

**IN THE FAMILY COURT AT BARNET**

St Marys Court,  
Regents Park Road,  
London N3 1BQ

Date: 19 June 2023

**Before :**

**HIS HONOUR JUDGE WILLANS**

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**Between :**

**THE LONDON BOROUGH OF HARROW**

**Applicant**

**- and -**

**(1) [ ] (“the mother”)**

**Respondents**

**(2) [ ] (“the father”)**

**(3) - (6) [ ] (“X, Y, Z and W”) (by their Children’s  
Guardian)**

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**Richard O’Sullivan** (instructed by **HB Public Law**) for the **Applicant**  
**Sarah McMeechan** (instructed by **Machins Solicitors**) for the **First Respondent**  
**Baldip Singh** (instructed by **AC Gilead Solicitors**) for the **Second Respondent**  
**Kate Hudson** (instructed by **Duncan Lewis Solicitors**) for the **Third-Sixth Respondents**

Hearing dates: 16-19, 22-24 May and 19 June 2023  
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**JUDGMENT**

### His Honour Judge Willans:

1. On 12 December 2022 I handed down judgment following a fact finding hearing. The judgment can be found within the National Archives Case law with neutral citation [\[2022\] EWFC 193](#). In that judgment I made three findings:
  - i) the mother had caused a significant number of bony fractures to Y
  - ii) the father was domestically violent to the mother
  - iii) the mother concealed being pregnant with Z.
2. Following that hearing I gave case management directions. The key directions were for a psychological assessment of the parents; an ISW assessment and directions for final evidence. To avoid further delay in a case which commenced in late 2021 I fixed both an IRH and this final hearing.
3. Compromise could not be found at IRH and I am now asked to make final welfare decisions for each of the children. The applicant argues a plan for adoption. The parents resist this and seek rehabilitation into the father's care.
4. I have considered the documents in the bundle, the submissions made on behalf of each party and the live evidence of Laura Patterson (Family Finding Social Worker); Ms LC (independent social worker ("ISW")); Dr Jonathan Dowd (consultant forensic psychologist ("Psychologist")); Ms Sheree McPhail (the allocated social worker; the mother; the father, and Ms Jessie Rowland (the guardian).
5. I use labels for the parents (mother and father) and abbreviations for the children (X, Y, Z and W) to preserve anonymity. The parents are from country AA. I do not name the ISW as she is a national of the same country and naming her would likely reveal their country of origin.
6. This final hearing proceeded on an attended basis with the parents assisted by AA speaking interpreters throughout. The evidence of the ISW and Psychologist was taken remotely as were the submissions. Judgment was reserved.

### Background

7. The background to this case can be found in my fact finding judgment.

### Updating information

8. The parents were asked to respond to my findings. The mother responded: *"I will not be challenging the Judge's decision...[T]he Judge has made his decision and I accept the findings. I did conceal my pregnancy...and in respect of the domestic abuse...I accept what the Judge has said. It's been very difficult...to process the Judge's decision about [Y], but I'm not going to challenge what the Judge has decided."*
9. The father responded: *"I accept the Court Judgment...I also agree to the finding that domestic violence was present in the parental relationship, a level of controlling behaviour and abusive to the mother...[W]e had verbal arguments but we never had this in presence [sic] of the children. There was no physical violence. [Re the finding of mother being responsible for the fractures] I agree with his*

finding...[A]lthough the Judgment...had stated that my wife is considered to be likely responsible for the fractures...[I] have never witnessed my wife handled my son in a wrong way...".

10. The Psychologist met with the parents. The mother told the expert that her relationship with the father was '*entirely positive and that at no time had it featured violence*'. The father confirmed the mother was '*influenced...to make untrue allegations of violence against him*'. The expert expressed the view that the parents '*reject [the] findings of fact in their entirety*' with the only deviation being that the mother may have caused injuries to Y when dressing or bathing him. The father considered the hospital staff and doctors had caused the majority of the injuries and then conspired to place blame on the parents. The parents discussed the findings with the ISW. The father made clear he was not in agreement with the findings as to the cause of the fractures and considered these were caused by medical practitioners. With regard to the domestic violence he '*categorically denied*' there were any concerns in the parental relationship and maintained the account given by the parents at the fact finding. The mother disputed the finding made against her as to the fractures.
11. It transpired the mother had once again fallen pregnant with W. At the time of the fact finding she was about 20-weeks pregnant but both parents concealed this from the court notwithstanding at that very same time the court was considering whether or not the pregnancy with Z had been concealed. She gave birth prematurely at about 34 weeks in February 2023. No ante-natal care was sought or received. It took the hospital to inform the applicant whereupon the applicant and police intervened and the child was removed into the care of the applicant. Initial appointments were held with both Psychologist and ISW without this fact being disclosed. Indeed the Psychologist's interview with the father was interrupted by the attendance of the applicant and police to remove the child.
12. One day before the final hearing the mother applied to vacate the final hearing. She had not filed final evidence but was said to have given instructions as to a previously undisclosed accident which might explain the injuries. She sought an adjournment to file a full statement and for this position to be put to the final hearing experts. I refused the request. My reasons can be found in an ex tempore judgment but in essence I pointed out the application should have been a request to reopen fact finding (which it was not); that in any event the explanation could not explain all the injuries which were contained within two mutually exclusive time frames, and; it would be inappropriate to take these points to the experts prior to the Court having considered the account and accepted or rejected it.
13. The mother subsequently filed her statement ("the admission statement"). In it she disclosed:
  - i) There had been an accidental fall on 7 July 2021 when she tripped over medical equipment whilst holding Y and had fallen on him. She told the father about this on the day W was born (Feb 2023);
  - ii) On 8 July 2021 she became angry with Y and shook him before throwing him to the floor with some force. The floor was described as a hard parquet floor. Y cried out loudly but in time calmed. He appeared to have no injuries and no medical support was sought. The father was not told;

- iii) Around 30 July – 1 August 2021 she argued with the father on the phone but he hung up on her. This left her angry and she picked Y up and squeezed him hard to stop him crying. She neither reported this to medical professionals or the father;
  - iv) On 9 August 2021 whilst feeling under pressure she called the police making false allegations against the father. These are the findings subject to the fact finding. Prior to their arrival she responded to Y screaming by again throwing him onto the hard floor.
14. The father first mentioned the accidental fall in his statement filed just prior to the final hearing. The mother claims to have reported the balance of her admissions to the father on the day prior to filing the admission statement. The mother now accepts full responsibility for the injuries. The parents no longer hold onto the suggestion of medical malpractice or conspiracy. The mother maintains the domestic abuse allegations were fabricated.

