



Case No: PO23C50373

Neutral Citation Number: [2024] EWFC 145 (B)

IN THE FAMILY COURT  
Sitting at Portsmouth

The Law Courts, Winston Churchill Avenue  
Portsmouth

Date: 21/06/2024

Before :

**HHJ LEVEY**

Between :

**PORTSMOUTH CITY COUNCIL**

**Applicant**

**And**

**LP**

**First Respondent**

**And**

**GC**

**Second Respondent**

**And**

**The Child through his Children's Guardian  
BM)**

**Third  
Respondent**

-----  
-----

**Mrs K Hambleton** for the **Applicant** local authority  
**Ms F MacCreath** for the **first respondent** mother  
**Mr A Langrish** for the **second respondent** father  
**Ms K McDonald** for the **third respondent**

Hearing dates: 18, 19 June 2024.  
Judgment handed down 21 June 2024

-----  
**Approved Judgment**

This judgment was handed down remotely at 10.30am on 21 June 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

HHJ LEVEY

## **HHJ Levey :**

1. I am concerned with OP who was born in August 2023, and who is 10 months old. He has been subject to an interim care order and placed with local authority foster carers since 12 October 2023. He is the child of LP, who is 28. OP (who I will refer to as O during the remainder of this judgment), is the sixth child of LP (who I will refer to as M). All of O's siblings were made subject to a variety of orders placing them away from M's care on 5 April 2024.
2. O's father is GC, who's paternity was established by a DNA test in November 2023, and he was then joined to these proceedings. I will refer to him as F throughout this judgment. He is aged 35. He was in prison at the time of the hearing. At his request a production order was made to enable him to be present. He requested video attendance on the first day of the hearing, and the prison indicated that it could not facilitate that on day two, meaning that he would have to be produced in person. In the event F left the video room at the prison halfway through the first morning and did not return to the hearing. On the second day he declined to attend. He was represented at the hearing, Mr Langrish presenting an effective case on his behalf notwithstanding the lack of his client.

## **The Position at The Hearing**

3. The applicant local authority sought the making of care and placement orders in respect of O, arguing that there were no other alternatives that enabled all of O's needs to be met including keeping him safe. The application was supported by the Children's Guardian. It was opposed by both parents. M sought for O to be returned to her care. She conceded that she would accept a supervision order being made in respect of O and indicated that she would not object if the court took the view that further assessment of her was necessary. Initially, F's position was that he opposed placement of O with M but sought for O to be placed with his mother HH(GM) who was to appear as a witness for him. GM had a viability assessment which had been negative and with which she did not agree. M would have opposed placement of O with GM. In the event, GM decided that she did not wish to put herself forward on the morning of the hearing and withdrew. In those circumstances F reluctantly supported M's position, regarding the prospect of care and placement orders for O as unacceptable to him.

## **History**

4. This is a family that had been known to the local authority since 2017, when a referral was received in respect of domestic abuse. The issues then were broadly similar to those now: exposure of the children to domestic abuse, M allowing inappropriate adults into the home, M being dishonest with professionals, her inability to meet the health needs of the children, inability to meet the educational needs of the children, poor and unhygienic home conditions and an inability to implement boundaries and thus poor parenting. There were allegations that at least some of the fathers of the other children were domestically abusive or controlling towards M, to which the children were exposed, demonstrating an inclination by M to enter into relationships with risky men, and to prioritise those relationships over the needs of the children.
5. In 2021, private law proceedings were commenced against M by one of the fathers of the other children in which M made allegations against him that she had been raped.

Having heard evidence at a fact finding hearing I made no findings on the allegations, finding that parts of M's evidence were unlikely. I found that she had used contact in a controlling way towards that father. I had been concerned about aspects of the care that the children were receiving from M, and subsequently made an interim care order of my own motion, directing a report from the local authority under s37 Children Act 1989, but the local authority declined to intervene with proceedings at that point.

