

17. The Local Authority on 11 November 2021 issued an application for care orders in respect of B and D, G, C, and F indicating the 26-week timetable would expire on 11 May 2022 and listed the matter for case management hearing on 29 November 2021.
18. 29 November 2021 the matter came before District Judge Z when the Court consolidated the proceedings in respect of E and his siblings. The Court relisted the matter for a further hearing on 28 March 2022 for an issues resolution hearing.
19. The Court granted the mother permission to pose discrete questions to the author of the cognitive assessment, namely K, around whether she required an intermediary to help her participate in the proceedings. Consequential directions were made should the response be that the mother required an intermediary. The mother was provided with an extension of time to file and serve her initial response to the threshold with a filing date of 17 December 2021.
20. There were directions in respect of school and nursery reports due 7 January 2022. The social worker statement due 20 December 2021 with regards to the details of the on-going plan of work with the mother and the family support worker; outcome of the requests made on behalf of the mother for the Local Authority to consider funding; therapy recommended by M; confirmation that issues relating to the mother's and children's registration with the GP and access to medical services including medication would be resolved, and how the issue of the family's accommodation would be progressed. Also, Adult Social Services to provide an allocated social worker to provide a report pursuant to the Care Act 2014 by 10 January 2021, specifically to consider whether the mother qualified for support and services in her own right.
21. The Court directed that the PAMS style parenting assessment of the mother should be filed by 24 January 2022 with final evidence from the Local Authority, including a sibling assessment and threshold by 14 February 2022; parents' responses 28 February 2022 and the Guardian's final analysis 14 February 2022. Placement directions were repeated. The Court made supervision orders in respect of B, C, D, F, and G.
22. On 4 February 2022, the Local Authority made an application for a directions hearing as the mother had not engaged with the PAMS parenting assessment which had been commissioned to be completed by the independent social worker, J. The Local Authority sought a directions hearing as the final evidence would be difficult to complete in the absence of the completed parenting assessment of the mother. The application was supported by the social worker's position statement.

23. On 22 February 2022, the matter came back before District Judge Z who re-timetabled the matter and listed the matter for an IRH/final hearing on 20 June 2022. The Court extended the time for the Local Authority to file and serve their PAMS assessment by 22 April 2022. The Court also directed that the Local Authority file and serve a detailed schedule of expectations of the mother together with a risk assessment and safety plan. Further directions for drug and alcohol testing of the mother were due on 8 April 2022. An extension was given for the filing of final evidence of the Local Authority to 13 May 2022, the parents to 27 May 2022, and Guardian's final analysis to 13 June 2022. Similarly, the placement directions were also extended.
24. On 23 March 2022, the Local Authority made an application for an urgent hearing informing the Court that the children were removed from the mother's care pursuant to police powers of protection on Friday 18 March 2022. This was supported by a position statement from the social worker and police report. The mother was arrested for child neglect and possession of an illegal substance and was on bail at the time of their application. Bail conditions prevented the mother from having unsupervised contact with the children. The mother consented to a section 20 accommodation of the children however, the Local Authority requested an urgent hearing to seek interim care orders for all of the children who were at that time subject to interim supervision orders.
25. On 25 March 2022, the matter came before District Judge Z and interim care orders were made in respect of B, C, D, F, and G. On this occasion, the Local Authority had struggled to identify appropriate placements for all the children; G and F were placed together in agency foster care; E and B were living with the maternal cousin, O; D was living with his paternal grandparents and C was in foster care.
26. The mother invited the Local Authority to consider 24/7 supervision at home with the children. The Local Authority were granted an extension until 1 April 2022 to file their assessment of the mother under the Care Act 2014. They were also directed to file, by 1 April 2022, an analysis of realistic interim placement options for each of the children and recommendations in respect of the same; the plan for family time; and what support was in place for the four weeks prior to 18 March. The mother was directed to file a statement by 6 April 2022 and the matter was relisted for hearing on 8 April 2022.
27. On 8 April 2022, the matter came before District Judge Z who directed that the referral form sent for 24/7 supervision be filed by the Local Authority no later than 14 April 2022. The mother was to file a report from CGL by 26 April; the Local Authority was to file viability

assessments undertaken for alternative carers of E by 26 April. The Local Authority was also to file by 26 April, a contact plan for the children of the mother and a schedule of expectations and viability assessments were to be filed by 12 July.

28. The assessment of P's ability to supervise the mother living with the children in the family home was directed to be filed by 3 May 2022. Further drug and alcohol testing of the mother was directed; an updating report from N; consulting paediatric respiratory medicine on E's presentation, prognosis and treatment was due to be filed by 6 May.
29. The Local Authority were to undertake an assessment of O to care for B, C, and E pursuant to section 38(6) of the Children Act 1989. There was to be a family group conference; the minutes were to be filed. The time to file and serve the PAMS assessment was further extended to 18 May.
30. The Local Authority final evidence was extended to 8 June 2022 and placement directions amended accordingly. The time for the parent's final statements was extended to 15 June 2022 and the Guardian's final analysis was extended to 17 June 2022.
31. On 20 June 2022, the matter came before District Judge Z, at which point the mother was no longer subject to bail conditions. Permission was granted to the Local Authority to disclose the reports of K and M including the addendum to approach organisations with a view to providing therapy for the mother. Permission was granted for questions to be put to the independent social worker, J.
32. The Local Authority were directed to file and serve care plans for each of the children by 18 July 2022, and the Guardian's position statement by 20 July. The matter was adjourned for an issues resolution hearing and relisted on 22 July 2022.
33. On 22 July 2022, the matter came before the Court at which point B had separated from his Guardian and therefore was separately represented, indicating his wish to return to his mother's house immediately and contrary to the view of the Guardian. The Local Authority were proceeding on the basis that O was prepared to have the children in her care until the end of the following week. The mother received a text message from O that day which was unequivocal in that O was no longer able to look after the children and the placement needed to end. It was confirmed by the social worker during the hearing that O would keep the children until the following Monday.
34. The Local Authority therefore changed its interim care plan and B, C and E were returned to the mother's care on Monday 25 July 2022.