### **Parties positions**

15. The applicant proposes a plan of adoption. It would wish to place all four children together but makes alternative proposals if this is not possible. The applicants case is based on support from all the professional witnesses and contends there is no basis for safely working with either parent in the light of their dishonesty and unwillingness to engage with professionals on a frank basis.
16. The mother proposes the children are placed in the sole care of the father and she will leave until such time as she has successfully undertaken protective work so as to meet the concerns in the case. By submissions her proposal was that she would return to AA pending any therapy being offered. She accepted she was not in a position to offer care to the children but argued the father could.
17. The father's proposed to care for the children alone under a transition plan under which the children would over several months be rehabilitated into his care. He accepted it would not be appropriate for the children to all return immediately. He saw this taking place over a number of months.
18. The children's guardian agreed with the applicant as to the necessary orders in the case. She pointed to the parents dishonesty and the manner in which the parents case was still evolving at the time of the final hearing. She did not consider the children could safely return to the care of their parents. She supported placement of all four children together but supported adoption even were this to lead to some separation of the children.

### **Law**

19. The children's individual welfare is my paramount concern. I am concerned with their welfare throughout their lives and I will refer to the welfare checklist found in section 1(4) of the Adoption and Children Act 2002.
20. There is no more significant a decision for a court to be asked to make than to place a child for adoption contrary to the wishes of his/her parents. It is the most serious of interferences in private family life and requires a very high level of justification. It must be shown to be a

proportionate, necessary, reasonable and lawful response and no lesser form of interference should be sufficient: 'nothing else must do'. I can only dispense with the parental consent to placement if the welfare of the children requires it.

21. I have found the legal threshold crossed. I will need to consider whether the same applies in the case of W. There is a distinction between the threshold being crossed and a final care order being made. The crossing of the threshold is a gateway to the making of an order but does not guarantee the same. Whether I make a final order links to my assessment of the children's welfare taken together with the proportionality exercise set out above. I must ensure my assessment is holistic in character and must avoid the temptation of a linear approach. In doing so I evaluate each of the options as to its respective positives and negatives and then set these options against each other. At this stage I should be considering only the realistic options. To the extent I am asked to make findings of fact within this judgment I will apply the law attached to my fact finding judgment.
22. The father's submission may suggest an adjournment of the proceedings to facilitate a managed and assessed transition into his care. To the extent this is relevant I will have to consider the impact of delay on the children and whether such an adjournment can be justified as necessary. I would be bound to evaluate whether there were meaningful gaps in the evidence which, viewed from the perspective of the children's welfare, required filling.

### **Evidence**

23. I will not detail all the evidence received but will focus on the key issues raised.
24. Despite everything else detailed within this judgment it is appropriate that I should recognise the clear love felt by the parents towards each of their children. I am in no doubt in this regard and consider they do want the best for them believing that this is not consistent with a plan of adoption or continuing removal from their care. Cases are rarely one-dimensional and I should not lose sight of this reality. I have seen these parents give evidence on two occasions and shared a court room with them over a significant period. I was left in no doubt this process has been deeply traumatic for them both. The process might have been more productive for them had they chosen to be engaged in a full and open manner from the outset of the proceedings.

### **The mother's admission statement**

25. There was no challenge to these admissions. I am satisfied they provide a sufficient account as to how Y was injured. I bear in mind the potential for a parent to fit their admission to the court's findings to improve the position of another party and retain the children within the family. I bear in mind the potential for the Court to adopt a form of intellectual confirmation bias being satisfied with an explanation because it fits with the court's own assessment. But I am satisfied neither potential is the case for the following reasons:
  - i) the account given does amount to a probable explanation of the injuries.
  - ii) The detail as to the violence exhibited to the child exceeds that necessary to explain the injuries.
  - iii) In detailing three separate events it extends beyond the two events required to explain the injuries.

I appreciate the account given cannot be mechanistically fitted with the injuries suffered. However, these events were surrounded by a high level of emotion and it is very likely some of the detail has been lost in the moment. The account might not describe the exact mechanism explained by the experts but in my assessment this does not mean it was not present as part of the incident. These admissions should be summarised and shared with the experts who reported at fact finding.

**Are there grounds for re-evaluating my findings?**

26. A Court retains the ability to re-evaluate matters as new evidence is received. Should I reconsider matters of my own motion in the light of the evidence now received as suggested on behalf of the father?
27. There is no reason to reconsider the finding of harm to Y. As noted above I accept the mother's admissions which is entirely consistent with my fact finding conclusions. There is no justification for reconsidering the finding as to concealment. If anything this finding has been reinforced by the later conduct with respect to W.
28. I reflect on my finding as to domestic violence in the light of the mother's account of being the aggressor in arguments between the parents. Prior to the admission statement I was led to understand there were simply no issues in the relationship. I found this was not correct and that the father had domestically abused the mother. Understanding the mother may also have been an aggressor does not automatically invalidate my conclusions. It was only with the mother's admission statement that the father adapted his own position. I consider this to be a relevant factor.
29. In her admission statement the mother stated: *The only arguments we had were verbal on his part. I was the one who slapped and pushed him in an argument. I provoked him and couldn't always control my anger and emotions. He was never violent towards me. Even when I provoked him, he most he would do was hold my wrists...He was patient when I was angry. When my anger kicks in I just don't seem to have any logic or any thought attached to it. I get fixated on the one thing and can't see anything else.* In his response statement the father stated: *I accept there was domestic violence as I have pushed her away from me whenever she became violent. She will become aggressive and difficult to manage. I hold her by the wrists sometime to restrain her and to calm her down. I have verbally raised my voice at her...she always takes a cigarette to calm down whenever she is angry. I did not know that she did all this to [Y] but I know she can be very aggressive.* When questioned they stood by the account, given at fact-finding, as to the role played by the father's ex-partner in the allegations being made.
30. Having reflected on all this evidence I can see no reason to re-evaluate my previous conclusions. I do not reject the mother's evidence as to her own conduct which now fits with her broader account of loss of self-control. It certainly makes sense and fits with the now understood wider canvas. But there is no reason to believe it invalidates my previous finding. It is striking to now appreciate that when I was considering how Y had suffered injuries the father in combination with the mother deliberately misled me into understanding the mother was calm when caring for the children, whereas both knew