6. It does appear however that the family received support from Early Help during this period, and that support continued in one shape or another until and then during the proceedings.
7. There was concern expressed by the fathers of the other children at the care their children were receiving, and private law proceedings were started when M began a relationship with F, in view of his prolific criminal record. There was an incident in January 2023 when F was the victim of a hostage situation and M, F and the children were placed in a hotel for their protection. There was concern about F's behaviour towards M during this period.
8. Within the private law proceedings interim care orders were made following this incident. The children remained in the care of M but an order was made excluding F from her address.
9. Within the private law proceedings, there was significant concern as to the behaviour and psychological profile of O's brother, T. An assessment of him was undertaken by Dr Radcliffe, who found that T had disorganised attachment, PTSD and/or developmental trauma and was living in a constant state of fight or flight because of anxiety or fear. Making recommendations for further assessment and therapy, Dr Radcliffe said that the work recommended with T could not take place in his current placement (ie with M).
10. In March 2023, F was remanded as a result of alleged offences of burglary and theft, for which he was later convicted and imprisoned. He remains in prison.
11. On 17 March 2023, the interim care orders were discharged but the children remained subject to child protection plans while in M's care.
12. However, the local authority continued to be concerned about this family. M was not honest with the local authority about her relationship with F, which she said had ended. She said that she had no ongoing contact with F, and that she blocked his calls. Evidence was received from the prison that this was untrue, that M and F were speaking daily and that M was named as F's wife in the prison records. M was noted to have visited F in prison in June and July 2023. There were continuing concerns about the parenting of the children. T's behaviour at school continued to be extreme.
13. On 17 August 2023, a capacity to care assessment of M concluded that she was not able to meet the needs of the children and so was negative.
14. On 1 September 2023 I made interim care orders for each of the children in the private law proceedings. The father of 3 of the children took them into his care on 16 September 2023 and they remained in his care after the commencement of these proceedings.

15. On 9 October 2023 the local authority issued these proceedings. In addition to the three children mentioned above, the oldest child was placed with his father under a child arrangements order, and T with his maternal grandmother, where he remains (and is doing well). O was placed with local authority foster carers.
16. In October 2023, M began a relationship with Mr G (Mr G), who was not known to her, but who had shared a cell with F while in prison. It appears that Mr G was released from prison in October/November 2023 and that M allowed him to live in her home. It transpired that this was in breach of Mr G's terms of licence, and he was recalled to prison for that breach.
17. In November 2023 F was confirmed as O's father and joined to the proceedings.
18. In January 2024, probation discussed Mr G with M and explained to her the risk that he posed to her on the basis of his past. Nevertheless, M allowed Mr G to continue to live at her address for a period of time, and he continues to come and go even at the time of the hearing.
19. On 20 February 2024 a further parenting assessment of M noted positives in her arrangements and care but was negative despite the support given to her in the meantime.
20. On 1 March 2024, a viability assessment of GM was negative.
21. On 4 March 2024 a sibling assessment was completed. This provided that O could be placed separately from his siblings.
22. On 3 April 2024, final evidence for O was filed, including an application for a placement order for him. The care plan was for O to be made subject to a care order and to be placed for adoption.
23. On 5 April the final hearing was listed in respect of O. Final orders were made in respect of his siblings, all of whom remained in their placements, away from the care of M.

## **The Law**

24. The court may make an order under s31 Children Act 1989 if the applicant local authority can satisfy the court that at the time protective measures were taken, namely 20 September 2023, the child was
  - a) *Suffering or likely to suffer significant harm and*
  - b) *That the harm or likelihood of harm is attributable to the care given to the child or likely to be given to the child not being what it would be reasonable to expect a parent to give to a child.*
25. The burden of proof falls on the applicant, and the standard of proof is the balance of probabilities, in other words, whether the fact alleged is more likely than not. The test is a binary test, so the fact alleged is either proved or not. There is no middle ground.