35. The alternative for C and B would be foster care or residential placement, and given the history, it was not considered that either option would be successful and there was a high risk of the children leaving the placement and their behaviour escalating. The Local Authority therefore considered that it would place B, C and E in the mother's care under the relevant regulations. D would remain with his paternal grandparents pending the final hearing and F and G would remain in foster care pending final hearing.
36. The Guardian did not agree with any of the children being placed in the mother's care in the interim. The Guardian asked the Local Authority to consider funding the therapy recommended in M's report; the Court indicated given the current direction of travel of the matter, the Court did not consider it necessary to have an intermediary assessment of the mother at that time. The Court re-timetabled the final evidence with the Local Authority filing by 15 August 2022; the mother's final statement, 22 August and the Guardian's final analysis, 29 August 2022.
37. The matter was adjourned for a further issues resolution hearing before District Judge Z on 16 September 2022. On that date, the matter came before the Court and it was confirmed that the children E, B, and C had returned to live with their mother on 25 July. The Court recorded that the key issues to be determined at the final hearing was whether the Local Authority's proposed care plans sufficiently mitigated the identified risks of harm to enable the children to live with their mother in the long-term. If not, what alternative placements would meet the children's needs and the nature of any orders required to regulate long-term placements.
38. The Court identified that at the final hearing, it would hear the following witnesses; J, independent social worker; Q, social worker and H, Children's Guardian. An application was made on behalf of the Guardian to cross-examine M, psychologist; the application was refused and so recommendations were not challenged by any party.
39. No party was seeking to cross-examine the mother and it was therefore anticipated that she would not give live evidence at the final hearing.
40. The Court extended the directions and made provision for the Local Authority to file by 14 October, a final threshold statement. Permission was granted to the solicitor for the children and on behalf of the Guardian to raise further questions of M.
41. The Local Authority were to provide a statement providing an update with regards to the care provided by the mother and the progress of the support plan by 23 December 2022.

42. Permission was granted to the mother to file by 6 January 2023, a statement in response to the Local Authority's updating evidence together with reports from any third-party agencies upon whom they intended to rely.
43. The Guardian was directed to file an addendum report by 13 January 2023, setting out her recommendations and proportionality analysis in respect of each child.
44. The matter was listed for final hearing before District Judge Z on 23, 25 and 26 January 2023. Estimated length of hearing, three days although the hearing at the time on the 23<sup>rd</sup> would be three hours.
45. On 22 December 2022, the Local Authority made an application for a hearing for re-timetabling, detailing further to the order of 16 December 2022. The Local Authority had filed the position statement dated 22 December 2022 over the period of time when B, C and D had been returned to the mother's care; the Local Authority had noted a deterioration in care and concerns had increased. The Local Authority no longer recommended that the children return to the mother's care as set out in its final evidence. The Local Authority requested a hearing to consider timetabling the matter through including placement directions.
46. On 19 January 2023, the mother made an application for the instruction of an independent social worker pursuant to part 25 of the Family Procedure Rules. This was supported by a statement which is at B148 of the main bundle.
47. On 23 January 2023, which was now week 74 of the proceedings, the matter came before District Judge Z for day one of the three-day final hearing. The Court dealt with the preliminary matter of the mother's application for an independent social worker and acceded to that application despite opposition from the Children's Guardian. The Guardian expressed concern about delay and invited the Court to transfer the matter to the Designated Family Judge; such request was refused.
48. On 25 January 2023, the matter came back before District Judge Z and the directions following the approval and permission of the Court to instruct an independent social worker and consequential evidential directions were made. The mother's application to instruct an independent expert psychologist to assess C was adjourned, with liberty to restore. J was instructed to file a report by 27 March 2023 as a PAMS assessment of the mother. An intermediary was to be instructed to file a report by 22 February 2023.

49. The Local Authority was to file an adult social work assessment by 8 February 2023; Local Authority to file a Together and Apart assessment utilising the CoramBAAF Guidance 2021 by 10 March 2023.
50. An updated interim support plan by 22 February 2023; Family Group Conference minutes by 3 March 2023; the Local Authority to file a letter of report from CAMHS by 8 May 2023 in respect of C.
51. The Local Authority to file and serve updated school reports by 24 February 2023; the mother to file and serve CGL report by 24 February 2023; the mother to provide a report from Think Wellbeing, 24 February 2023; final evidence from the Local Authority, 24 April 2023; Mother's final statement, 12 May 2023 and the Guardian's final analysis, 22 May 2023.
52. Similarly, the placement directions are extended accordingly and the matter was set down for an issues resolution hearing on 26 May 2023 for two hours; this would be week 91 of the proceedings. The date of any final hearing remained in the ether with the potential for even more delay of several months; that due to the pressure on Court lists if nothing else.
53. On 27 January 2023, the Guardian issued an application to appeal the decision of District Judge Z in permitting the instruction of the independent social worker to further assess the mother's parenting on the PAMS basis.
54. On 31 January 2023, the matter came before me as a permission hearing when I granted permission to appeal, and I also gave permission to the Guardian to amend the noticing grounds of appeal to include appeals against the direction for intermediary assessment of the mother and, also the adjournment of the mother's application for psychological assessment of C. Directions were also given for skeleton arguments from the respondents together with, if appropriate, any respondent's notice of appeal.

### **The Judgment of the learned District Judge**

55. In a short extempore judgment, the learned District Judge said this on 23 January:

“Again, without going on and on about everything we are told; experts are supposed to now be a rare thing. I appreciate I must have been satisfied when I authorised the psychological assessment of the mother, I must have been satisfied as to necessity. Whether that, whether there needs to be an up-to-date psychological assessment or to include, I think in particular, C, maybe there are some further submissions or some further evidence is needed on that because I do hesitate in respect of that; not only – I am sure as everybody would

say, it might be useful but whether it is necessary, I have some concerns about.