something very different. Their only reason for withholding this information must have been to avoid the prospect of findings being made. In doing so they were clearly hampering my, the experts and all the parties ability to understand what had happened. The account of the ex-partner is no more credible now than it was previously. Nothing has changed in that regard. I consider the prospects of domestic violence from father to mother is not reduced by the admission of domestic abuse from the mother to the father. Rather I am now left with a clearer sense of a high pressure environment in which domestic abuse is both plausible and accepted.

31. If anything I am more worried by the ability of the parents to drip feed information in a manner geared to advance their respective cases. I welcome the mother's decision to be open as to what happened but the detail of her admission is such as to elevate the concerns from an uncertain set of circumstances that caused harm to a deeply troubling response to a pressurised situation. The previous findings stand albeit now better understood in the context of the updating evidence.

#### **Ability of parents to work with professionals**

32. The applicant and guardian point to real challenges throughout the proceedings and the willingness of the parents to blame all about them for what has happened. They have been highly critical of the social workers for their engagement with the family and the guardian for the extent of her enquiries. They have also accused the medical staff of causing the injuries and being involved in a conspiracy to cover up what took place. This last allegation has no evidential foundation but illustrates the tendency of the parents to look to blame others rather than reflect on their own responsibility.
33. The Court selected two AA national ISW's (the first being replaced when she could not adequately report within the court's timescales following fact finding). This was done at the particular request of the parents and was accepted by all the parties. In both cases the parents were willing to engage with the professional until they reached a conclusion contrary to their position. In the case of the psychologist the father led a case that he had only been seen for 30 minutes by the expert. Yet the expert had offered and continued to offer his direct records showing the meeting had been closer to 2 hours. I can appreciate how time estimation can be difficult but this did not justify the form of criticism directed at the expert — which was plainly incorrect. I do acknowledge the parents have had difficulties with the social work team. This has led to a second social worker being introduced to act as an intermediary. However I understand this relationship has either broken down or is fracturing. I do not accept the criticism of the social worker remaining allocated despite these difficulties. Continuity is very important in cases of this sort and is important for the children. It would be a dangerous path indeed to permit upset parties to be able to dictate a change of social worker. Parents must be expected to prioritise their children rather than their own feelings and emotions. These parents have struggled in this regard.
34. This does not mean every decision reached by the professionals has been beyond criticism. The father understandably focused on the delay/failure in referral to a domestic violence course. I agree with the guardian that it is not a requisite of such courses that a parent admits to the violence found. However I agree with the psychologist that for many course

providers wholesale denial on the part of a parent can be problematic. Ultimately on the facts of this case it is difficult to see how the evidence before me would be materially different had the father been referred given the manner in which his case on violence in the relationship has changed within this hearing.

35. The sense I am left with after hearing all the evidence is that both of these parents have found it, and continue to find it, an enormous struggle to engage with professionals and particularly so where those professionals are appropriately challenging in their approach to the parents. I recognise the father (supported by the mother) argue that this may now change but I have little if any evidence on which to base this belief. I appreciate this was likely contributed to by the cultural differences between their own lived experience and the system in which they find themselves. It may well be that in AA the issues that confront me might not lead to a state to intervene. It is likely contributed to by their relative social isolation. However, this does not change the fact that I have to assess what the future is likely to hold were I to make the order proposed by the parents.
36. This difficulty in engagement is exacerbated by the lack of openness of the parents as set out within many of the preceding paragraphs. I have highlighted the factual findings of concealment on two occasions. This attitude is a continuing feature. An example of this is the failure of the parents to make any mention of the suggested accident on 7 July 2021. The rationale for hiding this event is difficult to understand given it would have provided a potential explanation for injuries suffered. Yet on their case the mother (throughout) and the father (from February 2023) were aware of the same but did not disclose the event until the father's statement the day before final hearing. A second example is the non-disclosure of the extent of domestic disharmony in the parental relationship and the dishonest portrayal of a relationship without any issues. This position was maintained until the mother's admission statement. A further aspect relates to the father's evidence when he told me that but for the intervention of the police he had planned to mention to the psychologist both the existence of W and the 7 July accident. The interview was close to an end at this point. I found the father's account incredible. It didn't fit with his explanation elsewhere as to why he had not reported W's birth. It was unclear to me why he would then have chosen to report this to the psychologist and then only in the last moments of the interview.
37. Reflecting on the evidence the sense is of an onion being peeled with the layers only being revealed when this is necessary to advance their case. I can only speculate as to whether I would have received the mother's full admission if I had agreed to her application to vacate the final hearing. If I had favoured the parents account at fact finding then the parents would likely now be at home with the mother caring for four young children with limited day to day support from the father notwithstanding both had important information that the mother was emotionally struggling as a result and not withstanding the fact that they now accept it would be unsafe for her to be caring for the children. This approach to revealing only that which is required is deeply damaging to the ability of the court or professionals to evaluate a likely future surrounded by co-operation and transparency.
38. It is argued the father shouldn't be criticised for his late change of approach as it was only with the mother's admission statement that he could know what had happened. This does



not stand up to scrutiny. Once my findings were reached and shared the position changed. The father then had an objective analysis bringing together the expert evidence and the wider canvas. At this point he was asked to reflect on my findings. He rejected my analysis in favour of an unevidenced case based on medical conspiracy. Moreover he had additional information which he chose not to share with the Court that put these events into a more explicable context. I do not accept it was only with the the admission statement that he could confront what had taken place. I accept at this point he had no choice but to accept this reality. These are two different things.