26. In this case the parties accepted that threshold under s31 is met, and an agreed threshold document containing concessions made by the relevant parents was filed on 5 April 2024. The court relied upon that document, and found that threshold under s31 was established, thus giving the court jurisdiction to make the orders sought.
27. The court is not bound to make a care order. The court must consider, on the basis of the evidence before it, whether the local authority has proved its case, and whether an order should be made, and if so which order best meets the welfare of the child. The court will have regard to the principle established in s1 Children Act 1989 that the court “*shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all*”.
28. The court will have regard to the child’s welfare as its paramount consideration if threshold is met and must address the welfare checklist under s1 of the Children Act 1989 when so considering.
29. If the court considers that a care order is the right order in accordance with the welfare of the child and goes on to consider the placement order application then the court will have as its paramount consideration the welfare of the child during the remainder of its life and the extended adoption checklist contained in s1 Adoption and Children Act 2002.
30. The applications for care and placement orders are to be considered separately. It does not automatically follow from the making of a care order that a placement order should be made, and such an order should only be made if the child’s welfare during the remainder of its life requires it.
31. Article 8 of the European Convention on Human Rights is engaged, namely the right of each individual to a family life free from interference from the state. A care order should only be made where necessary and proportionate. Both parents and child have article 8 rights which may need to be balanced.
32. Ms Hambleton reminds of the President’s summary of the requirement that care orders are not made routinely at paragraph 22 of Re BS [2013] EWCA 1146: “*The language used in Re B is striking. Different words and phrases are used, but the message is clear. Orders contemplating non-consensual adoption – care orders with a plan for adoption, placement orders and adoption orders – are “a very extreme thing, a last resort”, only to be made where “nothing else will do”, where “no other course [is] possible in [the child’s] interests”, they are “the most extreme option”, a “last resort – when all else fails”, to be made “only in exceptional circumstances and where motivated by overriding requirements pertaining to the child’s welfare, in short, where nothing else will do”*: see Re B paras 74, 76, 77, 82, 104, 130, 135, 145, 198, 215”.
33. Mr Langrish drew my attention to the need for proper evidence in care cases – paragraph 34 of Re B-S (above) “*First, there must be proper evidence both from the local authority and from the guardian. The evidence must address all the options which are realistically possible and must contain an analysis of the arguments for and against each option*”. Also relevant in relation to the local authority evidence is the judgment of the President in Re A, [2015] EWFC 11, and the need for evidence.

34. If the court determines that a placement order should be made, then the court will need to dispense with the consent of the parents on the basis that the welfare of the child requires it to do so under s52(1)b Adoption and Children Act 2002.
35. It is not uncommon for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for various reasons such as shame, misplaced loyalty, panic, fear, or distress and that the fact that the witness has lied about some matters does not mean that they have lied about everything. Lies are not necessarily evidence of guilt of the matters alleged: see *R v Lucas* [1981] QB 720.

## **The Evidence**

36. Following GM's withdrawal as an option for the future care of O, there are only three options before the court: the making of a care order followed by a placement order, if satisfied that this is necessary and proportionate, return to the care of M, or further assessment of M.
37. The initial local authority assessment of M's ability to care for the children was filed in August 2023 during the private law proceedings. The assessment was undertaken by LF, the allocated social worker. The assessment was negative, the reasons being broadly as those which brought the application before this court. The assessment found that M found it difficult to manage the children's behaviour, and would give in to them, allowing the children to do as they wish. She would bring them in to contact with inappropriate men and expose the children to instances of domestic abuse and/or violence. Home conditions were variable and could be extremely poor. M did not engage fully with support offered by the local authority. M was dishonest about her relationship with F.
38. The social worker formed the view that M was not motivated to make the positive changes required in order to be able to care for her children and meet their needs.
39. In November 2023 a cognitive assessment of M was undertaken by Dr Gary Taylor, psychologist. He concluded that while she was a vulnerable adult, and did not have a learning disability, nevertheless she was likely to experience difficulty in keeping up with her peers. Her verbal and non-verbal reasoning abilities, her literacy and her working memory are all less well developed than other adults. She is likely to find it more difficult to understand and weigh up verbal information and solve more complex reasoning tasks. He made recommendations as to how professionals might approach dealing with her.
40. That M is a vulnerable adult is clear both from the assessment and from her circumstances. She has been a victim of domestic abuse through most of her adult life. She described no particular difficulties in her history to Dr Taylor, although had been rendered unconscious in a house fire when she was four. She remained at school to take formal examinations and told Dr Taylor that her home life had been happy when she was young. Her parents separated when she two and she said that her father was an alcoholic. Her relationship with him declined over the years, and he died last year. Her relationship with her stepfather was described as a good one.