I think so far as the update of the parenting assessment of the mother is concerned, despite the Guardian's position on that, I can say now because – I mean this is very fully set out in Ms Dale's position statement that I am satisfied that it is necessary not only because of the wholesale sea change of the Local Authority, but also there are aspects now of course of the Local Authority's plan and in fact, the mother now disagrees with, which of course, she previously did support, and it does seem to me that bearing in mind that there is a positive parenting assessment which I think goes back to May of last year, if there were not an update in respect of that or if it was simply done by the Local Authority, the existing social worker, that, it seems to me would not be giving mother a fair trial whatever the outcome is, predominantly because the Local Authority have now, for the reasons set out in their statements of December and January, set out what their plan is.

I am satisfied there does need to be the addendum or up-to-date parenting assessment except the sibling assessment I think, as was advocated, can be undertaken by the Local Authority and I think everybody agreed on that. The matter that I still have some hesitancy, if I can put it like that, at the moment, is the issue of the psychological report because as has now been confirmed, it was only previously on Mother, only that now is going to be, that is going to extend to all the children, for example; I am not sure if that was the suggestion or whether it only extends, for example, to C. I think that needs to be effectively honed in and maybe determined on Wednesday so I am not making a determination in respect of that but that is something I think does need to form the basis of discussions obviously between now and Wednesday to determine that.

Well, I think in the circumstances Ms Bacon, in broad terms what you outlined in terms of the timetable earlier on, I am with you despite the inevitable delay which I do have very much at the forefront of my mind, but I am with you on that. The matter I think that remains for me to determine is whether a psychological report really is necessary for all the reasons that arise time and time again; starting in the Road Ahead document of the president of the family division and in the other documents that the president has issued including the most recent one in November and repeated only a matter of a week or two ago by the FDLJ".

56. It is agreed that when the matter came before the learned District Judge on Wednesday 25 January, the District Judge adjourned the application without setting a date for it to be heard on the basis that the child was due to be seen by the Child and Adolescent Mental Health Services without any active opposition from any of the parties. Having reflected upon that

decision, the Children’s Guardian now argues that the learned District Judge should have dismissed the application on the basis that it was not necessary.

**The arguments at appeal**

57. There was no criticism of the learned District Judge’s decision to direct a second PAMS assessment after the first assessment was negative following non-cooperation of the mother. It was suggested that the mother’s circumstances at that time, were very different; she was in temporary accommodation; she was fleeing domestic violence and had been unable to engage with the Local Authority. It was felt then that there was good reason for her non-engagement and when the second and effective direction for a PAMS assessment was given, she was by then back in permanent accommodation in Parr.
58. Whilst ordinarily after non-cooperation, by a parent, in a court-ordered assessment with the resulting negative assessment, I would expect to see cogent reasons for the Court to direct a second assessment. There is no challenge to the decision-making of the learned District Judge on this occasion, and I say no more about it.
59. The Children’s Guardian argues that the learned Judge was wrong however, to operate from the basis that there needed to be an updated parenting assessment in January 2023, otherwise the proceedings would not be fair to the mother; that he failed to engage properly with the necessity test for the directing of expert evidence. In so doing, the learned District Judge adopted a ‘start again’ approach regarding the assessment process of the mother. It was argued that the PAMS assessment being out of date would be relevant only if there was not sufficient up-to-date evidence of the mother’s parenting capacity. However, it was argued that here there is; three of the children had been moved back into the mother’s care and as a result, the Local Authority had had an opportunity to observe and assess the mother’s ability to parent, on the ground, rather than through the artificial environment of an assessment adopting the PAMS model. The mother had had her PAMS assessment; it had made a number of recommendations at D288:

“It is my view that A needs to demonstrate her motivation in working with and towards the following targets: 25 therapeutic sessions of management of trauma with the development of effective resilience; assessment for mental health diagnosis thereafter; reduction and ceasing cannabis use long-term; assessment for ADHD and any potential treatment should this be required; work alongside an older family support worker who can build a supportive relationship with A who is likely to require some level of support throughout the children’s lives, which would include reminders of appointments,

advice and guidance; take part in a family group conference to include family friends and professionals working with A and her children; agree a respite support plan to be addressed at a family group conference; consideration of family member P residing with A on an interim basis whilst embedding routines, guidance and boundaries in completing work highlighted.

### **Conclusion**

All of the above areas of parenting capacity improvement are realistic achievements that can be made. However, as a result of the outstanding therapeutic support that is required, it is my opinion that embedding this work will need to work alongside this but is likely, as a result, to take a longer period of time to successfully implement and for A to become consistent as she works through her own emotional and mental health needs. Should all the care and support be put in place, I recommend that the children return in stages to A's care".

60. The mother's application for further assessment by an independent social worker relied on the last assessment being in May 2022, it being asserted before the learned District Judge that the mother should have every reasonable opportunity to present a positive case in these proceedings. It was suggested on behalf of the Children's Guardian that it was difficult to see what unfairness or disadvantage was caused to the mother in her most recent parenting assessment being a positive one, and how it would benefit her to have the Local Authority's current negative analysis of her parenting set out in their position statement dated 22 December 2022 incorporated into a parenting assessment, rather than in its current statement form or in final evidence.
61. It was clear from the original assessment that, in theory, the mother was able to parent the children. However, the evidence on the ground indicated that she had been unable to do so consistently or, in actual fact. It would be for the Local Authority to make its case as to why the recent events changed the picture and justified their alternative care plan. The burden being upon the Local Authority to turn the tide from its positive parenting assessment, would not be to the disadvantage of the mother.
62. The Guardian asserted that there is a wealth of evidence as to the mother's parenting capacity from the most reliable source, that is, the mother's parenting of three of the six children since June 2022. The Local Authority had produced a detailed statement dated 22 December 2022 which set out those matters and made clear the case against the mother for a change of care plan.
63. It was further submitted that to undergo a further PAMS assessment in circumstances where there was real evidence of the mother's parenting, post a positive PAMS assessment, with

rehabilitation home of three of the children having been tested out would be artificial. The purpose of a PAMS assessment is to assess whether a parent with cognitive difficulties can complete certain care tasks and parenting. It is parenting in the abstract. One could appreciate that there might be unfairness to the mother if there had been a negative PAMS assessment with a conclusion that targeted work needed to be carried out with the mother with reassessment after that work was done. However here, the mother was assessed positively. In that sense the mother can pass the PAMS assessment in the abstract. In those circumstances it would be wholly artificial to complete another PAMS assessment; that would be simply to repeat the exercise.