### **Family support**

39. In these proceedings a number of family members have been put forward but are not before me as realistic options. As the case moved towards final hearing the father made reference to an aunt who would be willing to travel to this country from AA to offer support. The ISW spoke to the aunt who made clear this support would be temporary in nature and that she neither appreciated or accepted the complex circumstances of the case. If she came to this country she would leave a child of her own behind. Further she typically spent part of her year working in a separate country and would need to return to this in due course. The ISW considered the family member would not amount to a credible support to enable the children to return home. The social worker was criticised for not speaking to the family member. For my part I struggle to see the requirement for this where the ISW had had a lengthy conversation with the family member and explained the challenges associated with that proposal. The social worker was entitled to rely on this evaluation. In final submissions and for the first time reference was made to the father's sister. Consideration of this individual would require an adjournment of the proceedings and further significant delay for the children. These proceedings commenced on 21 August 2021 and have been through two sets of fact finding. This option should have been canvassed at a much earlier stage.

### **Can the father meet the children's needs on his own?**

40. Both parents contend for the father to care for the children on his own. They accept this might/will require a level of support whether from family or professionally. The father relies upon previous experiences in AA with an ex partner who travelled for work leaving him to care for two young children alone. He claims to have been left to bring up the children over a sustained period and in doing so demonstrated his capacity in this regard which can be applied to his children if they are returned to him. The mother endorsed this argument although I do not understand her to have had any first hand experience of what the father provided to these children. The applicant did not directly challenge this account. However, the applicant had limited if any material on which to do so. The details of the previous partner were not available. One of the children had been spoken to by the first ISW and expressed positive views about the father. However she did not provide a statement and was not called as a witness. How do I evaluate this piece of evidence? I do not consider there are grounds for simply rejecting this evidence but I also consider it has to be approached with a degree of caution and it needs to be evaluated in the light of all the evidence I have. In carrying out this assessment I note the following:

- i) When spoken to by the first ISW the child (the older of the two children — now an adult) did not give an account of the father's role being quite as extensive as suggested by the father. He had spoken of her mother being away for months at a time whereas she commented that he: *"was like a father and sometimes played the role of the mother" when her and [her sister's] mother travelled abroad for work.* She pointed to many positive qualities but one is not left with quite the sense of a primary sole carer for extended periods.
  - ii) The suggestion of a hands-on role with childcare sits uncomfortably with the evidence I received as to the father's role in the care of his own children, and particularly Y. During fact finding he told me he had literally never handled Y prior to Y's removal from their care. Further I was given an account of the father very much on the periphery of family life during the period. It is right to say I somewhat doubted this account and questioned why the father was being distanced from family life but I recognised some essential truth in the account. The combined evidence of the parents was of the father leaving the mother to care for the children alone for sustained periods. It is now understood both parents were conscious of the stresses this was placing on the mother. I struggle to see how such an experienced carer would respond in this way. His lack of engagement is suggestive of a lack of appreciation of the challenges of parenting which would be unlikely if he himself had faced the very same challenges on a sustained period as claimed.
  - iii) The father's position is not supported by the ISW in her evaluation of the father's engagement with the children in contact. On balance I consider this a relatively minor point given the limited chance she had to observe such contact but her observations were not of a multi-tasking competent parent.
41. In my assessment I am reluctant to place significant weight on the father's case as to historic caring responsibilities. I consider I should have greater regard to his actual role with his children and what this tells me. This information is clearer and open for assessment. The history is dependent on accepting the father's account in a case in which I am confident he shapes his information to advance his case. Whatever approach one takes the caring responsibilities of a parent for these four children would be significant. I have not seen evidence that the father has demonstrated a capability to meet this challenge. The ISW has concluded he could not meet the needs of the children in his care. I will have to consider whether I accept this evidence but also whether there are other matters which touch upon this outcome outside of basic ability to care.

### **Parental separation**

42. It is an essential component of the parents case that the mother will now leave the father to care on his own only to return if and when she is adjudged safe to be a part of the family home. I agree this plan was an evolving proposition during the hearing. The hearing started with a plan of physical but not 'romantic' separation. After the admission statement the mother proposed to relocate some distance away to live with a friend and her child. Little thought was given to the potential safeguarding issues attached to such a proposal insofar as the child in that home was concerned. By submissions the mother had tested this placement

but found it to be unsuitable. Her revised plan was to return to AA until such time as therapy was available when she would return. I have to say little thought was given to the potential for obtaining the same whilst living overseas. It seemed to me likely the prospects of such therapy would be significantly diminished in such circumstances. Did this mean there was no likelihood of the mother returning? I cannot say on the evidence I have received.

43. Whilst I consider this proposition on the basis it is put it is only right to reflect on whether it is a genuine plan on the part of the parents and even if so whether it is likely to sustain. The prospect of separation being sustained is dependent on among other things: (i) the father being able to meet the care needs of the children; (ii) being willing to restructure his life in a manner he was unwilling to do when the mother was largely struggling alone, and; (iii) being willing to not only be open and honest in his engagement with professionals but genuinely welcome and work with the professional support that would be required. In a situation short of this there must be a prospect of the mother being reintroduced into the children's lives without notice to the applicant.
44. A further requirement must be a genuine acceptance on the part of the father that the mother is a safeguarding risk to the children. It requires a level of reflection and acceptance on his part as to the seriousness of what has happened in this case. In this context the evidence of the parents as to their relationship after the admission statement is a little concerning. Both were examined in some detail as to their interaction over the weekend after the statement. Yet both gave an account lacking in any detail as to any discussion about what the mother had revealed. One might have expected the father to want answers from the mother as to why she had kept this from him and the implications this had had for their family life. Rather they appear to have each largely ignored the other and the issue between them. My sense was of this remaining an unresolved issue between the parents and an issue that neither was willing to address or engage with at any level. Absent clarity there must be doubt as to their future relationship.

#### **The father's proposal**

45. The father acknowledges that he could not simply be expected to immediately resume care of all four children. His proposal is of a transition of all four children into his care over the course of a number of months. It seems obvious that such transition would be inconsistent with a final order which did not leave the children in the care of the applicant. How could I make a final order in favour of the father on such an evidential footing? It would be more consistent with an adjournment of the proceedings for a further period through to 2024. It appears evident that the prospects of success of this option could only be determined during the process itself. I have to view this proposal as one which extends the proceedings further and which would necessitate further final evidence before the Court could approve a final placement in the care of the father. It is an approach unsupported by any of the professionals in this case.