41. Following that assessment, it was decided that there would be a further assessment of her parenting ability using the Parent Assess model which it was felt would be more appropriate to her functioning.
42. This assessment was undertaken by HJ , social worker. HJ also gave evidence and was cross examined. The assessment is dated 20 February 2024, and is an assessment of the mother as a carer of all of the children rather than just O. There were improvements noted from the earlier assessment: the home conditions had improved and remained consistently improved. HJ found that M had an awareness of the basic needs for a child. She found that M was able to identify that some of her relationships had involved abusive behaviour, but notwithstanding that, M continued to form relationships with risky males and invite them into her home. The conclusion was that she was unable to meet the needs of all of the children.
43. The allocated social worker, LF had gone sick in March, having drafted a statement. HJ had been asked to file the final local authority evidence in the absence of LF, and compiled the final statement of evidence from LF s draft statement and other material. She was therefore unable to assist the court in her evidence about the decision making process, as to why, for example, the decision was to apply for a placement order. That was all the more significant in this case because when the application was first presented to the ADM in March 2024, the ADM refused to agree that there should be a placement application because the assessment was of the mother as a parent of six children rather than one child.
44. LF was not able to assist with the process undertaken to persuade the ADM to agree to the issue of placement application, as she was off sick during March and April.
45. The other difficulty with HJ's statement of final evidence was that as it was compiled from multiple sources rather than directly working the case, she was not able to be questioned about issues that emerged from her evidence. So, for example, she was questioned about O becoming distressed in contact, which she said caused the contact sessions to be ended early, but she was not able to answer as she had obtained this information from the draft statement, and it was not within her own knowledge. Similarly, when asked questions about the father's contact. There was no attribution within her statement nor any indication that the evidence given therein was not her own but obtained from another source.
46. The confusion was such that the local authority agreed to provide a chronology as to the timeline of decision making, and the referrals to the ADM. The chronology is as follows:



<b>Date</b>	<b>Work completed</b>	<b>Decision</b>
13.3.24	Legal Gateway attended to discuss Care Plans for all of the children. ADM was due to be given for O on 14.3.24.	Final Care Plans agreed for the older children. Agreed that the plan for O would be Adoption if ADM agreed.
14.3.24	ADM declined the plan of Adoption for O due to concerns that mother had not been assessed to care for O on his own.	Service Leader, JN asked HJ to ring mum to ask if she would be open to a potential mother and baby placement if this was agreed by senior management.
18.3.24	LF began her sick leave	
20.3.24	Legal Gateway attended. Discussion held re mother and baby placement and the strengths and risks with this. Family Safeguarding Service raised concerns about mother's relationship with Mr G . Discussion had that this was not in the ADM paperwork and therefore they were not aware of the ongoing concerns with mother's decision making.	Legal Services to review the ADM paperwork and inform the SW team if the information re Mr G was not provided.  Mother and baby placement not to be pursued at this time due to ongoing concerns with mother's honesty regarding her relationship and lack of insight into the risks posed by Mr G.
20.3.24	Statement filed re final plans for A, T, F , B , and R . Extension sought in the timetable for O due to ADM decision for a plan of adoption not being agreed. This statement was drafted by LF and edited by LG	

	(duty Social Worker) to reflect that ADM had not agreed for a plan of Adoption for O . LG signed the document.	
28.3.24	Further information sent to ADM reflecting the concerns with mother's relationship with Mr G.	
02.4.24	ADM decision agreed with a plan for Adoption for O.	
03.4.24	Final evidence filed for O by HJ.	
05.04.24	IRH held	Final Orders made for A, T, F. B and R.  Final hearing booked for 18 <sup>th</sup> and 19 <sup>th</sup> June regarding O.

47. The local authority produced the statement given to the ADM from which it became clear that the deciding factors for the ADM related to the mother's continuing involvement with Mr G and her lack of honesty with the local authority about this. It appeared that the ADM was not sent the parent's evidence in statement form, and that this is normal practice. It is surprising that the ADM is not sent all relevant material so that the ADM is able to consider the evidence filed by all parties.
48. I will return to the adequacy of the local authority evidence later in this judgment.
49. Finally, for the local authority, I heard from the allocated social worker LF. She filed 5 statements together with another statement filed during the final hearing, which attempted to deal with some of the problems with the evidence generally. There are two points to note. The first is that the statement dated 20 March 2024 is NOT a statement by LF. It appears that LF drafted this statement before going on sick leave but was not working when it was signed and filed. The statement was signed by someone else on her behalf – the chronology says that it was signed by LG. I do not know who LG is and neither did she give evidence. The statement of truth was therefore meaningless. There is no mention of this anywhere in the statement, and to all intents and purposes it appeared to have been signed by LF (though on close inspection one can see that it is signed "PP"). To say that this is extraordinary is putting it mildly. While the court does not expect social workers to understand the rules of evidence and admissibility, the court does expect the local authority legal team to conduct the case properly and effectively and to give advice where necessary. This is not acceptable.