64. Any additional work that been undertaken by the mother with third party agencies such as therapy and work with CGL could be incorporated as part of the holistic assessment of the Local Authority and incorporated into a Re B-S analysis. Indeed, it was suggested that the mother only stood to lose by having a further PAMS assessment as she already had a positive PAMS assessment. A further assessment could, of course, be negative.
65. The assessment of the social worker on the ground revealed evidence that the children's lived experience was poor in their mother's care, that their behaviour had worsened and that the mother was unable to meet their needs. This included a period of time when the mother was undertaking the work that had been recommended by the independent social worker. The social worker's observations of the mother on the ground meant that the mother was no longer working in the abstract.
66. The Children's Guardian also challenged the Local Authority's position on the mother's application for further expert assessment. The Local Authority had asserted that it could not present a choate plan for placement order in respect of the younger children to the Court without an updated parenting assessment. The argument was understood to be that the Agency Decision Maker was somehow fettered, and unable to approve a care plan of adoption if there was not a formal negative parenting assessment of the mother in existence.
67. The Guardian submitted that the Local Authority's case was wrong in principle and in law. There is no requirement in the Adoption Agency's Regulations of 2005, ("the Regulations"), for there to be a negative parenting assessment of a parent. The relative requirements are set out in part 3 of the Regulations and include the requirement for an adoption medical (Regulation 15), the requirement to prepare a Child Permanence Report, (Regulation 17).
68. Regulation 17 states that the written Child Permanence Report must include, 'an assessment of the parenting capacity of the child's parent or guardian.' There is no requirement for a

formal assessment or a particular format of one, or an assessment with a negative conclusion.

69. It was also argued that the Local Authority's case was not consistent with the role of the Agency Decision Maker as described by Lord Justice Peter Jackson in *T (A Child)* [2018] EWCA Civ 2018, at page 650 which sets out guidance for good discipline and appropriate decision making by Agency Decision Makers:

*1) List of material taken in to account in reaching the decision.*

*2) Identify key arguments.*

*3) Consider whether they agree with the process and approach of the relevant panel, and are satisfied as to its fairness and that the panel has appropriately addressed the argument.*

*4) Consider whether any additional information now available to them that was not before the panel, has an impact on its reasons or recommendations.*

*5) Identify the reasons given to the relevant recommendations that they do or do not wish to adopt.*

*6) State the adopted reasons by cross-reference or otherwise and any further reasons for their decision.*

70. It was contended that what was clear from that decision is that the Agency Decision Maker

must make a decision with regard to all the evidence, and is not banned by the negative or positive recommendation of the fostering panel. It must exercise independent judgment beyond simple endorsement of a recommendation. Equally, the agency decision maker cannot be prevented in making a decision or in turn, fetter the course of discretion because there is not a parenting assessment labelled negative before it. To do so would indicate that the Agency Decision Maker is merely rubber stamping the outcome

of a parenting assessment which is not a proper function.

70. The Guardian suggested that in the first instance, the Court can and should finalise the proceedings by making final care orders in respect of all six children on the basis that they will reside outside their mother's care. The Local Authority could then make subsequent applications for placement orders in respect of G, F, and E if that was its decision. The Guardian's preference would have been to have placement applications before the Court if such orders are being sought; on balance, however, she fell in favour of avoiding further delay in finalising proceedings.



71. The Guardian accepted that there may be concern that the mother may not be entitled to legal aid in future placement proceedings. However, she contended that this is not a matter that can properly be taken in to account in terms of the Court's functions. As noted in *Re T (A Minor) (Care order: Conditions)* [1994] 2 FLR 423:
- “In a scenario where a court order is sought and the Local Authority intends later to make an application for placement orders which will inevitably be opposed; the relevant question is whether the care order should be made”.*
72. If the Court did not accept the proceedings could be finalised without placement applications being made then the appeal should nonetheless be allowed in respect of the independent social worker assessment and the Local Authority should undertake adoption medicals and complete Child Permanence Report as a matter of urgency. The Guardian submitted that there is sufficient evidence in existence to enable the Court to make determinations in respect of the mother's parenting capacity and the sibling relationships; it simply needed to be committed to writing with a full *Re B-S* analysis.
73. In respect of the decision to adjourn the mother's application for psychological assessment of C, it was suggested that on reflection, the Children's Guardian considered that the District Judge was wrong to adjourn it and it should be dismissed. There was no evidence to suggest that the report was necessary. There was no evidence to suggest that her behaviour was due to psychiatric or psychological condition, rather than her lived experiences, therefore it should have been dismissed and not adjourned. Further application could have been made if necessary. By leaving it adjourned without setting a date for decision, it exposed the proceedings to the potential of being derailed. There was an appointment for C with the Child and Adolescent Mental Services in March, but that was believed to be just a triage appointment and therefore there could be some significant delay before one arrived at any final decision on diagnosis, if indeed there was any psychiatric or psychological condition to diagnose rather than just learned behaviour.