#### **Threshold concerning W**

46. The legal threshold is crossed in the case of W. This is based on a combination of the factual matrix found to exist previously and which placed X and Z at risk of harm arising out of the

care received by Y and out of the domestic abuse in the family home. It is also as a consequence of the risk to W herself deriving from the concealed pregnancy and the absence of pre-natal care and support. As with her siblings there was a high chance of prematurity. This in fact turned out to be the case. These circumstances placed W at risk of significant harm whether the same in fact materialised.

### The welfare checklist

#### *Risk of harm*

47. Central to this case is the risk of harm. I have made findings of significant harm. The mother's admission statement details circumstances which were life threatening for Y. The concerns here are very serious indeed. Given the nature of the risks the Court will seek a high level of confidence that the same will not materialise once again given the potential for each of the children were this to be the case. I agree that without professional support and progress the mother must be viewed as being a high risk to the children. This flows not from a malevolent attitude to them but from her proven inability to control her mood and subsequent complete loss of control.
48. However, to guard against these risks I must also have a level of confidence in the father to keep separate from the mother on a sustained basis and potentially over a significant period of time. I have reservations as to whether the therapy suggested by the mother will in fact materialise and little evidence upon which to assess the mother's likely engagement or the success of the same were this to be the case. This means the father is in a position in which he will be on his own for an indefinite period. Does he have the capacity to do this? Is he vulnerable to returning to a relationship with the mother whether or not she has made the necessary progress? Can he be relied upon to be open and honest with regard to these points in any event? Is their case on separation all it appears to be?
49. I do not overlook the domestic abuse although acknowledge it is secondary to the injuries suffered by Y. The father in the situation suggested above would himself be subject to significant stressors. He would be left to care for four young children and this would be a highly demanding responsibility. He is somewhat isolated and has not shown much of a willingness to engage openly with supportive professionals. He has exhibited a lack of self control and I have found domestic violence. I do not consider I can simply view this behaviour as situational and restricted to the adult relationship. The previous evidence highlighted the importance to the father of his working role and this would have to take a back seat if he were to care for the children. All of this causes concern as to how the father might react when under significant stress. Were there to be doubts as to the parental separation then the risks would include the dynamic between the parents and the potential for the children to be caught in the cross fire.
50. It is impossible to overlook these ongoing concerns as to risk of harm. This is not a case in which the risk factor can be identified with clarity and be seen to have been removed from the environment. The situation is far from clear and remains a deep concern. I accept some safeguards can be identified and might be implemented. Mention was made of an exclusion order against the mother. The applicant could undertake visits on both an announced and unannounced basis. However the former would ultimately require a level of co-operation

from the father were a breach to be enforced. The latter can only go so far. For the applicant and guardian monitoring short of round the clock oversight would leave unacceptable risks.

*Wishes and feelings*

51. With children of these ages it is not appropriate to form a firm position as to wishes and feelings. They have neither the maturity nor understanding to express informed views. Yet I recognise the inference that might be drawn that these children, like all children, would wish to be raised by their parents or one of them. This must be set against the equal inference that a child would wish to be raised in a safe environment. In the ultimate assessment this case cannot turn on the children's wishes and feelings. But I do not lose sight of these points.

*Characteristics*

52. An important consideration relates to the each child's identity, their cultural background and the importance to the child of this being respected and promoted. The parents share a common national origin which comes with a clear identity encompassing a wide range of factors. Some are cultural and others religious. This identity has a distinct language and history which grounds the parents notwithstanding their geographical dislocation from their home country. Whilst the children's appreciation of the same is naturally limited it remains important for them in understanding who they are. The applicant's proposals do not rule out an understanding of these matters but the reality is that there will be a very real challenge in finding placements which would come close to that which the children would gain from being with their parents or family. This is a profound loss. Steps could be taken to militate against the impact but as noted above these would be bound to be secondary to that which would otherwise be expected for the children.
53. A related characteristic feature is the sibling relationship itself. There are differing bonds between the children arising out of the ages and their experiences within these proceedings. Nonetheless these are important relationships. To an extent these relationships have the potential to balance, to an extent, the identity losses set out above by allowing the children to have a sense of themselves through a shared relationship. But even this may be in doubt given there really can be only limited confidence of placing all four children together. I appreciate that contact may be possible if placed apart but there is a risk of the children, or some of them, having their sibling relationships severed. This would aggravate the points already made.

*Needs*

54. These children have needs shared with all children. At heart these needs relate to strong emotional needs for good enough care in which they receive predictable and consistent care giving. They do not have a need for perfect parenting and the same is not expected by the court. But they do need care which is consistent and reliable. They are young and vulnerable and safe care is a central requirement. They are wholly dependent on their care givers and significant issues with such care are likely to have profound implication for the children. The children will now have a need for their parents to prioritise their requirements over their own wants and needs. As set out above this would require separation for a sustained period. The children's needs are inconsistent with parents who are unable to both subscribe to and maintain such a course until it is no longer required in the children's interests.

*Severance of family life*

55. The applicant proposes a plan of adoption. This would sever the children from their family on a permanent basis. I have commented as to the impact this would have in respect of identity issues. It would also impact on their emotional wellbeing. A time would come when the children would understand their history and they would undoubtedly wonder why they were not raised within their family. They might well question why this was necessary and what has become of their parents. They may question whether they were in any way responsible for this outcome. The manner in which these feelings might arise is unpredictable but I should not lose sight of the potential for this to undermine the emotional wellbeing of an individual child. There is a potential for emotional damage to be caused if these issues are not addressed with care and consideration. There is a danger of these potentially conflicted emotions unsettling any placement and jeopardising the successful transition to adulthood and independence. I appreciate adoptive carers will likely approach the relationship from a position of understanding and awareness as to this issue. This is why such candidates are strongly advised to be open with the child as to their history. Approached carefully and within a loving and supporting relationship the risks are likely to be reduced. But they remain risks nonetheless.