50. The second point relates to the filing of the further statement by LF. No party took exception to it being filed, but it was prepared after LF had finished her evidence and was intended to bring in evidence purportedly given by the mother at the first day of the hearing (outside of the court room) that Mr G had been residing at her address. However, this was a concession made through counsel, and so this was not a factual issue that needed to be addressed in a statement. LF then took the opportunity to include a further placement analysis in her statement, in my view going far beyond what was necessary or arguably fair. I asked if any other party wishes to cross examine on this new material and no one did.
51. LF has been the allocated social worker since before the commencement of proceedings and she knows this family well. In her evidence she demonstrated a clear grasp of the characteristics of M and her ability to care for O. She acknowledged that there had been no specific assessment of her as carer for O alone, but she said that the concerns about M had been consistent, and that support that had been put in to the family had not been able to address those concerns. She agreed that there had been significant challenges for the mother with the behaviour of the other children, but that M did not appreciate the reasons for their behaviour or her part in that behaviour.
52. LF had observed contact where O had become distressed but agreed that he had become more settled recently. She was not sure how many sessions had been ended early but agreed that contact had improved since the other children had not been sharing the contact with him.
53. LF said that M had not allowed meetings with social workers at home after January.
54. LF agreed with Ms McDonald on behalf of the Children's Guardian that M was still a vulnerable person. She said that there was no evidence that M had been honest with the local authority about her relationship with Mr G. She was concerned that M had undertaken a pregnancy test at the beginning of the year but still maintained she was not in an intimate relationship with him. She said that honesty is a key part of a support package and without that she did not think that the local authority could assess risk when it did not have all of the information or be able to rely upon what it was told.
55. In relation to F's contact, LF accepted that opportunities for F's contact with O to start had been missed. I had the clear impression that his contact had not been a priority, although it seemed to me that this was particularly so during the period that LF was not working the case in the spring.
56. The proposal for F's contact was that it should be fortnightly indirect (such as by video) while he is in prison. Upon his release contact should be weekly and direct to make up the deficiency in their relationship. She said that post adoption contact would be indirect, by letter box, although there would be a discussion with the prospective adopters as to whether direct contact post adoption might be a possibility.
57. Against that background, the evidence of the mother takes on a critical significance. The principal issues raised by the local authority are her insight and understanding of the risks posed by "risky" men, and her honesty with the local authority, and the court.

58. M was clearly a vulnerable woman. She started her oral evidence by stating that the written evidence filed with the court as recently as her statement of 6 June was not completely true. The paragraph that she identified as untrue was “*Mr G stayed for around six to seven weeks. He has now left my property and I do not wish him to return*”. It transpired that Mr G had stayed at her address throughout the proceedings and continued to do so up to the date of the hearing.
59. She said she met Mr G in October 2023 when he was released from prison on licence. This was, it must be remembered, at the start of proceedings, and she said several times that Mr G was able to offer her support with her mental health, and she him. Nevertheless, she had not met him before he turned up at her door, and she knew little if anything about him. She said in her written evidence that she thought he was in prison for drugs, but in oral evidence she said that she knew he was in prison for robbery. She said that she did not know of his past offending relating to violence towards his partners until told by probation in January. Even when she did know this, she did not require him to leave, and indeed she said that he still was coming to her home even on the day of the hearing. As to this she gave evidence on the second day of the hearing that he was going to probation to get his probation address changed from her address and would remove his belongs that night. She could not say why this had not been done before the start of the hearing.
60. When he came to stay with her in October 2023, he had been given an address at which to reside as part of his licence conditions. His failure to live at that address resulted in his recall to prison. It is surprising that even after that M allowed him to return.
61. M said that she had allowed him to stay at her address because she thought it might give her security against one of the fathers of her children. There was no evidence that this man had ever turned up at her door. When asked what she expected Mr G to do if he did turn up, M was vague – but it sounded as though the security she hoped for included threats if not violence.
62. She said that Mr G had stayed at her address for 6-8 weeks after coming to her address on his further release in January. her address is given to probation as his address, although M said that he is not in fact living there all of time but comes and goes. He does have belongings at her address. She was vague when pressed about how often he has stayed at her address.
63. She said that she had not known at first about his abusive relationships. She said that she realised that she should not have agreed but said that she had a “big heart” and wanted to help him. She said that he has not behaved in a bad way towards her, and there is no evidence in the police disclosure to suggest that he has.
64. She said that their relationship was not intimate. She was asked about taking a pregnancy test both earlier in the year and more recently – and her reply was extremely convoluted and confusing: she said that she took the recent test because contact centre staff had commented on her appearance. She was bloated as a result of problems with her period, and wanted to prove that she was not pregnant. In my view, as the Children's Guardian said, it does not matter whether they are in an intimate relationship or not, it is the fact that there is a relationship of some sort that matters. Her evidence is that this is a form of co-dependant relationship of mutual