#### **The position of the Local Authority**

74. The Local Authority agreed with the Children's Guardian that a psychological assessment of C was not necessary and therefore did not address the Court any further on that issue.
75. In terms of the direction for a further PAMS assessment by the independent social worker, the Local Authority argue that there was a question of fairness; it was not fair to the mother if the additional assessment did not take place.

76. The Local Authority was giving consideration to placement, they were also considering making an application for placement orders. Therefore, that required that no stone should be left unturned. That was then modified to the Court taking all reasonable steps to consider realistic alternatives to adoption. The requirement of fairness related to all appropriate evidence, and, at this stage, one could not predict what the outcome of an independent assessment would be. Therefore, there is a gap in the evidence which is not fair.
77. The Local Authority's position was that the Court's decision to permit an updating parenting assessment by the independent social worker was entirely consistent with the Court's overriding objective of conducting proceedings fairly, and that the assessment was necessary to inform final care planning decisions with a view to formulating choate care plans of the realistic options. The absence of them would prevent the Court from carrying out the requisite holistic analysis of the realistic competing options for permanence.
78. The Local Authority had initially applied for an adjournment of the final hearing scheduled for 23 January by C2 application dated 22 December. This was because they were going to ask the Court to consider alternative options for permanence which included removal of the children in the mother's care and not rehabilitating the children to the mother with potentially adoption for the three younger children. That represented a fundamental change to the final care plans already before the Court through rehabilitation. The Local Authority would need to update its final evidence in order that definitive plans and the requisite Re B-S analysis could be provided and properly and carefully scrutinised by the Agency Decision Maker or the Court. Therefore, they supported the mother's application for further independent social worker assessment. To proceed to final hearing on 23 January would have enabled the Court to consider only the options of foster care and rehabilitation home, and there was insufficient evidence to evaluate the option of adoption which was now a realistic option.
79. The Local Authority contended for the following timetable should the Court allow the appeal: submission of final statement, final care plans, sibling assessment report, Child Permanence Report, adoption medical to Agency Decision Maker for SHOPBA decision by 23 March 2023.
80. The consideration of and receipt of the decision of the Agency Decision Maker by Friday 20 April 2023 and issuing a placement application by Monday 24 April 2023.
81. It was said that this was not a case of it being twin-tracked with adoption, since the final care plans were submitted recommending rehabilitation. It was suggested that having submitted

a statement setting out the social worker's observations of the mother's parenting gleaned from periodic monitoring of the children's progress in her care, this was not the same as a thorough comparative assessment conducted by an independent social worker who originally assessed the mother in May 2022. It would not be fair to the mother for the local authority, having given a strong indication that it will no longer be recommending rehabilitation to the mother, to have the updating analysis of her parenting ability being provided by the social worker.

82. The key social worker was, not PAMs trained, and hence the decision of the Local Authority to commission its own updating assessment by an independent social worker outside of proceedings, it was fairer to the mother to have an assessment by an independent professional with the specialist skills and expertise required.
83. The Local Authority conceded that the Agency Decision Maker does not require a formal document titled 'Parenting Assessment' to come to a best interest decision regarding adoption. The Agency Decision Maker would require up-to-date information with firm plans and recommendations before making that decision.
84. Despite being pushed by me during submissions, counsel to the Local Authority was unable to particularise how a failure to direct a further PAMS assessment by the independent social worker would be unfair to the mother. She was left continually returning to the headline.

#### **The position of the mother**

85. The mother's position was that the Local Authority filed the C2 application to the Court dated 22 December 2022, asking for an adjournment to the proceedings for further evidence to be filed and proper care planning to take place in light of the change of care plan, from rehabilitation of all six children to the mother's care, to one of adoption for G, F and possibly E, the alternative being long-term foster care for him, with D to remain living with his grandparents under a final care order. B and C to be placed in long-term foster care, and contact between the siblings and the mother to be decided following an updated Together or Apart assessment to be undertaken by the Local Authority.
86. The Local Authority was no longer reliant on the positive parenting assessment of the mother undertaken by the independent social worker, however, there was no up-to-date assessment of the mother's capacity to care for her children which took into account any progress made by the mother and any support that could be provided which would allow her to care for all the children in light of the significant sea change in the Local Authority's case.

Nor was there currently a full Re B-S analysis of all available placement options. Therefore, it was submitted there are a number of gaps in the evidence.

87. It was argued that the Children's Guardian, in submitting that the social worker could provide an analysis of the mother would not be fair, as the Local Authority had already confirmed its change in care planning. Therefore, the Local Authority has a pre-conceived view of the mother's ability to parent which would result in a biased assessment. Therefore, it was only fair that an assessment was carried out by the independent social worker. The original author was best placed to provide an addendum assessment following her assessment in May 2022.
88. The social worker could not carry out the requisite PAMS assessment of the mother in light of the recommendations of K's report, in which the mother was described as a borderline, extremely low cognitive ability, with an IQ which places her at 99% below the population, with reading comprehension of 10 years.
89. Further, there are currently no choate care plans for any of the children before the Court and the placement plans for the children were not known. The Local Authority had confirmed that the plans for the younger children to make applications for placement orders, could not be ratified in light of the positive parenting assessment as it stood. The Local Authority confirmed that if it had invited the Court to make final care orders at this stage, it would be likely to make applications for placement orders in due course.
90. It was argued that the learned District Judge was mindful of the cognitive assessment of the mother; recognised that to finalise at this stage by making final care orders with the Local Authority confirming it would wish to make applications for placement orders imminently, could put the mother at an enormous disadvantage. In directing a further PAMS parenting assessment from the independent social worker, the learned Judge was fully apprised of the timescales which he bore in mind when he made his decision.
91. In terms of the psychological assessment of the child, C, it was argued that the decision to adjourn the application pending more information from the Child and Adolescent Mental Health Service was not opposed by any party during the proceedings.
92. The position adopted by B, this can be stated shortly because on behalf of B, Ms Freeman argued that B stood on all fours with his mother. A further PAMS assessment was necessary because it would be fair as it would properly take in to account the mother's cognitive limitations.