*The relationship with relatives*

56. Each of these children have an important relationship with their parents. This is more significant for the older children and X in particular but applies to all the children. The parents have been consistent in contact and their approach has been warm and positive. The criticisms made of the parents elsewhere in this judgment does not change the fact they have been assiduous in keeping to contact and seeing their children. I have no doubt this relationship would continue so long as the parents have the opportunity to pursue it. This would for reasons set out above be valuable to the children and would offer them emotional support. The parents plainly want these relationships to continue and are fundamentally opposed to the plans placed before the court. The important related question is as to the ability and willingness of the parents (or either of them) to provide the children with a secure environment in which they can develop and have their needs met. The parents wish to provide such care. Do they have the ability to provide such a secure environment?

**Holistic Analysis**

57. The realistic options are the proposal of the applicant for a plan of adoption and the proposal of the father for a return of the children into his care albeit through a process of transition. The mother accepts she is not a realistic option whether at this time or within the timescales of the children.
58. The positives which can be identified with an adoptive outcome can be identified as follows:
- i) The placement would be likely to provide the safe and consistent care required by the children. The court can proceed on the basis it would not raise the issues which have culminated in the fact finding hearing.
  - ii) It would not be surrounded with a question mark as to transparency and with continuing concerns as to compliance with safeguarding. As such the placement would not require a level of close monitoring that might otherwise be required. As such the children would be shielded from ongoing interference by the applicant.

- iii) It can be assumed the placement would be open to engaging with the applicant for support. There is no reason to assume a difficult working relationship or consequential associated risks.
  - iv) There are good grounds to believe the placement would be sustainable and enduring. It would not have built into it a future date at which point a parent is reintroduced with uncertainty surrounding the same.
59. However there are identifiable negatives of such a placement. These are both generic and specific to this case. However they are not referable to the personal qualities of potential caregivers:
- i) Most importantly the placement would sever the relationship between children and parents (and wider family). It is highly likely that contact would be highly restricted. This would be a marked reduction in relationship and the children would lose the positives they gain from seeing their parents and sharing their lives with their parents. This is a profound potentially life long impact.
  - ii) One simply cannot rule out the possibility of the children being separated on placement. The evidence received gives no guarantees of finding a single placement for all four children and such an outcome would appear intuitively to be a steep challenge. Whilst I cannot rule out such a placement it would do injustice to this evaluation to not recognise this appears less likely than not. If this is the case then the children will not only lose their parents but will also lose the physical and emotional support of their siblings, or some of them. I acknowledge there may be greater optimism as to the potential for sibling contact post placement but even this would likely be limited as to extent and cannot be guaranteed. For the children this would amount to a double loss. It is a significant negative.
  - iii) I have noted the medium term damage in the form of emotional baggage that may arise out of family separation. I accept this may be addressed through focused parenting and I can assume that any placement would consist of individuals both alive to the risk and prepared to engage with it when appropriate. This reduces the level of concern but does not remove it.
  - iv) I have identified the identity issues that would arise on placement. It seems to me most unlikely the applicant will be able to find both a placement for all four children together and one which is at the same time a cultural match. There is a high likelihood that other factors (including placing the children together) will be prioritised over providing one child with a cultural match. In reality I agree there must be a hierarchy of priorities but this simply confirms rather than removes the likely negative. I accept well placed carers can promote the children's heritage but this must be taken to be at a very secondary level to that which they would experience in their family's care.
  - v) I bear in mind that adoptive placements do not come with guarantees and can themselves fail. Relationships break down and life can be unpredictable. I should not apply to an adoptive outcome a level of guaranteed security which is not warranted.
60. Turning to placement with the father it is obvious that in many ways this is the obverse of the points raised above. I can identify the positives as including

- i) First and foremost this option maintains family life. Plainly this option would leave the children in family care and with the potential, at least, for a resumption of full family care in the home of both parents.
- ii) In any event even were the mother not to return to the home she would remain a continuing part of the children's lives through contact. The same can be said for wider family.
- iii) This reinforces the cultural and identity benefits associated with this option.
- iv) In the normal course of events and assuming they receive good enough care this is the option which is best placed to meet the children's life challenges as they proceed through childhood. Absent good reason parents have the obvious affinity and bond to their children to address the real challenges that can arise from time to time. They can be assumed to have the commitment to persevere in the face of challenges and be the best advocates for their children when that is required.
- v) Plainly such an outcome avoids the potential for emotional baggage out of separation.

61. Addressing the negatives:

- i) The primary concern is as to whether this will keep the children safe. To what extent will the issues identified in these proceedings reoccur and if so what further damage will be done?
- ii) The parents have shown themselves to be difficult to work with and dishonest in their engagement. In a case in which safeguarding will remain a key consideration how can those charged with such safeguarding place confidence in what they are told by the father. I accept external safeguards can be put in place but it is questionable as to whether they would be sufficient.
- iii) There is also a real concern as to whether this option is viable. There are questions as to whether the father could cope on his own. If he struggled then would the risk of harm increase? Alternatively would the suggested separation of the parents be breached once again placing the children at risk.
- iv) There must be a concern as to whether difficulties would be shared given the level of distrust found on the evidence. As a result the difficulties might grow and a crisis situation might arise before the applicant is aware matters have deteriorated.
- v) There is also uncertainty as to whether the proposed transition would be successful. What would it mean for the children if it in turn failed? It seems likely this would be a devastating outcome for the children. It is difficult to conceive of the impact on the children were they returned to a parent only to be removed again or for the placement to fail.

62. I have considered the analysis undertaken by both the social worker and guardian with respect to the holistic analysis. It can be seen I share in my own assessment many similar points.

**Conclusions**

63. I have two key concerns that have led me to the conclusion that I cannot endorse the plan of the parents but instead find in favour of the application for a placement order.