support – but I did not believe her evidence about the nature of the relationship or her explanation about the taking of the pregnancy test which I found unlikely. I find it more likely than not that their relationship was an intimate relationship and that the pregnancy test was more likely to be because she thought she might be pregnant.

65. It was put to her that she knew and had said that having him to stay might affect the outcome of the proceedings, and she agreed that she had said this although did not accept that it should have a bearing on the outcome of the proceedings. She did not agree that she was prioritising her relationship with him over O, although that is the conclusion that I draw from her evidence about this.
66. She was asked about her relationship with F and why she had visited him in prison. Her explanation convoluted. She had sent F an email to end the relationship but had learned through his mother that he did not accept this. She had therefore gone to see him to explain. She said that F had telephoned frequently for “updates” about O, even before he was born. I am afraid to say that I did not believe her evidence about this, either. There was no need for her to visit F after ending the relationship, unless the relationship was ongoing, which I find it was. The clear evidence for this is her visiting and the multiple telephone calls from the prison, some of which were lengthy.
67. She commented that if O was with her, she would not have problems with her mental health, commenting that her children were her “happy pill”. I infer from this that she thought it was the function of the children to keep her mental health in check, rather than for her to look after and parent her children.
68. She complained that she had not been supported by the local authority even though support was first offered in 2017 and continues. It was clear from the evidence that the support offered to her and in place was extensive over many years.
69. Mr G was not called as witness, so I have no account from him as to any of the mother’s evidence.
70. Finally, I heard from BM, the Children's Guardian. She filed two reports: her initial analysis and her final report. Her recommendation was that she supported the care and placement orders sought by the local authority. Having heard the evidence she remained of that view. She would not object to indirect post adoption contact for grandmothers. She thought that there was a need to explore sibling contact.
71. In relation to F’s contact, she said that however long he is in prison there must be at least one session of face-to-face contact. She agreed that while in prison his contact should be fortnightly and indirect. After release from prison, she agreed that weekly direct contact would be appropriate, and that as the foster carer could be in the room, and would be a familiar face for O, then weekly contact would be appropriate no matter how much or little time was available before O was placed (assuming placement orders were made).
72. At paragraph 33 of her report the Children's Guardian conducts a placement analysis in which she considers the range of options available to the court, and the pros and cons of each. She considers as possible options 1) the making of no order, 2) reunification to M’s care and support that might be offered, 3) GM (no longer an

option), 4) fostering and 5) adoption. This is a careful analysis which I will consider and take into account in my decision.

73. The Children's Guardian said that she had observed a session of contact in which O had become distressed and had to be removed. She commented that this was an "extremely chaotic" session of contact. She reported her view that this contact was not working for O and wrote to the local authority and to the IRO. She did not think that it was M's fault that the contact was disrupted but did say that M's time with O was being disrupted.
74. She gave very clear evidence about the impact of adoption on a child, particularly as that child gets older and learns that he or she is an adopted child. She noted that adoption leads to a loss of identity with the birth family, and a loss of relationship with mother, father, and siblings. She said that his brothers will have continued their relationship into adulthood, and he will not, which is why sibling contact is so important for him if it can be achieved.
75. She was asked to consider giving M one more chance but did not think that sufficient support can be put in place because it relies upon openness and honesty, and relying on M to act on what she learns. She said that M still makes dishonest choices.
76. I have no reason to doubt her evidence which I accept unreservedly.