93. As the Local Authority had already stated that it sought placement orders for at least two of the children, a further assessment by the social worker at this stage could not be objective, and would not provide a fair holistic evaluation of the mother's progress and her current position. The current allocated social worker is not PAMS trained; further, it would be very unlikely that the Agency Decision Maker or the panel would accept a short, contrary, or negative assessment of the mother following on from the positive PAMS assessment. To allow the appeal would lead to an unjust outcome where B is deprived of the right to a fair challenge of the evidence, and care plans including his own care plan, and the loss of opportunity for possible reunification to the care of his mother along with his siblings.

### **Appeals against Case Management Decisions**

94. The Family Procedure Rules for 2010, rule 30.12(1) states;  
“ every appeal will be limited to a review of the decision of the lower court.  
(3) The Appeal Court will allow an appeal where the decision of the lower court was;  
a) wrong.”
95. This is an appeal against a case management decision of the learned District Judge. I accept the submission made on behalf of B that a case management decision should not be interfered with or reversed by the appellate court, unless it is plainly wrong in the sense of being outside the generous ambit where reasonable decision makers may disagree.
96. In re TG [2013] EWCA Civ 5 Sir James Munby the then President of the Family Division said this;

*“Fourth, the Court of Appeal has recently re-emphasised the importance of supporting first-instance judges who make robust but fair case-management decisions: Deripaska v Cherney [2012] EWCA Civ 1235, paras [17], [30], and Stokors SA v IG Markets Ltd [2012] EWCA Civ 1706, paras [25], [45], [46]. Of course, the Court of Appeal must and will intervene when it is proper to do so. However, it must be understood that in the case of appeals from case management decisions the circumstances in which it can interfere are limited. The Court of Appeal can interfere only if satisfied that the judge erred in principle, took into account irrelevant matters, failed to take into account relevant matters, or came to a decision so plainly wrong that it must be regarded as outside the generous ambit of the discretion entrusted to the judge: Royal & Sun Alliance Insurance plc v T & N Limited [2002] EWCA Civ 1964, paras [37]-[38], [47], Walbrook Trustee (Jersey) Ltd v Fattal [2008] EWCA Civ 427, para [33], and Stokors SA v IG Markets Ltd [2012] EWCA Civ 1706, para [46]. This is not a question of judicial comity; there are sound pragmatic reasons for this approach. First, as Arden LJ pointed out in Royal & Sun Alliance Insurance plc v T & N Limited [2002] EWCA Civ 1964, para [47]:*

*"Case management should not be interrupted by interim appeals as this will lead to satellite litigation and delays in the litigation process."*

97. Second, as she went on to observe:

*"the judge dealing with case management is often better equipped to deal with case management issues...."*

*Exactly the same applies in family cases. Thus in Re C Thorpe LJ and I dismissed the appeal notwithstanding what I said was the "robust view" His Honour Judge Cliffe had formed when deciding to stop the hearing. And in Re B I refused permission to appeal from an order of Her Honour Judge Miranda Robertshaw involving what I described (para [16]) as "appropriately vigorous and robust case management." I said (para [17]):*

*"The circumstances in which this court can or should interfere at the interlocutory stage with case management decisions are limited. Part of the process of family litigation in the modern era is vigorous case management by allocated judges who have responsibility for the case which they are managing. This court can intervene only if there has been serious error, if the case management judge has gone plainly wrong; otherwise the entire purpose of case management, which is to move cases forward as quickly as possible, will be frustrated, because cases are liable to be derailed by interlocutory appeals...."*

*As Black LJ very recently observed in [Re B \(A Child\) \[2012\] EWCA Civ 1742](#), para [35]:*

*"a judge making case management decisions has a very wide discretion and anyone seeking to appeal against such a decision has an uphill task."*

98. In the case of re P (Care Proceedings: Balancing Exercise) [2014] 1 FLR 824 the Court of Appeal refused an appeal against a case management decision from a circuit judge refusing an application for assessment by a psychologist of the father's parenting capacity following the local authority's negative parenting assessment of the father. In giving the lead judgment of the Court of Appeal, Lady Justice Black said this at paragraph 56:

*"in my view, the judge was not wrong to refuse the assessment the father sought. Case management decisions of this sort are particularly hard to appeal and in this case, it cannot be said that the judge overlooked any considerations which were material. An assessment such as a local authority's parenting assessment of the father can be challenged in ways other than obtaining a competing assessment. If the facts upon which the assessment has proceeded are wrong, they can be disputed. If the opinions are flawed, that can be explored in cross-examination, the author of the report being taken to the material which undermines or contradicts the conclusions he or she has drawn. Or, as the Guardian contemplated here, a party can take steps to address the problems that have been identified and/or that he or she acknowledges."*

99. In making case management decisions and starting from first principles, the Court must further the overriding objective to deal with cases justly having regard to the welfare issues involved. Rule 1.2 of the Family Procedure Rules for 2010 provides that; dealing with a case justly includes so far as is practicable:

a) ensuring that it is dealt with expeditiously and fairly.