64. My primary concern relates to the parents honesty. In assessing this aspect of the case I have continued to have regard to my assessment from the fact finding but have not placed over emphasis on this part of the evidence. The court should always be ready to reappraise the approach taken by parties in the light of the fact finding and the court should look to see any changes in transparency as the case proceeds towards the welfare stage. There should always and will always be room for parties to show remorse, reflection and a capacity to change. Fact finding is of course not the ultimate conclusion to proceedings where findings are made.
65. Sadly, in this case there are very few crumbs of confidence in the parents to be found.
- i) The parents have had chance to reflect on the findings reached and the father in particular had the opportunity to pause and reflect. I can understand his position prior to the fact finding. But with the fact finding came a robust analysis of the medical evidence and a sound rejection of alternative explanations for the injuries found. This was a case with a very high number of fractures and it should have led the father to reflect on whether there was more the picture than was being provided.
  - ii) Unfortunately, until the point of final hearing it was plain the parents had chosen not to reflect on the findings made. Whilst they each made reference to accepting the findings of the court in their statements, these documents were short in detail and appeared to simply pay lip service to the court's decision. On a simple reading one can find no sense of a genuine sense of reflection to any measurable degree. This is confirmed by their later conversations with both the psychologist and the ISW where they state clearly a full rejection of the findings. The most that can be seen to be accepted is a modest level of verbal disagreement.
  - iii) In reality they have sought to deflect away from the findings and the clear evidence that underlaid it. Even up to the point of the final hearing the parents were maintaining a case of the child having suffered injury at the hands of medics and of a conspiracy to hide the same. Such an account was always deeply implausible and wholly unsupported by the available evidence and the clear timeline as to the dating of the injuries. This approach signified a wholesale unwillingness to engage with the reality of the evidence.
  - iv) Further, the parents continued to act in a manner which lacked basic transparency. They concealed a second pregnancy within the proceedings. It is noteworthy the decision to hide this must have been an active decision at the time of the fact finding hearing and at a time prior to the court having made findings against the parents. At the very time at which they were disputing concealing Z's pregnancy in their evidence to me and putting up a smokescreen in that regard they were at the very same moment engaged in a second subterfuge.
  - v) Then W being born they commenced the process of assessment (a process that should have been built on honesty and engagement) whilst hiding the fact they had a new child living with them. I have to say I simply did not believe the father's

account of intending to reveal the presence of W at the end of his meeting with the psychologist. It simply beggars belief that he would have spent close to 2 hours with the expert and would then have revealed the new child. It is an account which sits uncomfortably with his case of not revealing the child because he was fearful if he did the mother would make further allegations to the police. I frankly find this explanation as unlikely as the other. Rather I am confident the parents colluded in a plan to convey W to AA for her to be cared for there awaiting the end of the proceedings. This plan only failed because W was born prematurely before the mother could travel. It seems likely this plan was not modified after W was born but time was against the parents and they came to be caught out.

- vi) I also have regard to the late admission statement. Whilst the court welcomes the mother's courage in making this statement it seems clear this was only provided when no other option was left. This cannot be seen to be an admission based on remorse and a wish to be open. It seems clear to me this was a strategically timed revelation when other options were unavailable and the final hearing was due to commence. That this is the case can be seen in the piece meal way in which the final evidence was provided. The initial revelation was as to the 'accident' only. It seems clear this was provided in the hope that it would somehow distract the court from proceeding with a final hearing. It was concurrently associated with an application to vacate. It is deeply troubling to me that once again this was information which was 'known' to the mother prior to the proceedings but was only brought forward at the doors of the final hearing. It is claimed the father knew in February 2023 but also chose not to reveal this detail until his final statement. For my part I am in some doubt as to whether such an accident occurred. It is most surprising this was not put to the experts as an explanatory rationale for the injuries. Standing back it is far from clear why the mother would have withheld such information which fundamentally cast no real blame on her. I strongly suspect this was developed as a deliberate ploy to distract the court. However, whether true or false it was deployed in a manner which was geared towards obscuring the real truth as to how Y came to be injured.
- vii) One also has the parents developing account of domestic abuse within the relationship. I have a strong suspicion the mother has sought to elevate her own behaviour in an attempt to again distract from my findings against the father, or indeed to cause me to reconsider the same. I see this as part of a plan to effectively clear the father so as to leave open his path towards caring for the children. It has not had the desired effect. As noted I do not reject the mother's account but I stand by my findings as to the father's conduct. The concern for me is that the parents have both chosen to present a picture of everything being perfect in the home when they both knew this was not the case. Moreover they have chosen to actively mislead the court in this regard even though this information was an important part of the wide canvas which sheds light on the circumstances in which Y came to suffer harm. In my fact finding I recalibrated the arguments as to the wide canvas available to me. The parents had relied upon it as demonstrating a case contrary to the medical evidence. On making my finding as to domestic abuse I expressed concern that the background was one in which stresses were more apparent and misconduct

more likely. I now have a more faithful account of the dynamic in the family home. It would have assisted the court to have had this account from the outset. But the parents understood it whether or not they revealed the same. As such the father (and I focus on him given the realistic options) was much better placed to assess what had really happened.

viii) I have reached the point where I struggle to accept any evidence from the parents unless it is elsewhere corroborated. As noted earlier in this judgment I have had the sense of the details being revealed when it suited the parents. This leaves me questioning whether there are further details which are being kept from the court. In general terms it is not required for me to further speculate but in this context I place relatively little confidence on the parents case as to agreed separation. I gained no real sense from the parents of a true or considered separation. I was left with the strong feeling this was simply a further step in their plan to make the case for the father a better one. Their evidence of a total lack of conversation as to what the mother had revealed was very difficult to either accept or understand. It simply did not fit with expected behaviour patterns. The impression was of the parents having no interest or desire to explore the topic. I was left wondering whether this detail had been previously explored by the parents which might explain why they didn't need to further discuss the topic. In any event I was not left with any sense that the parents had reached a significance changing point in their relationship. As with the advocates for the applicant and guardian I was struck by the simple non-engagement between the parents between the mother's admission statement and their evidence in the case. I am confident there was more to be said.

ix) But even were this (separation) the case I really have no confidence that it would be maintained. The central problem is that I have no basis for believing the parents would be any more transparent with professionals in their lives than they have been with the court within these proceedings. This has in fact been the reality for the professionals around the family. I do not see this changing.