## **Discussion**

77. I accept that M loves O very much. There is clear evidence that even though he has been out of her care since the age of 2 months, there is a bond between them and he responds to her during contact, particularly now that contact is just between the two of them.
78. I also accept that M has made improvements in the home which appear to have been sustained, although it is some months now since the allocated social worker was able to meet with her in the home.
79. M made clear and I accept that she would try her best to comply with any requirements that might be put in place to enable O to return to her care. She was open to the idea of further assessment of her ability to look after him.
80. As I have already indicated, however, she was not honest with the court in her written evidence, although she deserves credit for coming forward and saying that her most recent statement was not completely true. I also found that she was not completely honest with the court in her oral evidence as I have already found. I found that she was not honest about the nature of her relationship with Mr G, both in terms of whether it was an intimate relationship, its extent, and its duration.
81. It follows that I am not satisfied that she had been honest about that relationship with the local authority or other professionals. The significance of this is less about this particular relationship with Mr G, but that there is a clear pattern in M's history of forming relationships with risky individuals of which Mr G is the most recent. Without support, this is a pattern that is likely to be repeated.

82. She has received considerable support from the local authority over many years, which has included parenting support and domestic abuse work. This continues. The evidence is that she is able to say that she can identify risk and that she knows what to do about the risk. However, there is no evidence that she has learned and acted upon what she has learned from this support. After her relationship with F, she allowed Mr G into her home without knowing anything about him other than he shared a cell with F. Even after being recalled to prison, she allowed him to return to her address. That address is still his probation address. She did not appreciate the risk that he posed to her and any children in her care.
83. More importantly, she had been made aware that professionals regarded him as a risk from the point at which they became aware that he was living with her, and certainly from January 2024 when probation made her aware directly. Still, she allowed him to come to live at her address – and he is still there. I am not satisfied that he has left permanently. There is no evidence that he has done so, and the suggestion that he was leaving on the last day of the hearing gave me no confidence. Her evidence about this made clear that she has no insight in to the risk that he poses to any child in her care, of being exposed to domestic abuse. It follows that there is a risk of M forming similar relationships in the future, with similar risk.
84. It was clear from M’s evidence that she derived support from Mr G. She said a number of times that they help each other with their mental health. I find that she prioritised her relationship with him over her children, by failing to end the relationship and not requiring him to leave, because of the support that he gave. The lie in her statement of 6 June that he had left her address and would not return demonstrates that she was aware of this.
85. O’s welfare is my paramount consideration. Considering the relevant points in the welfare checklist:
- a) O is too young to express a view about with whom he lives, but he is loved and responds well to his mother. She has been consistent in attending contact. There is no reason to doubt that he would be content to be brought up in her care.
  - b) The evidence is that M has met O’s needs during contact. There is some evidence that M needed to be reminded how to prepare O’s bottle, but the significance of this was unclear. It was not suggested that any harm had resulted from whatever happened, or that M was not open to the suggestions. It was not suggested that this happened on several occasions.
  - c) The assessment evidence might be said to be incomplete as while the assessment evidence was negative, it was of M caring for 6 children rather than O. If this was the only issue, I would have directed further assessment of M as sole carer for O in order to fill the gap in the evidence.
  - d) However, the issue before the court relates to the risk of harm to the children by exposure to M’s domestically abusive relationships, and her propensity to enter into such relationships. M has not developed insight as to the harm likely to be caused by such relationships to her children and has not acted in a way that gives me any confidence that she understands that they are harmful. The risk of the

children being exposed to harm in the form of domestically abusive relationships remains.