- b) dealing with the case in ways which are proportionate to the nature, importance, and complexity of the issues.
  - c) ensuring that the parties are on an equal footing.
  - d) saving expense.
  - e) allotting to it an appropriate share of the Court's resources whilst taking into account the need to allot resources to other cases.
100. Rule 1.4 imposes a duty on the Court to manage cases actively. Active case management includes identifying the issues at an early stage, 1.42(b)1. Deciding promptly which issues need investigation and hearing, and which do not, 1.42(c) and considering whether the likely benefits of taking a particular step justify the cost of taking it 1.42(h).
101. The primary legislation, the Children Act 1989 has always recognised the general principle that any delay in determining the question is likely to prejudice the welfare of the child; section 1(2).
102. In public law proceedings this principle is given sharp focus by section 32 of the Children Act introduced by the Children and Families Act 2014 which requires the Court to:
- (a) draw up a timetable with a view to disposing of the application:
    - (i) without delay and (ii) in any event within 26 weeks, beginning with the day on which the application was issued, and
    - (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.
103. Sub-section 3 requires the Court to have particular regard to the impact which the timetable would have on the welfare of the child, to whom the application relates and on the conduct of the proceedings. The 26-week requirement was introduced as a means of driving the length of care cases down. The philosophy behind it was well expressed in 2011 in this extract from the foreword to the Family Justice Review by David Norgrove:

*"Here all the dedication to family justice can harm children, not help them. Having read dozens of replies to our consultations, I was struck by the way in which almost every group thought things would be better were they allowed to do more, including judges, magistrates, social workers, and expert witnesses.*

*Hardly anyone thought they themselves should do less. The reality of course is that time and money spent on one child means less time and money available to help another.*

*Dedication to achieving the best possible result for one child comes at the hidden expense of another whose case is delayed or whose social*

*worker has to come to Court again when they might have been working to help another child to remain safely within their birth family”.*

104. Sir Andrew McFarlane, President of the Family Division gave guidance in June 2020 entitled, “The Road Ahead”, and in June 2021 in “The Road Ahead 2021”, the key message of the first document advocated a significant change in time management: Paragraph 43 –

*“if the Family Court is to have any chance of delivering on the needs of children, or adults who need protection from abuse or of their families for a timely determination of applications, there will need to be a very radical reduction in the amount of time that the Court afforded to each hearing. Parties appearing before the Court should expect the issues to be limited only to those which it is necessary to determine to dispose of the case, and for oral evidence or oral submissions to be cut down only to that which necessary for the Court to hear”.*

105. At Paragraph 47 – it quoted elements of the overriding objective, it stated:

*“in these times each of these elements is important, but particular emphasis should be afforded to identifying the welfare issues involved; dealing with the case proportionately in terms of allotting to it an appropriate share of the Court’s resources and ensuring an equal footing between the parties”.*

106. Family Procedure Rules 2010 part 25.4 states: “The Court may give permission for expert evidence only if the Court is of the opinion that the expert evidence is necessary to assist the Court to resolve the proceedings”.
107. Section 13 of the Children and Families Act 2014 states: “the Court may give permission only if the Court is of the opinion that the expert evidence is necessary to assist the Court to resolve the proceedings justly”.
108. Section 13(7) of the Children and Families Act 2014 provides:

“when deciding whether to give permission, the Court has to have regard, in particular to;

- a) any impact which giving permission would likely have on the welfare of the child concerned and the impact on the child of any assessment of them.
- b) the issues to which the expert evidence would relate.
- c) the issues with which the examination or other assessment would enable the Court to answer.
- d) what other expert evidence is available, whether obtained before or after the start of proceedings.



- e) whether the evidence could be given by another person on matters which the expert would give evidence.
- f) impact which giving evidence would be likely to have on the timetable for, and duration in the conduct of the proceedings.
- g) the cost of the expert evidence.
- h) any matters prescribed by the Family Procedure Rules”.

### **Discussion**

109. I have enormous sympathy for the learned District Judge in dealing with these proceedings; his handling of the case management of this case has clearly been careful and thoughtful and at all times he has been acting out of the best of intentions. He has been particularly sensitive to the cognitive function of the mother and the fact that she is a vulnerable party. He has been mindful of that vulnerability when making case management decisions and has directed a number of assessments of her, so that both the Court and professionals working with the mother were fully informed as to the need to work with and around her cognitive deficit.
110. It is also clear that the learned District Judge has been particularly troubled by the delay in resolving these proceedings and he was clearly acutely aware of the guidance from the President of the Family Division, the Family Division Liaison Judge about the need for the family courts to realign with the public law outline.
111. He has also not been helped by the Local Authority’s approach to the mother’s application for a further PAMS assessment by the independent social worker. In their statement of 22 December 2022 at C294, the Local Authority social worker said this:

“8.6 The Local Authority would therefore propose a recommendation of the following plans for the children:

F and G’s plan would be one of adoption due to their age and right to life without social care intervention.

E’s age would make him open to a plan of adoption. However, this would have to be balanced on his age and the fact that he has strong attachments to his mother and siblings. Therefore, longer term foster care would also have to be discussed.

D is currently with Grandparents. They have declined to be assessed for the full viability assessment therefore ruling them out of gaining an order such as special guardianship. The Local Authority would prefer for D to remain with his Grandparents and this would be considered under a child arrangements order. This, however, would be on the basis that the Grandparents would be able to commit to

caring for D long term. If this could not happen then the plan of foster care would be proposed for D.

B and C's plan would also be one of foster care, however, it is acknowledged that this plan does come with associated risks of absconding. The plan for B and C therefore needs to be fully assessed ensuring that their age and self-care skills are taken in to account in any future plans".

112. Those plans are set out at the end of a detailed statement in which the social worker provides evidence of the deterioration observed by various professionals relating to B, C and E who were placed in the care of their mother, and, also, the parenting deficits of the mother demonstrated between then and December 2022. It is clear from that statement the Local Authority has concluded that rehabilitation to the mother's care of any of the children is now no longer a realistic option for the children.
113. I simply do not understand, how it is therefore, that the Local Authority in the same breath, supports the mother's application for further PAMS assessment by an independent social worker.
114. I do not understand why they are not now fully aligned with the Children's Guardian's position that there is now a wealth of evidence upon which the Local Authority and the Court can make final determinations in respect of each child. In so doing, in my judgment, the Local Authority has demonstrated a lack of clarity of thought, a lack of focus on the need to avoid unnecessary delay in achieving outcomes for these children, and too great a willingness to devalue the role of a social worker as an expert in care proceedings.
115. They have allowed themselves to be beguiled by the suggestion that there was an out-of-date PAMS assessment and that fairness to the mother could only be achieved by lapsing into the assessment, 'start again' culture, contrary to the recent exhortations of the President of the Family Division, the Family Division liaison judge, and me.
116. I also do not understand how it is unfair to the mother not to direct a further PAMS assessment. She has already been the subject of a PAMS assessment; that assessment was positive on the basis that a number of recommendations were followed. What has happened since then is that in accordance with those recommendations, three of the children have been returned to the mother's care, and the Local Authority and other professionals, including the schools have had an opportunity to monitor the progress or otherwise of the children in their mother's care.
117. Such monitoring and assessment does not require a PAMS qualified social worker. I do not understand what benefit a further PAMS assessment would bring to the proceedings. It