66. This leads me onto my second significant and related concern as to the parents ability to meaningfully engage with professionals on a sustained basis.

i) The plans put forward on behalf of the parents would require a high level of both honesty and co-operation to amount to an effect safeguarding plan. I have commented on honesty above. But co-operation has been seen to be an equal challenge. Throughout this case the parents have struggled to maintain working relationships with professionals charged with the care of their children. There has been ongoing criticism of foster carers and a complete breakdown in working relations with the social work team. The parents blame the clinical team as having conspired against them and the father wrongly blamed the psychologist for not doing his job despite the evidence being to the contrary. The very clear picture of this case is that the parents cannot work with those who are challenging of their views and the care of their children.

- ii) I find it very difficult to forecast a sustained period of open and co-operative working between the father and the professionals. All the evidence, including that heard during the final hearing suggests the relationship will be fractured and difficult to maintain. It will likely be overlaid by a strong sense of concealment of material information and opposition. It is very far from that which would be required to give confidence in the safeguarding of the children.
67. The concern therefore is of real safeguarding issues, a lack of honesty and openness and an inability to work co-operatively. For these reasons I have not been able to identify a route under which these children could safely return to either of their parents within their timescales. It further troubles me that the route suggested by the father is one which comes with no real level of confidence as to success. In reality the father's proposal is for adjournment to test his ability to care for the children. In my assessment these children demand an answer now not a further period of assessment. They have been in proceedings for far too long. Now is the time to determine what is best for them.
68. I recognise the real concerns as to the father's ability to meet the needs of the children. I find little assistance in the suggested actions of the father some time ago in AA when it seems agreed he had only a most peripheral role when these children required his support. At the heart of this case is the mother struggling to cope in circumstances which were readily identifiable as problematic and surrounded by stress. Yet the father's priority was not to stop to help the mother but instead to focus almost exclusively on his work. I consider this a telling indication of his actual aptitude for meeting the needs of the children. I have reached the conclusion that the option of return to the father is inconsistent with the welfare of the children when assessed as I must throughout their lives. It is understandably based on a wish to maintain family life but it lacks real foundations. It is an option which continues to carry an unacceptable level of risk to the children.
69. I am sorry to say that the only option before me which will meet the needs of the children is that sought by the applicant. In my judgment the children's welfare demands a safe and secure home in which to thrive. In my assessment this is only compatible with the making of care and placement orders. I reach this conclusion notwithstanding an awareness that there will be real challenges with the adoptive route. Most importantly I cannot be confident the children will be placed together. The family finding evidence in this regard was not particularly helpful. The witness expressed caution based on her experience as to the ability to place four children together. But she also freely admitted she had only been asked to place four children on very few occasions and there had been some success. I am not critical but on balance reference back to statistics is unlikely to be helpful here. Intuitively it will be a challenge. But it will not be impossible having regard to the age of the children and their characteristics. However, in comparison this will be a safe option for them and as such finds my favour.
70. I also appreciate the identity and cultural losses that will likely be suffered on placement. I doubt very much that these children will be placed together into a home with a real association with AA. But again I must apply a hierarchy of priorities. In my assessment their foremost need is safe and consistent/available caregiving.

71. I intend to make care order and dispense with the parents consent to placement as the children's welfare requires the same. I make a placement order. I approve the plan for contact as modified by the guardian. I consider the process of reduction should be somewhat more gradual (although I understand the mother's case may now be that she is in AA and as such will not be attending contact) but should remain at 2 hour sessions during the transition period. In reaching my conclusions I am more than aware of the potential that these four children may not find a single home together. I am though more hopeful that candidates who come forward to care for the children will recognise the real benefit to the children of maintaining a relationship with separated siblings. I gauge such contact is likely to reinforce any placement rather than undermine it. These are children who include members who will remember their parents and each other. Maintaining sibling contact will provide significant emotional support and I would expect any carers to understand this point.
72. I have been asked to consider making a contact order under section 26 of the 2002 Act between the siblings. I do not intend to make such an order. I do not consider it is necessary. I have reached this conclusion as:
- i) I am in no doubt the applicant recognises the importance of contact between the siblings and will continue to maintain this pending placement. At this time W is placed separate to her siblings. Contact is ongoing and will continue.
  - ii) I am confident the applicant will advocate for post-adoption contact between the siblings. I would expect the applicant (or relevant agency) to reinforce the key positives for the children of retained relationships. I am happy for my final order to include appropriate recitals making this point. All professionals in this case generally spoke of the importance of sibling contact. I am confident this will be appropriately conveyed to those who may come forward.
  - iii) I will reserve any adoption application to myself which will allow me to review progress in this regard. Whilst this indication does not in any way pre-judge how I will approach a future application it will ensure the points raised before me are kept in focus and will ensure the applicant carries forward its current thinking. In reality whether I reserved the matter or not it would likely be placed before me.
  - iv) I do not consider the making of an order will advance these points.
73. The first priority must be to find a placement for all four children together. This must in my assessment take priority over other features such as identity match. If however this is not possible then the next priority is a good level of ongoing relationship between the children.
74. I therefore:
- i) Find the threshold crossed for all four children
  - ii) Make a final care order.
  - iii) Dispense with parental consent and make a placement order.

- iv) Approve the contact plan as modified.
87. There is no way of sweetening this outcome for the parents. This decision will be devastating for them. I am sorry to have reached the conclusion I have but it is the only outcome consistent with their welfare.
88. I will be handing this judgment down as planned on 19 June 2023 at 10am. I am content for this judgment to be shared with both lay and professional clients. It can of course be shared with interpreters. I would welcome (i) any corrections, (ii) requests for clarification and (iii) amendments required to preserve anonymity on publication by 9am on 19 June 2023 however if a substantial request for clarification is intended I would prefer this by 4pm on 16 June 2023.
89. I have listed this as an attended hearing and I will as ever be in my court room to hand down the judgment. Any party wishing to attend in person is welcome to do so although I would expect a parent to be accompanied by a representative and interpreter. I do though give permission for others to attend remotely and have received a series of such requests. Can the relevant details be copied to my clerk in one email by 12 noon on 16 June 2023. Please inform me if the hearing is to proceed on an entirely remote basis.

His Honour Judge Willans