- e) Significant support has been put in to this family, but it would appear that M has not demonstrated learning from that support, and the risk to any child in her care is not ameliorated.
  - f) The local authority cannot rely on M to be open and honest about her relationships, and so any support provided is undermined. The local authority cannot rely upon what it is told.
  - g) There is evidence additionally that M's parenting and implementation of boundaries is poor.
86. Mr Langrish made the point that the court has poor and incomplete evidence from the local authority, in that the local authority final evidence was compiled by HJ as an administrative exercise and has not been able to be forensically examined and scrutinised by the court. However, I heard evidence from the allocated social worker and the Children's Guardian which was clear and sufficient to persuade me that the local authority application was properly supported by admissible evidence.
87. In her final analysis the Children's Guardian conducted an exercise of the options before the court. If I regard M as a realistic option, being cared for by her represents a way of O being cared for by his birth family, by his mother who loves him, and thus keeping him in relationships with his siblings which are the most long lasting relationships of all. There is no evidence that M cannot meet his basic needs, although the assessment evidence is incomplete.
88. Placement with M would expose O to the risk of harm as a result of her inconsistent and chaotic parenting style, exposure to risky adults and to domestically abusive relationships.
89. I accept the assessment of the Children's Guardian that support cannot be put in place to remedy the deficits in M's parenting because :
- a) Despite that support, she has maintained her relationship with Mr G, and has not demonstrated insight into the effect of abusive relationships upon her children.
  - b) The support does not appear to have changed her parenting style.
  - c) The local authority cannot rely upon her to be honest and open about relationships.
90. As the significant issues in this care relate to M's propensity to form abusive relationships and not to be honest about them, further assessment of her is not required, because it will not address these issues.
91. The local authority proposes the making of care of placement orders. The advantages of such orders is that it enables O to be brought up in a permanent family where all of his needs can be met and where he is not exposed to a risk of harm. Additional support is available to him as an adopted child.



92. Risks arise as an adopted child in later life, as identified by the Children's Guardian. He will lose his identity as a member of his birth family. In later life he will become aware that he has siblings with whom he does not have a relationship. These are very real risks, that the Children's Guardian emphasised were significant and serious, and should weigh heavily in the balancing exercise.
93. Weighing all of these matters together, and reminding myself that all of the parties have the right for their respective family lives not to be interfered into by the state under Article 8 European Convention on Human Rights, I am satisfied that the making of a care order for O to be placed in the care of the applicant is both necessary and proportionate for the reasons identified in this judgment. In coming to that conclusion, I approve the care plan filed by the local authority and dated 3 April 2024 (I will deal with the arrangements for contact below).
94. Additionally, there is the application for a placement order dated 2 April 2024. The evidence in the care proceedings stands as evidence within the placement application. The findings that I have made in the care proceedings stand in the placement application.
95. I must consider O's welfare during the remainder of his life, considered with the extended welfare checklist in s1 Adoption and Children Act 2002. I must consider the effect on O of him ceasing to be a member of his birth family, and of his relationship with family members some of whom may be willing to offer a home for him. I have the evidence of the Children's Guardian as to the risks inherent in the making of an adoption order, and in particular the loss of status as a family member. The only family member offering a home for O at the time of the hearing is M, and I have rejected her as a carer.
96. In those circumstances, I am satisfied that O's welfare throughout his life requires the making of a placement order to give effect to the care plan. I am satisfied that the risks inherent in the making of a placement order are outweighed by the risks inherent in leaving O in the care of M. I may only make a placement order if satisfied either that there is parental consent, or, as here where there is none, dispense with consent on the grounds that the welfare of the child requires that consent is dispensed with. It follows from the findings that I have made that I am satisfied that the consent of the parents should be dispensed with to enable the placement order to be made.
97. I therefore make the care and placement orders sought and dispense with parental consent to the making of the placement order.

## **Contact**

98. The local authority agreed with submissions made by Mr Langrish regarding F's contact, and agreed that its plan for F's contact would be as follows:
  - a) Until release from prison, indirect video contact each fortnight.
  - b) Following release and until placement, weekly direct contact. This will be supervised and in a contact centre. The foster carer will be present if necessary to facilitate the contact.

HHJ LEVEY  
Approved Judgment

99. This was agreed by the Children's Guardian. I approve this level of contact as in accordance with O's welfare. It is not to be an order.
100. I approve the arrangements for the reduction of M's contact in the care plan, namely for a reduction to monthly pending placement.
101. While I approve the proposed post contact arrangements, I do invite the local authority to explore direct contact with prospective adopters. I also accept the evidence of the Children's Guardian as to the importance of exploring post adoption sibling contact and for the respective grandparents.
102. Finally, F raised the question of a declaration of parentage for O given that there is a positive DNA test finding him to be O's father. There was no opposition to such an order, although there was no formal application. I was not sure whether such an order could be made without formal application, but if it is within my power to do so I am prepared to make such an order, which recognises F's status as O's father. This will be important for O in the future.

HHJ Levey

Portsmouth

21 June 2024