would inevitably resolve the substantial delay in achieving outcomes for these children. A final hearing may not take place until September or even later. As there has already been a positive PAMS assessment, then I do not understand what the mother stands to gain by having another one and certainly exposes herself to a risk next time of a negative PAMS assessment.

118. What has happened since the PAMS assessment and the beginning of rehabilitation, is that the mother has had an opportunity to parent some of the children in real time, with an opportunity to cooperate in the support and services recommended and provided to buttress and ameliorate her parenting capacity. It would seem, that according to the Local Authority reports, that her willingness to engage in therapy has been fairly recent and the CGL report of 19 January 2023 shows that her engagement with them has been poor in terms of group work, although she has turned up for one-to-one appointments and answered phone calls.
119. The extent to which she has been able to reduce her cannabis use is about to be tested as I understand it. Her ability to follow advice and guidance from the professionals appears to have improved somewhat following her receiving notification that the Local Authority's care plans had changed.
120. In my judgment, a further PAMS assessment at this stage would be artificial; the purpose of a PAMS assessment has been satisfied by the assessment in May 2022 and the addendum in July 2022, and what really matters now is how that translated into a rehabilitation project and how that had fared between July 2022 and December 2022.
121. I am not satisfied that an additional PAMS assessment is necessary in this case to enable the proceedings to be dealt with justly, in fact, quite the reverse. In my judgment in so ordering the additional assessment, the learned District Judge failed to deal with the proceedings expeditiously. It was not necessary to direct an additional assessment to be fair to the mother. In fact, if anything, it exposed her to the risk of a negative assessment.
122. It was also unfair on the children to prolong these proceedings even further in so doing. It was a disproportionate step to take having regard to the nature, importance, and complexity of the issues. It was not necessary to ensure that the parties were on an equal footing and rather than saving expense, it incurred further significant expense. It also failed to allot to the case an appropriate share of court resources whilst taking into account the need to allot resources to other cases.
123. The delay that such a direction would cause is prejudicial to the welfare of the children. Such an assessment would not assist the Court, in my judgment, to deal with key issues in

this case. It would not enable the Court to answer questions which otherwise it would be unable to do so. There is a raft of other expert evidence available to the Court to reach decisions although I recognise that the Local Authority's obligation to provide a full Re B-S analysis within its final evidence is not yet done.

124. In so ordering a further PAMS assessment, the learned District Judge was wrong. There is nothing to prevent the updating evidence of the Local Authority being sent to the independent social worker with the question, in light of this evidence; "does this affect the views that you expressed in your PAMS report?". There may even be an application to call the independent social worker at the final hearing if it can be established that it is necessary to do so.
125. I do however agree with the submissions made that to simply proceed to a final hearing of the care proceedings without giving the Local Authority an opportunity to make an application for placement orders, if that is what the Local Authority has decided, carries the potential to be unfair to the mother. Therefore, in the timetable that I propose moving forwards, I will build in placement application directions.
126. Furthermore, I agree with the submission of the Children's Guardian; I am not satisfied that there is sufficient evidence to justify adjourning the mother's application for psychological assessment of C. In not determining the application and simply adjourning it without setting a date for hearing, that is also to build in the potential for further delay in these proceedings further down the road. That is an issue that needs to be grappled with immediately. In my judgment the application should be dismissed. C is now under the auspices of the Child and Adolescent Mental Health Services; they will be able to provide guidance to the Local Authority as it arises to build into its care plan; of course, it may come to nothing if there is no psychological or psychiatric condition.
127. In allowing the appeal of the Children's Guardian in respect of this limb, I make absolutely no criticism of the learned District Judge; he was not helped by any of the parties and their advocates in dealing with this issue. In being invited to adjourn the application by Mother's counsel, in light of the involvement of CAMHS, no party including the Children's Guardian made any submissions to the contrary. It is not surprising therefore in a busy list, where unlike the appellate court, he does not have the luxury of time to be able to analyse these issues in any depth, he was persuaded to make the decision he did.
128. I therefore decide that in adjourning the application the learned District Judge was wrong, and I dismiss the mother's application for psychological assessment of C.

### **Case Management Decisions**

129. Having received submissions on a suitable timetable, in the event that I allow the appeal, I intend to make the following case management decisions:

1. This matter be reallocated to Her Honour Judge X who is able to accommodate a final hearing for five days in the week commencing 24 April.
2. The Local Authority will file its final evidence by 4pm, five weeks from today, and that will also include any application that it makes for placement orders in respect of any of the children.
3. The mother's final evidence in response will be filed by 4pm, two weeks thereafter.
4. The Children's Guardian's final analysis will be filed and served by 4pm, one week thereafter.
5. There will be an advocates meeting shortly after the Children's Guardian's evidence has been filed and served with a view to narrowing issues.
6. There will be an issues resolution hearing before Her Honour Judge X on a date and at a time to be fixed.
7. The matter will be listed for five days as a final composite hearing beginning 24 April before Her Honour Judge X.
8. I direct an urgent transcript of this judgment at public expense.

That concludes this Judgment.

**End of Judgment.**

Transcript of a recording by Ubiquis  
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